



KIMBERLEY DRISCOLL
MAYOR

CITY OF SALEM, MASSACHUSETTS BOARD OF APPEALS

98 WASHINGTON STREET ♦ SALEM, MASSACHUSETTS 01970
TEL: 978-619-5685

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CITY CLERK
SALEM, MASS

August 11, 2020

Decision

City of Salem Board of Appeals

Petition of SEAN PATRICK BRENNAN for a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance to alter and expand a nonconforming single-family home by constructing a third-story dormer and making facade renovations on the rear side of 419 LAFAYETTE STREET (Map 32, Lot 387) (R1 and ECOD Zoning Districts).

A public hearing on the above Petition was opened on May 20, 2020 pursuant to M.G.L Ch. 40A, § 11 and closed on that date with the following Salem Board of Appeals members present: Peter A. Copelas, Mike Duffy (Chair), Carly McClain (Alternate), Rosa Ordaz, Steven Smalley (Alternate), and Paul Viccica.

The petitioner seeks a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance to alter and expand a nonconforming single-family home by constructing a third-story dormer and making facade renovations on the rear side of 419 Lafayette Street.

Statements of Fact:

1. In the petition date-stamped April 24, 2020, the petitioner requested a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance to alter and expand a nonconforming single-family home by constructing a third-story dormer and making facade renovations on the rear side of 419 Lafayette Street.
2. 419 Lafayette Street is a single-family home owned by petitioner Sean Patrick Brennan.
3. 419 Lafayette Street is located in the Residential One-Family (R1) zoning district and the Entrance Corridor Overlay District. The single-family home use is allowed in the R1 district.
4. 419 Lafayette Street is nonconforming to dimensional requirements including lot area, lot area per dwelling unit, and maximum height of buildings (stories).
5. The proposal is to make renovations to the rear, water-facing facade of the building and to add a third-floor dormer, which is an infill dormer between two existing rear dormers and which will match the dormer design on the front facade. The rear facade renovations also include adding sliding doors, a mulled double hung window, and a second-story deck above a portion of the existing first-floor deck.
6. The requested relief, if granted, would allow the petitioner to alter and expand a nonconforming single-family home by constructing a rear third-story dormer and making rear facade renovations including a second-story deck, sliding doors, and a double-hung window at 419 Lafayette Street.

7. Due to the ongoing COVID-19 pandemic and related precautions and Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §18, and the Governor's March 15, 2020 Order imposing strict limitations on the number of people that may gather in one place, the May 20, 2020 meeting of the Board of Appeals was held remotely, via the online platform Zoom.
8. At the May 20, 2020 public hearing, Attorney William Quinn, representing petitioner Sean Patrick Brennan, discussed the petition. Attorney Quinn described the property as a 2.5-story gray colonial facing the Salem Basin right before entering Marblehead. Mr. Quinn stated the property is already nonconforming as it has a third story dormer on the front of the building which is visible to the public. The proposal is to add a similar dormer on the back side of the home (which faces the water). Mr. Quinn explained the proposed dormer will mirror the front and provide for better headroom, and that no additional units are being added. Project architect Dan Ricciarelli showed the existing elevation and dormers and the proposed changes. He explained that the existing deck is in need of repair and will be completely rebuilt, and that a smaller deck, approximately one-third of the size of the existing deck, will be added at the second story. The deck renovation will not increase the footprint of the structure and will be built in kind. Mr. Ricciarelli also presented floor plans, showing an additional master bath and laundry on the second floor and a bathroom on the third floor. Attorney Quinn noted that although technically this is expanding a third story, there is no increase in peak height.
9. At the May 20, 2020 public hearing, Building Commissioner Tom St. Pierre asked about the second-floor deck, noting the petitioner may need special permit relief as a second story deck is considered part of the structure and thus requires a 30-foot setback. He stated that he cannot tell the distance from the porch to the next house lot. Mr. Ricciarelli stated he was not aware a survey was needed, as the footprint was not increasing; if that is a requirement, he asked if the Board can vote on approval of just the dormer for now. Mr. St. Pierre noted that this would be special permit relief. Chair Duffy Mr. St. Pierre, Attorney Quinn, and Mr. Ricciarelli discussed the situation. Mr. St. Pierre noted a condition could be that if it is demonstrated to be 30 feet, there is no need to come back; if it is less than 30 feet, they would need to come back for additional relief. Attorney Quinn agreed and suggested language for the condition.
10. At the May 20, 2020 public hearing, no (0) members of the public spoke in favor of or in opposition to the petition.
11. At the May 20, 2020 public hearing, Chair Duffy discussed the special permit criteria, referencing the Statement of Grounds submitted with the petition and noting that this is relatively minimal.

