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MAYOR

CITY OF SALEM, MASSACHUSETTS

BOARD OF APPEALS

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April 16, 2024

Decision

City of Salem Board of Appeals

The petition of TIM WALSH at 5 HOWARD STREET (Map 35, Lot 187) (R3 Zoning District) for a Special Permit per Section *3.3.5 Nonconforming Single- and Two-family Structures* of the Salem Zoning Ordinance to modify an existing non-conforming single-family structure by constructing an addition that consists of a covered porch and a new deck. The existing structure and lot are non-conforming in the side setback as it has 1'+/- where 20' is required; the front setback as it has 1'+/- where 15' is required. The proposed addition will be less non-conforming on the side setback as it will be three feet instead of one foot.

A public hearing on the above petition was opened on March 20, 2024, and was closed on March 20, 2024.

On March 20, 2024, the following members of the Salem Board of Appeals were present: Nina Vyedin (Chair), Carly McClain, Hannah Osthoff and Ellen Simpson.

Statements of Fact:

The petition is date stamped February 22, 2024. The petitioner seeks the Board of Appeals approval to construct an addition with a covered porch and a new deck.

1. 5 Howard Street is owned by Kathleen A. Walsh.
2. The petitioner was Kathleen A. Walsh and Timothy P. Walsh.
3. 5 Howard Street is located in the R3 Zoning District (Map 35, Lot 187).
4. On March 20, 2024, Tim Walsh presented the requested relief to the board.
5. 5 Howard Street is a single-family home built around 1870.
6. Mr. Walsh said they propose to remove an existing covered porch to add a small addition that will allow the petitioner to expand the first-floor bathroom into a full bathroom.
7. Mr. Walsh stated that the frontage and front and side setbacks are nonconforming. The south side of the home has approximately one (1) foot side yard setback. The proposed addition will start at about three feet away from the property line. On the north side, there is currently about nine (9) feet for the side yard setback, where twenty (20) feet is required. The property is conforming for the rear yard setback and for lot coverage.

8. The requested relief is to build an addition with a deck that will be on the first floor which will be the main entrance and then to construct a second-floor deck as well.
9. The requested relief will also allow for an expanded kitchen and a laundry room. It will create space enough for a full bathroom on the first floor of the home.
10. Mr. Walsh stated that this relief will be within keeping the neighborhood character because it is only affecting the rear of the property where there are mostly parking lots for the abutter's backyards.
11. Mr. Walsh stated that 7 Howard Street has a garden-level unit and that the first- and second-floor units are above ground - both were granted variances to have balconies that overlook his yard. Mr. Walsh also stated the balconies at 10 Brown Street are examples of keeping within the neighborhood character.
12. Mr. Walsh reviewed the interior plans for the petition at 5 Howard Street.
13. Nina Vyedin asked if the only non-conformity that they are increasing is the rear setback.
14. Mr. Walsh stated that was correct.
15. There were no more questions from the board.
16. Nina Vyedin opened the meeting up to public comment.
17. There were no public comments.

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 adverse effects of the proposed use will not outweigh its beneficial impacts to the City or the neighborhood, in view of the particular characteristics of the site, and of the proposal in relation to that site. In addition to any specific factors that may be set forth in the zoning ordinance, the determination includes consideration of each of the following:

1. Social, economic, or community needs are served by this proposal. The proposed addition will enable the petitioner to remain in the home and maintain the structure as a family home as it has existed since 1870.
2. Traffic flow and safety, including parking and loading: These are unaffected by the proposal as the property will remain a single-family home that exceeds parking space requirements of single-family homes in the R3 District.
3. Adequate utilities and other public services already service the structure. There will be no impact on utilities or other public services as the structure will remain a single-family residence.

4. Impacts on the natural environment, including drainage: The proposed alterations are entirely within the rear yard of the property and will have no impact on the natural environment. The proposed addition will occupy primarily the footprint of the existing covered porch such that the addition would not be expected to have an impact on drainage.
5. Neighborhood character: The proposed addition is in keeping with the character of the neighborhood, which includes a wide variety of residential and business structures.
6. Potential fiscal impact, including impact on the city tax base and employment: The proposed alterations will increase the value of the home and positively impact the tax base.

On the basis of the above statements of fact and findings, **the Salem Board of Appeals voted four (4) in favor (Nina Vyedin (Chair), Carly McClain, Ellen Simpson, Hannah Osthoff)) and none (0) opposed** to grant TIM WALSH a Special Permit per Section *3.3.5 Nonconforming Single- and Two-family Structures* of the Salem Zoning Ordinance to modify an existing non-conforming single-family structure by constructing an addition that consists of a covered porch and a new deck, 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. Petitioner shall obtain street numbering from the City of Salem Assessor's Office and shall display said number so as to be visible from the street.
10. Unless this Decision expressly provides otherwise, any zoning relief granted does not empower or authorize the Petitioner to demolish or reconstruct the structure(s) located on the subject property to an extent of more than fifty percent (50%) of

its floor area or more than fifty percent (50%) of its replacement cost at the time of destruction. If the structure is demolished by any means to an extent of more than fifty percent (50%) of its replacement cost or more than fifty percent (50%) of its floor area at the time of destruction, it shall not be reconstructed except in conformity with the provisions of the ordinance.

11. All construction shall be done per the plans and dimensions submitted to and approved by this Board. Any modification to the plans and dimensions must be approved by the Board of Appeals unless such changes are deemed a minor field change by the Building Commissioner in consultation with the Chair of the Board of Appeals.
12. Petitioner shall schedule Assessing Department inspections of the property, at least annually, prior to project completion and a final inspection upon project completion.

Nina Vyedin, 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.