



KIMBERLEY DRISCOLL  
MAYOR

# CITY OF SALEM, MASSACHUSETTS BOARD OF APPEALS

2019 MAR -6 PM 3:25

98 WASHINGTON STREET ♦ SALEM, MASSACHUSETTS 01970  
TEL: 978-745-9595

CITY CLERK  
SALEM, MASS

March 6, 2019

## Decision

### City of Salem Board of Appeals

**Petition of STEFANO J. BASSO for a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance to alter the existing nonconforming structure, add an addition and a shed dormer, and add a second dwelling unit, as well as a variance per Section 5.1 *Off-Street Parking* for parking configuration at the single-family house at 11 AMES STREET (Map 37, Lot 50) (R2 Zoning District).**

A public hearing on the above Petition was opened on February 20, 2019 pursuant to M.G.L. Ch. 40A, § 11 and closed on that date with the following Salem Board of Appeals members present: Mike Duffy (Chair), Peter A. Copelas, Patrick Shea, and Paul Viccica (Alternate).

The Petitioner seeks a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* and a variance per Section 5.1 *Off-Street Parking* of the Salem Zoning Ordinance.

#### Statements of Fact:

1. In the petition date-stamped January 18, 2019, the Petitioner requested a special permit per Section 3.3.3 to alter a nonconforming structure. In an updated petition date-stamped February 13, 2019, the petitioner requested a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* to alter the existing nonconforming structure, add an addition and a shed dormer, and add a second dwelling unit, as well as a variance per Section 5.1 *Off-Street Parking* for parking configuration.
2. Petitioner Stefano J. Basso presented the petition.
3. The property is located in the Residential Two-Family (R2) zoning district.
4. The property is a single-family house. As the Petitioner attested, the property has been in a state of disrepair for years, including issues with the Health Department, the Harbormaster, and the Inspectional Services Department. The City Solicitor's office had been in the process of putting the property into receivership when the owner decided to sell the property.
5. The proposal is to rehabilitate the existing building and add a shed dormer to it, as well as to add an addition which will be used as a second dwelling unit. The proposal includes creating four tandem parking spaces (a two-by-two grid of parking spaces).
6. The proposed two-family use is allowed by right in the Residential Two-Family zoning district.
7. The proposal requires zoning relief because the existing structure is nonconforming, and because while the proposed parking exceeds requirements in terms of number of spaces, the arrangement of the parking spaces is not allowed by right per Section 5.1 of the Code of Ordinances.

8. The requested relief, if granted, would allow the petitioner to alter the existing nonconforming structure, add a shed dormer, and add an addition which will be used as a second dwelling unit; this would also allow the petition to provide four parking spaces in a tandem configuration.
9. At the February 20, 2019 public hearing, Mr. Basso presented details about the property and the proposed changes. Mr. Basso and his partner purchased the property and plan to convert it into a duplex-style two-family home, with them living in one unit and renting out the other. They hope that adding an "income unit" will help them pay for the renovations. Mr. Basso explained that there the house is "in shambles" and has had many issues, including being used illegally as a commercial fishery and having an unpermitted dock that the City removed. As Mr. Basso noted, the City was in the process of receivership on the property when the owner decided to sell the property.
10. Mr. Basso noted that they held a neighborhood meeting a few days before the meeting to discuss the project. Four neighbors signed a petition of non-opposition to the development, which Mr. Basso submitted.
11. Mr. Basso also noted that this project received approval from the Conservation Commission the week prior.
12. Mr. Basso submitted an updated site plan showing a deck that was not there before. He discussed the renovation and addition plans. He noted that the addition will be set in three feet (3') from the face of the front wall and will also be set in slightly in the back; this has made their neighbors happy, as the addition will not block their view. The planned second story of the addition steps in from the first story.
13. Chair Duffy asked Mr. Basso to speak to the parking configuration and why the request for variance is supported.
14. Mr. Basso noted that they initially had a different idea for the addition and parking which would require no zoning relief, putting some parking on the left of the building and some on the right (closer to the water). However, the layout of this addition would have been bulkier and would have had more impact on the neighborhood. Ames Street terminates close by and concrete bollards make it tight on the 11 Ames side of the street; parking on the right side of the building would be difficult. He explained that keeping the addition tucked closer to the existing building and putting all the parking spaces on the left side worked out better. Mr. Basso added that the lots on the street are typically 40 feet wide and 43 feet deep, and that though this lot is longer, they do not have the benefits of the length – parts of the lot do not constitute frontage because they are on the riverbank.
15. Mr. St. Pierre supported Mr. Basso's description of the property, noting that the street is narrow and ends at 11 Ames Street; Mr. St. Pierre stated that you would not be able to pull in to parking on the right side, back out, and turn back up the street. Mr. St. Pierre also spoke to the history of issues with the property.
16. At the February 20, 2019 public hearing, no (0) members of the public spoke in favor of or in opposition to petition.
17. Mr. Copelas stated, regarding the variance criteria, the proximity of this property to the river and the fact that the street ends constitute circumstances that especially affect the land. He added that literal enforcement of the provisions would involve substantial hardship, and that desirable relief can be granted without substantial detriment.
18. Chair Duffy stated that this will take a dilapidated property that has been a problem for the city for almost two decades and bringing it back to what looks like a very nice reconstruction.

