



KIMBERLEY DRISCOLL  
MAYOR

# CITY OF SALEM, MASSACHUSETTS BOARD OF APPEAL

98 WASHINGTON STREET ♦ SALEM, MASSACHUSETTS 01970  
TEL: 978-745-9595

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CITY CLERK  
SALEM, MASS

December 3, 2018

## Decision

### City of Salem Board of Appeals

**Petition of DONALD HARLOW-POWELL requesting a special permit per Section 3.3.5 of the Salem Zoning Ordinance to increase the nonconformity of a single-family house lot by transferring 360 square feet to an adjacent parcel to accommodate an encroachment at 12 Almeda Street (Map 14, Lot 197) (R1 Zoning District).**

A public hearing on the above Petition was opened on November 19, 2018 pursuant to M.G.L Ch. 40A, § 11 and closed on that date with the following Salem Board of Appeals members present: Mike Duffy (Chair), Peter A. Copelas, Jim Hacker, Patrick Shea, and Paul Viccica.

The Petitioner seeks a special permit per Section 3.3.5 of the Salem Zoning Ordinance, *Nonconforming Single- and Two-Family Residential Structures*, to allow the petitioner to increase the nonconformity of the existing, nonconforming single-family house lot.

#### Statements of fact:

1. In the petition date-stamped October 23, 2018, the Petitioner requested a special permit under Section 3.3.5 of the Zoning Ordinance to increase the nonconformity by reducing lot size by 360 square feet.
2. Petitioner Donald Harlow-Powell presented the petition.
3. The property is located in the R1 Zoning District. The existing property is nonconforming as to minimum lot area (square feet). A minimum lot area of 15,000 square feet is required in the R1 district; existing lot area is 11,331 square feet, and proposed lot area is 10,971 square feet.
4. The abutters, John M. and Ivone M. Silva at 10 Almeda Street, built a retaining wall and fence between their lot and the lot at 12 Almeda Street before the petitioner purchased home. The wall and fence encroach onto the 12 Almeda Street lot by 360 square feet. Petitioner is proposing to transfer the 360 square feet of the lot to the abutters; the abutters have accepted the petitioner's offer to sell.
5. The requested relief, if granted, would allow Petitioner to increase the nonconformity of the lot by reducing the lot area by 360 square feet through the sale of 360 square feet of the lot to the abutters. There would be no other changes to the lot or the structure.
6. At the November 19, 2018 public hearing, no members of the public spoke in favor or in opposition to the petition.

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** that the proposed project meets the provisions of the City of Salem Zoning Ordinance:

**Special Permit Findings:**

The Board finds that the proposed alteration will not be substantially more detrimental than the existing non-conforming structure to the neighborhood. The Board determined during the public hearing that the changes are so minimal that they will not have a significant impact on the standard special permit criteria.

On the basis of the above statements of fact and findings, the Salem Board of Appeals voted five (5) in favor (Mike Duffy (Chair), Patrick Shea, Peter Copelas, Jim Hacker, Paul Viccica) and none (0) opposed to approve a Special Permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance to increase the nonconformity of a nonconforming single-family house lot, subject to the following terms, conditions, and safeguards:

Standard Conditions:

1. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board.

Special Conditions:

1. Petitioner will submit the new plot plans to the City of Salem Building Department.

  
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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.*