



DOMINICK PANGALLO
MAYOR

CITY OF SALEM, MASSACHUSETTS

BOARD OF APPEALS

98 WASHINGTON STREET ♦ SALEM, MASSACHUSETTS 01970
TEL: 978-619-5685

AUGUST 14, 2023

Decision

City of Salem Board of Appeals

The petition of DENNIS VERTIYEV at 68 HIGHLAND AVENUE (Map 14, Lot 155) (R3 Zoning District) for a Special Permit per *Section 3.3.5 Nonconforming Single- and Two-family homes*. In addition, a Variance per *Section 5.1.5(6)(b) Driveway with two-way use* 12 feet wide is required and proposed has varying widths from 7.5 feet, 10.3 feet and 14.2 feet.

A public hearing on the above petition was opened on June 21, 2023 and was continued to July 19th, 2023 and closed on July 19, 2023.

On June 21, 2023, the following members of the Salem Board of Appeals were present: Peter Copelas (Chair), Carly McClain, Paul Viccica, Nina Vyedin and Hannah Osthoff.

On July 19th, 2023, the following members of the Salem Board of Appeals were present: Peter Copelas (Chair), Carly McClain, Paul Viccica, Nina Vyedin, Rosa Ordaz and Hannah Osthoff.

Statements of Fact:

The petition is date stamped May 25, 2023. The petitioner proposes to convert a single-family residence into a two-family residence.

1. 68 Highland Avenue is owned by Dennis Vertiyev
2. The petitioner was Dennis Vertiyev.
3. The representative was Attorney Bill Quinn.
4. 68 Highland Avenue is located in the R3 zoning district. (Map 14, Lot 155).
5. On June 21, 2023, Bill Quinn presented the plans to the board.
6. Mr. Vertiyev purchased the property with his family and they currently live at the property.
7. Mr. Vertiyev decided that to increase income, he wanted to remodel the home so that they could have tenants to support their financial needs.

8. Attorney Quinn described the home as it matches other homes in the area far as height and size. Attorney Quinn stated that his client would like to keep the home in the character of the neighborhood and would not be adding dormers to the home or anything that would change the height of the structure. The petitioner would like to keep the home within the character of the neighborhood.
9. Attorney Quinn described the traffic controls on Highland Avenue to explain to the board that the addition of the units would not make an increase in traffic issues because of all the traffic lights that control the flow of traffic in the area. Attorney Quinn stated that this is relevant when speaking about parking and the access in and out of the property.
10. Attorney Quinn reviewed both parking plans for the property. One plan with five cars spaces and one plan with four car spaces. The property has enough space for five cars to park. However, the fifth space will be cramped in the back and prevent the petitioner from having a decent amount of open landscape space. This is a reason for having a four-car plan and the need for a variance.
11. Attorney Quinn stated that the driveway to the left of the property is a narrow, unpaved driveway that has served the building since it was built over hundred years ago. It does not comply with the design requirements in terms of uniform width of twelve feet. However, it has worked as the entrance for coming and going at the property for decades. There is a clear line of sight in each direction, with virtually nothing to obstruct any kind of view.
12. The traffic coming in and out of the site will be helped by the traffic controls from the stop lights situated around the property on Highland Avenue.
13. Attorney Quinn reiterated that the better plan for the property would be the four-car parking plan because it allows for more open space at the property.
14. Attorney Quinn reviewed the relief requested. A variance from the required five car parking spaces. A variance from square feet per dwelling unit. And a variance from the required width of the driveway.
15. Attorney Quinn commented that because of the size of the lot and the location of the building, it cannot exist without special approvals of these circumstances that are unique and special to the property.
16. Chair Copelas inquired that if the petitioner was going to go from one family to a two family, they would not need variances. They would only need special permits.
17. Attorney Quinn stated they would still need variances for the dimensional requirements for the driveway. However, going from one family to a two family they would not need a variance but a special permit for the area per dwelling unit.
18. Attorney Quinn stated that his client had chosen to go to a three family because a two family was not economically viable for him.
19. Chair Copelas stated that it was hard to see the hardship and the dimensions of the driveway were not going to change, but it would be easier to work around the petition if they were asking for different relief. He stated that he was having

