



KIMBERLEY DRISCOLL  
MAYOR

## CITY OF SALEM, MASSACHUSETTS BOARD OF APPEALS

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2019 OCT 30 PM 3:28  
CITY CLERK  
SALEM, MASS

October 30, 2019

### Decision

### City of Salem Board of Appeals

**Petition of MICHAEL CLARKE for a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance to construct a 10' by 10' shed dormer at the existing nonconforming single-family home at 2 HORTON COURT (Map 27, Lot 236) (R2 Zoning District).**

A public hearing on the above Petition was opened on October 16, 2019 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), Jimmi Heiserman, Jimmy Tsitsinos, 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.

#### Statements of Fact:

1. In the petition date-stamped September 25, 2019, the petitioner requested a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance to add a 10' by 10' shed dormer to the existing single-family home at 2 Horton Court.
2. The petition was presented by petitioner Michael Clarke. Mr. Clarke is working as the contractor for the property owner, Clay S. Didier, for this project.
3. The property is a single-family home in the Residential Two-Family (R2) zoning district.
4. With the existing structure, the property is nonconforming to at least minimum lot area, minimum lot area per dwelling unit, front yard setback, and rear yard setback.
5. The proposal is to add a shed dormer. The dormer was originally described as a 10' by 10' shed dormer on the application.
6. After the application was originally submitted, Mr. Clarke submitted a revised architectural elevation as well as a Statement of Grounds discussing the petition.
7. The requested relief, if granted, would allow the petitioner to construct a 10' by 10' shed dormer on the second story of the single-family home at 2 Horton Court.
8. At the October 16, 2019 public hearing, petitioner Michael Clarke (the contractor) and property owner Clay S. Didier discussed the request. Mr. Didier explained that this is a 19<sup>th</sup> century house that has a triangular bathroom upstairs. He would like to build a shed dormer to turn the triangular upstairs bathroom (with an angled roof) into a more rectangular shape and build a modern shower. Mr. Didier asked to submit a map showing the lot as evidence; he had the map on his phone. This map was emailed to Staff Planner Brennan Corriston and has been added to the project file.

9. At the October 16, 2019 public hearing, Chair Duffy read from a letter from City of Salem Preservation Planner Patricia Kelleher to the Board of Appeals regarding applications for special permit for dormers on historic buildings. Chair Duffy noted that the letter addresses that the historic architecture of buildings serves the City and local residents; the letter comments on the design of dormers and references the City of Cambridge's Design Guidelines, which include recommendations for dormers. Chair Duffy read the recommendations included in this letter, which relate to the dormer's location relative to the building main wall, gable ends, roof, and roof ridge, as well as the length of the dormer; the recommendations also note that if the dormer meets the recommended setbacks for side and front walls, the dormer can start at the ridge beam. In response to the letter, Paul Viccica suggested that the petitioner review these recommendations and look at other examples in the City of appropriate dormers.
10. At the October 16, 2019 public hearing, one (1) member of the public spoke in favor of the petition and no (0) members of the public spoke in opposition to the petition. This member of the public had a question about the petition. After learning more and seeing the design, he stated, "I'm fine with that."
11. In making the motion, noted below, rather than referring to the dormer as a 10' by 10' dormer – which does not match with the dimensions submitted in the final elevation – the decision should make reference to this elevation. This elevation was date-stamped by the Department of Planning and Community Development on October 15, 2019.

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**:

**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 and community needs are served by the proposal.
2. There will be no in impact on traffic flow and safety, including parking and loading.
3. Adequacy of utilities and other public services: Adequate utilities and public services service the property.
4. Impacts on the natural environment, including drainage: No impact is anticipated.
5. Neighborhood character: The design is in keeping with neighborhood character.
6. Potential fiscal impact, including impact on City tax base and employment: There is likely to be a positive impact on the City tax base.

On the basis of the above statements of fact and findings, the Salem Board of Appeals voted five (5) in favor (Jimmi Heiserman, Paul Viccica, Peter Copelas, Jimmy Tsitsinos, and Mike Duffy (Chair)) 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 to construct a shed dormer at the existing nonconforming single-family home at **2 Horton Court** per the elevation date-stamped October 15, 2019, 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 Inspection is to be obtained.
7. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board.
8. 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 applicant shall seriously consider the recommendations put forth by the Historical Commission in the construction and design of the shed dormer.

Mike Duffey / 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.