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CITY OF SALEM, MASSACHUSETTS

BOARD OF APPEALS

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April 16, 2024

Decision

City of Salem Board of Appeals

The petition of KAREN N. JELLOW, TRUSTEE at 67 ESSEX STREET (Map 35, Lot 359) (R2 Zoning District) for a Special Permit per Section *3.3.1 Applicability*, Section *3.3.3 Nonconforming Structures* and Section *3.3.4 Variance Required* of the Salem Zoning Ordinance to construct a small addition and roof deck on top of the second-floor roof to improve the habitability of the existing living space on the third floor. This is a three-family home.

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 27, 2024. The petitioner seeks the Board of Appeals approval to construct an addition and a new roof deck.

1. 67 Essex Street is owned by Karen N. Jellow, Trustee of the Karen N. Jellow Family Trust.
2. The petitioner was Karen N. Jellow, Trustee.
3. 67 Essex Street is located in the R2 Zoning District (Map 35, Lot 359).
4. On March 20, 2024, Attorney Scott Grover presented the requested relief and plans to the board.
5. The property at 67 Essex Street is an existing legal non-conforming three-family home in an R2 district.
6. The owners have decided to rehabilitate the property. Per the owner, a challenge at the property is that there is one unit that is significantly larger than the other two units in the building. The owners are planning to reconfigure the unit layouts to create three new, more proportionally sized units that will each consist of three bedrooms.
7. In order to provide the third-floor unit with adequate living area, the applicant is proposing a small addition of approximately two hundred fifty (250) square

- feet to be constructed on a portion of the second-floor roof with an adjacent roof deck.
8. A new stairway is proposed in the back of the building in a location that will meet all the setback requirements in the R2 zoning district.
 9. Attorney Grover stated that the location of the new third-floor addition is where the applicant is planning to extend the non-conformity of the structure. Pursuant to Section 3.3.4 of the Salem Zoning Ordinance, the extension of an exterior wall at or along the same nonconforming distance within a required yard shall require a special permit and not a variance from the Board of Appeals.
 10. Attorney Grover presented the site plan to the board. The existing side of the building has a setback of three and fourth tenths (3.4) feet except for a small bump out. This bump out is one and eight tenths (1.8) feet and the proposed addition is extending that same line along the same non-conforming distance. Thus, the extension of this wall qualifies as a special permit per section 3.3.4 of the Salem Zoning Ordinance.
 11. Attorney Grover reviewed the criteria for a special permit.
 12. Nina Vyedin asked if the proposed stairs will be accessible to all three units.
 13. Attorney Grover responded that the stairs are for the third-floor unit only. Each unit will have a separate entrance from the backyard. The third-floor unit will be the only unit with access to the roof deck. The other two units will have patios at ground level. The roof deck will provide the third unit with outdoor space.
 14. There will not be any increase in the nonconformities for this petition.
 15. There were no further questions from the board.
 16. 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 proposal meets the community needs by the creation of three housing units that are larger than most of the housing units available in the city. This is a community benefit.

2. Traffic flow and safety, including parking and loading: The applicant is providing six legal and adequate parking spaces.
3. Adequate utilities and other public services already service the structure. The necessary municipal utilities that serve the original structure will continue to serve the structure.
4. Impacts on the natural environment, including drainage: There will be no impact on the natural environment and there will be improved landscaping.
5. Neighborhood character: The project is in keeping with the neighborhood character.
6. Potential fiscal impact, including impact on City tax base and employment: The petition will increase the assessed value of the property, which in turn, will increase 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 KAREN N. JELLOW, TRUSTEE at 67 ESSEX STREET a Special Permit per Section *3.3.1 Applicability*, Section *3.3.3 Nonconforming Structures* and Section *3.3.4 Variance Required* of the Salem Zoning Ordinance to construct a small addition and roof deck on top of the second-floor roof, 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.