



# CITY OF SALEM, MASSACHUSETTS BOARD OF APPEALS

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KIMBERLEY DRISCOLL  
MAYOR

**May 10, 2022**

## Decision

### **City of Salem Board of Appeals**

2022 MAY 10 PM 1:28  
CITY CLERK  
SALEM, MASS

The petition of KATIE B. AND PHILIP BOCK, AS TRUSTEES OF SATCHEL'S REALTY TRUST at 61 MASON STREET (Map 26, Lot 92) (I/NRCC Zoning District), for a Special Permit per Section 8.4.5 *Uses* Section 4.1.a *Single-family detached dwelling* of the Salem Zoning Ordinance to renovate an existing two-family structure into a three-family structure with a two (2) car garage addition at the rear and construct a connected two-family 2.5 stories addition under thirty (30) feet in height with garaged parking for three (3) vehicles. A total of seven (7) parking spaces will be provided-five (5) garaged spaces and two (2) outdoor spaces. The petitioners also seek a variance from Section 4.1.1 *Dimensional Requirements* of the Salem Zoning Ordinance for relief from lot area per dwelling where 1,664 sq.ft is being provided and 3,500 sq.ft is required. Also, Section 8.4.9.a *Required off-street parking* where seven (7) spaces are being provided and eight (8) spaces are required.

A public hearing on the above petition was opened on April 27, 2022 and was closed on April 27, 2022.

On April 27, 2022, the following members of the Salem Board of Appeals were present: Mike Duffy(chair), Rosa Ordaz, Carly McClain, Paul Viccica, Steven Smalley and Peter Coplelas

### **Statements of Fact:**

The petition is date stamped February 23, 2022. The petitioner seeks a Special Permit per Section 8.4.5 *Uses* Section 4.1.a *Single-family detached dwelling* of the Salem Zoning Ordinance to renovate an existing two-family structure into a three-family structure with a two (2) car garage addition at the rear and construct a connected two-family 2.5 stories addition under thirty (30) feet in height with garaged parking for three (3) vehicles. A total of seven (7) parking spaces will be provided-five (5) garaged spaces and two (2) outdoor spaces. The petitioners also seek a variance from Section 4.1.1 *Dimensional Requirements* of the Salem Zoning Ordinance for relief from lot area per dwelling where 1,664 sq.ft is being provided and 3,500 sq.ft is required. Also, Section

8.4.9.a *Required off-street parking* where seven (7) spaces are being provided and eight (8) spaces are required.

1. 61 Mason Street is owned by Katie B and Philip Bock as Trustees of Satchel's Realty Trust.
2. The petitioner was represented by Attorney Bill Quinn.
3. 61 Mason Street is located in the I/NRCC zoning district. (Map 26 , Lot 92 )
4. The requested relief, if granted, would allow the Petitioner to renovate an existing two-family structure into a three-family structure with a two (2) car garage addition at the rear and construct a connected two-family 2.5 stories addition under thirty (30) feet in height with garaged parking for three (3) vehicles.
5. On April 27, 2022, Attorney Quinn presented to the board.
6. The petitioners have worked with an architect to see if they could create a property that would work without seeking relief. In order to achieve their idea they determine that they needed to come to the board to seek relief.
7. To offset the parking, Attorney Quinn stated to the board that there are multiple public parking spaces within close proximity to the area of the property. This can accommodate the possible overflow of parking.
8. Dan Ricciarelli, Seger Architects, added to the presentation. He stated that the property was an 1850's Greek Revival style home. He expressed that the home has not be kept up and was looking "tired". He stated that they goal is to restore the building and create additional units to it.
9. There are currently two (2) units in the home. The first unit is the larger of the two and is similar to a town home.
10. They want to create three (3) additional units. They aim to create three (3) three-bedroom units and two (2) two- bedroom units that are suitable for families. The petition included the construction of a three (3) car garage and a two (2) car garage to accommodate some of the parking. There are currently two (2) parking spaces on the south side of the two-car garage. This provides seven (7) spaces. Mr. Ricciarelli stated that there is plenty of public parking in the area. This is a reason for the request of the parking variance.
11. The proposal plans to be in the style of town homes.
12. Chair Duffy opened up the meeting to comments from the board.
13. Carly McClain asked Attorney Quinn to elaborate on the hardship with the lot area per dwelling unit.
14. Attorney Quinn stated that the change in topography is the reason for hardship. Also, the lack of access to the units unless one goes through the shared driveway contributes to the hardship. There will also be a financial hardship because of the construction required to accommodate the change in topography. There isn't enough room to provide the necessary parking.
15. Peter Copelas asked Attorney Quinn to elaborate on the property rights of the owner to develop a structure over their current parking area. He inquired about the easement being constructed over.
16. Attorney Quinn stated that, in writing, they do not have an easement on the property.

