



KIMBERLEY DRISCOLL  
MAYOR

# CITY OF SALEM, MASSACHUSETTS BOARD OF APPEAL

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

2018 DEC -3 AM 9:56  
CITY CLERK  
SALEM, MASS

December 3, 2018

## Decision

### City of Salem Board of Appeals

Petition of HARRY'S HOUSE LLC for a special permit per Sections 3.3.3 and 3.3.4 of the Salem Zoning Ordinance to extend, reconstruct or change an existing non-conforming structure at 15 BECKET STREET (Map 41, Lot 129) (R2 Zone). Petitioner proposes to remove portions of the existing structure in order to create a driveway allowing access to the backyard for parking 3 vehicles and replace the existing covered porches at the rear of the building. Petitioner also requests a variance per Section 4.1.1 Table of Dimensional Requirements for relief from the maximum number of stories to allow the addition of 3<sup>rd</sup> floor dormers. In addition, petitioner proposes to reduce the total dwelling units in the structure from 4 to 3.

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 Sections 3.3.3 and 3.3.4 of the Salem Zoning Ordinance, *Nonconforming Structures* and *Variance Required* to expand, reconstruct or change the existing non-conforming structure, and a variance from Section 4.1.1 *Table of Dimensional Requirements* to exceed the maximum height of buildings (stories) to build 3<sup>rd</sup> floor dormers.

#### Statements of fact:

1. In the petition date-stamped October 30, 2018, the Petitioner requested a special permit per Sections 3.3.3 and 3.3.4 of the Salem Zoning Ordinance, *Nonconforming Structures and Variance Required* to expand, reconstruct or change the existing non-conforming structure, and a variance from Section 4.1.1 Table of Dimensional Requirements to exceed the maximum height of buildings (stories) to build 3<sup>rd</sup> floor dormers.
2. Attorney Scott M. Grover, Esq. presented the petition.
3. The property is located in the R2 Zoning District. The existing property is nonconforming to the following dimensional requirements: minimum lot area, maximum lot coverage, minimum frontage, minimum lot width, setbacks: front, right side, left side, rear.
4. Petitioner proposes to remove portions of the existing structure in order to create a driveway allowing access to the backyard for parking 3 vehicles and replace the existing covered porches at the rear of the building. Petitioner also proposed to add 3<sup>rd</sup> floor dormers and, as noted above, seeks variance from maximum height of buildings (stories) dimensional requirement. In addition, petitioner proposes to reduce the total dwelling units in the structure from 4 to 3.
5. The requested relief, if granted, would allow the petitioner to alter, reconstruct, and extend the existing nonconforming structure, and allow the petitioner to add 3<sup>rd</sup> floor dormers which would

make the building exceed the maximum height of buildings (stories) of 2.5 stories in the R2 zoning district.

6. At the public hearing, attorney Scott Grover noted that the building is “in a significant state of disrepair” and that all four existing units vacant. Mr. Grover noted that the building is currently used as a four-family home, and that the owner is proposing to reduce the dwelling units from 4 to 3. Mr. Grover explained that the construction and alterations are to create at least 3 parking spaces (and access to parking) where none exist, to restore the state of the building. Along the same lines, the addition of the 3<sup>rd</sup> floor dormers in the back of the building where the porches are being removed (i.e., such that there is no change in the building footprint) will recover building square footage that is lost from removing portions of the structure for the driveway.
7. Mr. Grover noted that the special permit covers most of the changes, and that the variance requirement is for the new height of the building in floors, triggered by the addition of dormers. The building, at a proposed 28’, will still be below the maximum height (feet) in the R2 district of 35’. However, it will exceed the maximum height (stories) of 2.5, as the dormers will make the building 3 stories tall.
8. Project architect Dan Ricciarelli of Seger Architects also presented information about the proposal. Mr. Ricciarelli noted that the first-story portion of the existing porches will be removed. Mr. Ricciarelli explained that the whole structure will be rehabilitated and fully sprinkled. Mr. Ricciarelli also noted that the entrance will be moved to the front of the building (facing the street) to serve a front townhouse, and that a second entrance will be added to serve the two residential units in the back: a town flat on the ground floor, and a townhouse above which incorporates the second and third levels.
9. The Board asked questions to the presenters. Board member Peter Copelas asked why reducing from 4 to 3 residential units requires additional square feet. Architect Mr. Ricciarelli explained that they wanted to recapture the lost space from the porch and normalize the building with the neighborhood character by adding dormers, and that the change in building layout will make the building more functional for three units and make the unit more valuable.
10. At the November 19, 2018 public hearing, three (3) members of the public spoke in favor of the opposition and no (0) members of the public spoke in opposition to the petition, though one (1) member of the public expressed concerns as discussed below, under #11.
11. One abutter, whose house is very near the property line, expressed concern about the changes to the property affecting her basement ventilation as well as drainage, as parking spaces will replace existing grass. She also expressed concern about cars coming too close to her house. The architect noted that there will be a strip for drainage as required by zoning, as well as a six-foot-high fence to block headlights. There was some confusion regarding the locations of the abutter’s house and the petitioner’s driveway relative to the property line. Mr. Grover noted that there will be a two-foot wide permeable buffer around the paved areas. The abutter stated that she had no other questions, and that it was helpful to know there would be a buffer and a fence.

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.

1. Social, economic and community needs are served by this proposal: the project will take a dilapidated building and make it a nice, reworked, remodeled building.
2. Regarding traffic flow and safety, including parking and loading, the project will improve the parking situation by providing off-street parking (3 spaces) in a neighborhood with very little.
3. The property will have all the utilities and public services that it needs; as this is a remodel and a reduction from four units to three, it appears that utilities and public services are all in place.
4. Regarding impact on the natural environment and drainage, although the driveway and parking spaces will reduce the permeable surface area, the two-foot-wide buffer around paved areas will provide for drainage. As Building Commissioner Tom St. Pierre noted during discussion, "the ordinance is designed so water from one driveway won't run onto another person's property."
5. Neighborhood character: The design fits nicely with the neighborhood and brings a historic building "back to its former glory."
6. Potential fiscal impact is positive, as this project will take a neglected building and make it better used.

**Variance Findings:**

The Board finds that the proposed use will not outweigh its beneficial impacts to the City or the neighborhood.

1. Special conditions and circumstances affect the site, including the narrow width of the lot – 31' wide – and the proposed changes are in response to these special conditions. The building and parcel are both unique.
2. Literal enforcement of the provisions of the Ordinance would involve substantial hardship to the applicant. Off-street parking could not be provided without changes to the building (which trigger the need for a variance).
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. The changes, as necessitated by the special conditions of the lot and building, will be accommodated with minimal impact on the zoning ordinance.

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 the requested Special Permit per Sections 3.3.3 and 3.3.4 of the Salem Zoning Ordinance to extend, reconstruct, and change an existing nonconforming structure, and to approve the requested Variance per Section 4.1.1 *Table of Dimensional Requirements* for relief from the maximum height of buildings (stories) to allow the addition of 3<sup>rd</sup> floor dormers and, in addition, reducing the total dwelling units in the structure from 4 to 3, at 15 BECKET STREET (Map 41, Lot 129) (R2 Zoning District), 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.

  
\_\_\_\_\_  
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.*