19. Mr. St. Pierre asked Mr. Basso if the neighbors had any other comments; Mr. Basso responded that there is a lot of excitement from everyone they have talked to.
20. Staff Planner Brennan Corriston noted that the petition of non-opposition was signed by Kelly Semons, Patrick Murtaugh, Lori Swasey, and Elizabeth Hope Manseau.

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

**Findings for Special Permit:**

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

1. Social, economic and community needs served by the proposal: This will improve a dilapidated property, thus improving the neighborhood for the community.
2. Regarding traffic flow and safety, including parking and loading: Adequate parking will be provided (two spaces per unit).
3. Per the Statement of Grounds submitted by the Petitioner, "While the building needs upgrading, adequate utilities are available for hook up."
4. Per the Statement of Grounds submitted by the Petitioner, "There will be no major changes to drainage and the entirety of the site consists of previously filled and disturbed land so there will be no negative impact on the natural environment."
5. The neighborhood character will be improved by the improved building and yard.
6. Potential fiscal impact, including impact on City tax base and employment: this project will increase the property value and thus generate more taxes for the City.

**Special Permit:**

On the basis of the above statements of fact, the Salem Board of Appeals voted four (4) in favor (Peter A. Copelas, Patrick Shea, Mike Duffy (Chair), 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 the existing nonconforming structure, add an addition and a shed dormer, and add a second dwelling unit to the single-family house at **11 Ames 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.

**Findings for Variance:**

1. Special conditions and circumstances especially affect the land, building, or structure involved, generally not affecting other lands, buildings, and structures in the same district: This lot is located at the end of a dead-end street and much of its length is located along the river and bank and is not frontage along the street; this makes significant portions of the lot inaccessible from Ames Street for parking.
2. Literal enforcement of the provisions of the Ordinance would involve substantial hardship to the applicant: the location of the existing house does not allow for four side-by-side parking spaces. Four side-by-side parking spaces could be created if the house were demolished and the lot reconfigured, but doing so would require zoning relief for the new building, which would not meet setback requirements.
3. Desirable relief may be granted without substantial detriment to the public good, and without nullifying or substantially derogating from the intent of the district or the purpose of the ordinance. Given the situation of the building and lot, this allows for sufficient parking for both units without negatively impacting the public good or derogating from the intent of the district or ordinance.

**Variance:**

On the basis of the above statements of fact, the Salem Board of Appeals voted four (4) in favor (Paul Viccica, Patrick Shea, Mike Duffy (Chair), and Peter A. Copelas) and none (0) opposed to grant the requested Variance per Section 5.1 *Off-Street Parking* for parking configuration at the single-family house at **11 Ames 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 requirements of the Salem Fire Department relative to smoke and fire safety shall be strictly adhered to.
3. Petitioner shall obtain a building permit prior to beginning any construction.
4. A Certificate of Inspection is to be obtained.
5. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board.

 / BTC

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.*