17. Philip Boch stated that they are in talks with the neighboring property to work out any issues dealing with the easement for the property at 61 Mason Street.
18. Chair Duffy opened the meeting up to public comment.
19. There were no comments from the public on 61 Mason Street.
20. Chair Duffy discussed the special permit criteria and the variance relief requested.
21. Paul Viccica made a motion to approve the petition.
22. 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 April 27, 2022 meeting of the Board of Appeals was held remotely, via the online platform Zoom.

### **Special Permit Findings:**

The Board finds that the proposed modifications will not be substantially more detrimental than the existing nonconforming use to the neighborhood and that the adverse effects of the proposed use will not outweigh its beneficial impacts to the City and the neighborhood:

1. Social, economic, or community needs were served by this petition.
2. Traffic flow and safety, including parking and loading: there will minimum impact on traffic or parking.
3. Adequate utilities and other public services: The petition will not impact utilities or public services.
4. Impacts on the natural environment, including drainage: No negative impact would be expected.
5. Neighborhood character: The project will not have a negative impact on the residential neighborhood character.
6. Potential fiscal impact, including impact on City tax base and employment. There will be a positive fiscal impact on the city or its tax base.

### **Variance Findings:**

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: The topography of the land impacts where the applicant could feasibly place the proposed dwellings.

2. Literal enforcement of the provisions of the Ordinance would involve substantial hardship to the applicant in attempting to put the property to productive use.
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.

On the basis of the above statements of fact and findings, the Salem Board of Appeals voted five (5) in favor (Rosa Ordaz, Mike Duffy (chair), Carly McClain, Paul Viccica and Peter Copelas) and none (0) opposed to grant of KATIE B. AND PHILIP BOCK, AS TRUSTEES OF SATCHEL'S REALTY TRUST at 61 MASON STREET (Map 26, Lot 92) (I/NRCC Zoning District), a Special Permit per Section 8.4.5 *Uses* Section 4.1.a *Single-family detached dwelling* of the Salem Zoning Ordinance to renovate an existing two-family structure into a three-family structure with a two (2) car garage addition at the rear and construct a connected two-family 2.5 stories addition under thirty (30) feet in height with garaged parking for three (3) vehicles. A total of seven (7) parking spaces will be provided-five (5) garaged spaces and two (2) outdoor spaces. And a variance from Section 4.1.1 *Dimensional Requirements* of the Salem Zoning Ordinance for relief from lot area per dwelling where 1,664 sq.ft is being provided and 3,500 sq.ft is required. Also, the variance per Section 8.4.9.a *Required off-street parking* where seven (7) spaces are being provided and eight (8) spaces are required.

**Receiving five (5) in favor votes, the petition for a special permit and variance is approved.**

#### **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. 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.

**Variance Findings:**

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: The topography of the land affects the need for the variance.
2. Literal enforcement of the provisions of the Ordinance would involve substantial hardship to the applicant in attempting to put the property to productive use.
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.

**Special Conditions:**

1. Subject to the recording of a permanent or prescriptive easement to be granted access from #72 Flint Street's driveway provided by the attorney.

A handwritten signature in black ink that reads "Mike Duffy / DL". The signature is written in a cursive, flowing style.

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.