- a hard time seeing the hardship. Especially, since the lot was a straightforward rectangular lot.
20. Paul Viccica stated that he was unsure what Chair Copelas was concerned about. He stated that the petitioner has a fifth parking space, so there would be no variance needed. Mr. Viccica inquired if the issue was the 2,033 square feet, where 3,500 square feet is required.
 21. Mr. Viccica stated that the petitioner is in an R3 district and is trying to maximize on the number of units that the zoning ordinance allows.
 22. Chair Copelas agreed with Paul Viccica.
 23. Nina Vyden stated that based on the square footage provided, she was unsure that the livable area in the third unit would be enough for someone to live comfortably. Ms. Vyden also stated that she believes that any decision the ZBA makes is subject to review by the building department to make sure they are not building something that is out of compliance with the legal and building code requirements.
 24. Dennis Vertiyev stated that they had preliminary floor plans, but they have yet to be vetted by the building inspector. Mr. Vertiyev stated that they did not start designing the floor plans because they wanted to receive the proper approvals before they started designing the property.
 25. Ms. Vyden inquired about the square footage for the proposed units. Mr. Vertiyev stated that the first two floor units would be approximately eight hundred square feet while the third floor unit would be approximately six hundred sixty eight feet.
 26. Chair Copelas stated that he was still having a hard time seeing the hardship for this petition.
 27. Chair Copelas opened the meeting to public comment.
 28. John Field, 66 Highland Avenue, stated the project is already underway. The interior has been gutted and the chimney has already been removed. There have been three furnaces installed for three units.
 29. Mr. Field stated that there has been work done without the proper permits. He stated that he had gone online that day and say that the plumbing permit had been approved on June 21, 2023. That means he has been doing work before he received the approval. He stated that a dumpster had been on the property without the proper permits as well.
 30. Mr. Field continued that this is a rather busy thoroughfare, and the driveway is somewhat blind with shrubs at either side. If there were ever a situation where tenants were coming out, and others coming in, it would cause a traffic issue on a busy stretch of Highland Avenue.
 31. Attorney Quinn requested a continuance to the July meeting to confer with his client and reassess what their approach would be.
 32. Nina Vyden made a motion to approve the request for a continuance.
 33. On July 19, 2023, Attorney Quinn continued his petition. He stated that they have amended their petition and reduced the requested relief. The petitioner is now seeking to go from a one family to a two family under the Salem Zoning

Ordinance, section 3.3.5 Nonconforming Single- and Two-family homes. The petitioner is no longer seeking any variances except for the uneven width of the driveway at the property.

34. Attorney Quinn reviewed the facts from the first meeting for the board.
35. Attorney Quinn reviewed the criteria for a special permit. He also addressed that all the work currently happening at the property, electrical, plumbing and structural has been permitted.
36. Attorney Quinn stated that his client does intend to live at the property when all the work has been completed. In the current state, the property is unlivable.
37. Attorney Quinn stated that they have the required amount of parking for a two family, three spaces. This is based on the submitted revised parking plan. The new plan does allow for the occupants to be able to turn around in the back of the property so no one will need to back out onto Highland Avenue.
38. Attorney Quinn reviewed the grounds for a special permit.
39. Attorney Quinn reviewed the hardship for the variance for the driveway. He stated that the driveway has served this property for over one hundred years. The narrow space between the property and the abutter is what dictates the size of the driveway and it has been this way for over one hundred years. There is no other way to provide access to the parking then the existing driveway.
40. Dennis Vertiyev stated that he was grateful to the board for their time with his petition and he stated that they are paving the parking area to assist in snow removal during the winter.
41. Mr. Vertiyev stated that they will not being living at the property now that they are converting to only a two family. He stated that it does not make sense financially to live in one of the units. He wanted to communicate this to the board.
42. Paul Viccica inquired will the petitioner be keeping maple trees on the property. Mr. Vertiyev stated they will be keeping the trees on the property.
43. Chair Copelas opened the meeting to public comment.
44. John Field, 66 Highland Avenue, stated that he appreciates the changes in the petition to go from a proposed three family to only a two-family home.
45. Paul Viccica made a motion to approve the petition.

On the basis of the above statements of fact and findings, the Salem Board of Appeals voted five (5) in favor (Peter A. Copelas(Chair), Nina Vyden, Carlie McClain, Rosa Ordaz, Hannah Osthoff and Paul Viccica and none (0) opposed to grant DENNIS VERTIYEV at 68 HIGHLAND AVENUE a Special Permit per *Section 3.3.5 Nonconforming Single- and Two-family homes*. In addition, a Variance per *Section 5.1.5(6)(b) Driveway with two-way use* 12 feet wide is required and proposed has varying widths from 7.5 feet, 10.3 feet and 14.2 feet.

Receiving five (5) in favor votes, the petition for a Special Permit is GRANTED.

Receiving five (5) in favor votes, the petition for a Variance is GRANTED.

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. 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.
8. 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.
9. Petitioner shall schedule Assessing Department inspections of the property, at least annually, prior to project completion and a final inspection upon project completion.

Peter A. Copelas/ 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.