The Salem Board of Appeals, after careful consideration of the evidence presented at the public hearings, and after thorough review of the petition, including the application narrative and plans, makes the following **findings** that the proposed project meets the provisions of the City of Salem Zoning Ordinance:

Special Permit Findings:

The Board finds that the proposed nonconforming structure is not substantially more detrimental than the existing nonconforming structure to the neighborhood.

1. Social, economic, or community needs are served by code-compliant family housing.
2. Traffic flow and safety, including parking and loading are not expected to be impacted. No additional dwelling units are added and there are already two on-site parking spaces.
3. Adequacy of utilities and other public services: Existing utilities and other public services are adequate.

4. Impacts on the natural environment, including drainage: No negative impact is anticipated as the dormer will add minimal, if any, new roof area, and the footprint is not expanding.
5. Neighborhood character: The proposed addition is designed to be consistent with and complementary to the design of the existing structure and those in the neighborhood, so no negative impact to neighborhood character is anticipated.
6. Potential fiscal impact, including impact on City tax base and employment: There is the potential for a positive fiscal impact.

On the basis of the above statements of fact and findings, the Salem Board of Appeals voted five (5) in favor (Carly McClain, Mike Duffy (Chair), Rosa Ordaz, Peter A. Copelas, and Paul Viccica) and none (0) opposed to grant the requested Special Permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance to alter and expand a nonconforming single-family home by constructing a third-story dormer and making facade renovations on the rear side of **419 Lafayette Street**, subject to the following **terms, conditions, and safeguards:**

Standard Conditions:

1. Petitioner shall comply with all city and state statutes, ordinances, codes and regulations.
2. All construction shall be done as per the plans and dimensions submitted to and approved by the building commissioner.
3. All requirements of the Salem Fire Department relative to smoke and fire safety shall be strictly adhered to.
4. Petitioner shall obtain a building permit prior to beginning any construction.
5. Exterior finishes of the new construction shall be in harmony with the existing structure.
6. A Certificate of Occupancy is to be obtained.
7. A Certificate of Inspection is to be obtained.
8. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board.
9. All construction shall be done per the plans and dimensions submitted to and approved by this Board. No change, extension, material corrections, additions, substitutions, alterations, and/or modification to an approval by this Board shall be permitted without the approval of this Board, unless such change has been deemed a minor field change by the Building Commissioner in consultation with the Chair of the Board of Appeals.

Special Condition:

1. The second-floor deck is not approved unless information satisfactory to the Building Commissioner is submitted showing that there is at least 30 feet of linear distance from the second-floor deck to the adjacent property line.

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Mike Duffy, Chair
Board of Appeals

A COPY OF THIS DECISION HAS BEEN FILED WITH THE PLANNING BOARD AND THE CITY CLERK.

Appeal from this decision, if any, shall be made pursuant to Section 17 of the Massachusetts General Laws Chapter 40A, and shall be filed within 20 days of filing of this decision in the office of the City Clerk. Pursuant to the Massachusetts General Laws Chapter 40A, Section 11, the Variance or Special Permit granted herein shall not take effect until a copy of the decision bearing the certificate of the City Clerk has been filed with the Essex South Registry of Deeds.