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CITY OF SALEM, MASSACHUSETTS BOARD OF APPEAL

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CITY CLERK
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January 2, 2019

Decision

City of Salem Board of Appeals

Petition of KASTRIOT QIRICI for a special permit per Section 3.3.5 of the Salem Zoning Ordinance to expand a nonconforming structure by reconstructing the existing roof and adding a partial third story gambrel to the existing two-family home at 16 LATHROP STREET (Map 36, Lot 333) (R2 Zoning District).

A public hearing on the above Petition was opened on December 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, Jimmi Heiserman, Patrick Shea, and Jimmy Tsitsinos.

The Petitioner seeks a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance.

Statements of Fact:

1. In the petition date-stamped November 27, 2018, the Petitioner requested a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance to expand a nonconforming structure by reconstructing the existing roof and adding a partial third-story gambrel to the existing two-family home.
2. Petitioner Kastriot Qirici presented the petition.
3. The property is a two-family house located in the Residential Two-Family (R2) zoning district. The existing property is nonconforming as to minimum lot area, minimum lot area per dwelling unit, minimum lot frontage, minimum lot width, minimum depth of front yard, and minimum depth of side yard. It may be nonconforming to minimum distance between buildings on lot and maximum lot coverage by all buildings.
4. The proposal is to reconstruct the existing roof and to add a partial third-story gambrel. Per the Statement of Grounds submitted with the application, this is an "8' Gambrel roof section on one side of the house" which "does not affect the front elevation of the house" and which will not include windows. The gambrel will not reach higher than the existing high point of the roof; it will extend downward from the roof's peak. Per the Statement of Grounds, "[t]his proposed section will simply be used as headroom for the stairs accessing the living area upstairs which previously had a set of stairs 24" wide and no headroom to meet any building codes."
5. The existing height of the building in stories is two and one-half (2.5) stories. This is the maximum allowed height in stories in the R2 zoning district. The addition of the gambrel constitutes a half-story, bringing the building height to three (3) stories.

6. The requested relief, if granted, would allow the petitioner to reconstruct the existing roof and add a partial gambrel, bringing the height of the building to three (3) stories. The peak of the building – the highest point – will not change in height.
7. In the Statement of Grounds, Petitioner states that there will be no change to the number of rooms or the square footage of the house. Per this Statement, there will be no impact to traffic, utilities, public services, or natural environment including drainage; “the roof line will stay the same and the gutter will be one continuous piece, undisturbed along the roof line.” Neither the footprint of the building nor the maximum height will change. Petitioner states in the Statement of Grounds that this roof reconstruction and addition of a gambrel will increase the value of the house, thus increasing the City tax base, and that the reconstruction will help “future sales in the area.” The Petitioner states that he does not believe there will not be “any impact at all” on neighborhood character.
8. At the December 19, 2018 public hearing, Mr. Qirici explained that he bought the property recently, and that he found that he could not insulate a portion of the roof in its current condition, so he decided that he should take it down and rebuild it. Mr. Qirici further explained that the gambrel roof will be used to create headroom for the existing stairs.
9. Building Commissioner Tom St. Pierre stated that the gambrel roof constitutes a third-floor dormer, even though it is partial. Mr. Copelas asked whether this is changing the height of the house, and Mr. St. Pierre stated that it is not.
10. Mr. Copelas asked Mr. Qirici about the second floor windows on the house, stating that they do not appear in person the way they are drawn in the plans. Mr. Qirici stated that they are frame windows to let light in. He said that if there is something that we have to address, we certainly will.
11. At the December 19, 2018 public hearing, no (0) members of the public spoke in favor of or in opposition to the petition. One member of the public asked whether the roof has already been built; Mr. Qirici responded that he already had approval for the A-frame roof, which has been rebuilt, but that the gambrel had not yet been approved and has not yet been built. Mr. St. Pierre stated that Mr. Qirici has rebuilt the previously existing part of the roof, but that the gambrel has not yet been built. The member of the public said it looks a lot better than it was.
12. The Board deliberated. Chair Duffy stated that the petition appears pretty straightforward, and that the building does not exceed maximum height in feet (the maximum height of the building would not change).

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:

Findings for Special Permit:

The Board finds that the alteration to the existing structure will not be substantially more detrimental than the existing structure to the neighborhood.

1. Social, economic and community needs served by the proposal: by making an improvement to the property, the proposal will likely increase the value of the property and possibly increase real estate values in the neighborhood.
2. There will be no changes to traffic flow and safety, including parking and loading, as the use will not change. There will be no change to the number of rooms or to the square footage of the house.

3. There will be no change in use of utilities and other public services; as such, existing utilities and other public services are adequate.
4. There will be no change in impacts on the natural environment, including drainage, as the use will not change. As presented in the Statement of Grounds, "the roof line will stay the same and the gutter will be one continuous piece, undisturbed along the roof line."
5. There will not be a significant impact on neighborhood character.
6. Potential fiscal impact, including impact on City tax base and employment: the improvement to the property will likely increase the assessed value of the house, thus increasing the City tax base.

On the basis of the above statements of fact and findings, the Salem Board of Appeals voted five (5) in favor (Mike Duffy (Chair), Peter A. Copelas, Jimmi Heiserman, Patrick Shea, and Jimmy Tsitsinos) and none (0) opposed to grant the requested Special Permit per Section 3.3.5 of the Salem Zoning Ordinance to expand a nonconforming structure by reconstructing the existing roof and adding a partial third story gambrel to the existing two-family home at 16 Lathrop Street, 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.