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CITY OF SALEM, MASSACHUSETTS BOARD OF APPEAL

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April 3, 2019

Decision

City of Salem Board of Appeals

2019 APR -3 PM 3: 17

CITY CLERK
SALEM, MASS.

Petition of WILLIAM CRAIG for a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance to extend the existing nonconforming two-family home and exceed maximum height of buildings (stories) by demolishing the existing second story, replacing the second story, and adding a third story at 181 MARLBOROUGH ROAD (Map 10, Lot 16) (R1 Zoning District).

A public hearing on the above Petition was opened on March 20, 2019 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, Jimmy Tsitsinos, and Paul Viccica (Alternate).

The Petitioner seeks a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures*.

Statements of Fact:

1. In the petition date-stamped January 30, 2019, the Petitioner requested a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* to extend the existing nonconforming two-family home and exceed maximum height of buildings (stories) by demolishing the existing second story, replacing the second story, and adding a third story.
2. Petitioner William Craig presented the petition.
3. The property is a two-family house, which is a nonconforming use in the Residential One-Family (R1) zoning district.
4. The property is nonconforming to minimum lot area and minimum lot area per dwelling unit. The proposal will not affect these existing nonconformities. The proposal will create a new nonconformity of maximum height of buildings (stories).
5. The petitioner is proposing to demolish the existing second story, replace the second story, and add a third story. The proposed addition is within the existing building footprint.
6. The maximum height of buildings (stories) in the R1 zoning district is 2.5 stories. Under this proposal, the building height will be 3 stories, which would be a new nonconformity. The building is not proposed to exceed the maximum height in feet allowed in the R1 district: the maximum height of buildings (feet) in the R1 district is 35 feet; under this proposal, the building height would be 34 feet 4 inches.
7. The requested relief, if granted, would allow the petitioner to extend the existing nonconforming two-family home and exceed maximum height of buildings (stories) by demolishing the existing second story, replacing the second story, and adding a third story.

8. At the March 20, 2019 public hearing, the petitioner, Mr. Craig, and the designer, Eric Jacobson, discussed the proposal. Mr. Jacobson explained that the proposal is to build straight up from the existing footprint and make the second unit of the house more livable by changing it from a half-story to one and a half stories. The second unit is a two bedroom unit. Part of the third story will contain a master bedroom, closet, and bathroom (all part of the second unit.) He noted that the siding will be the same and that they are aiming to replace most of if not all of the windows. Mr. Jacobson noted that there is an existing structure (roughly 4' by 8') on the back of the property which is an egress for the back of the structure; there will be no addition over this section.
9. At the March 20, 2019 public hearing, no (0) members of the public spoke in favor of or in opposition to the petition. One member of the public asked questions about the proposed design, which the petitioner and the designer answered. Chair Duffy read an email, brought by the petitioner, from Toni and Gus Macione of 185 Marlborough Road in support of the project, which stated that they cannot make the meeting but that they wish the applicant the best of luck; to inform the Board that they are in full support of the project and they are happy the applicant has chosen to invest in this home.
10. Building Commissioner Tom St. Pierre asked what year the house was built. Mr. Jacobson responded "1931," but noted that could be off by a year. According to PatriotProperties.com, the house was built about 1927.
11. Chair Duffy spoke to the special permit criteria.

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:

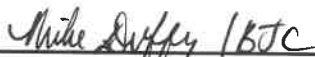
The Board finds that the proposed nonconforming structure is not substantially more detrimental than the existing nonconforming structure to the neighborhood.

1. There will be no negative impact on social, economic and community needs.
2. There will be no impacts to traffic flow and safety, including parking and loading, as no units are being added.
3. Existing utilities are set up for two units, with two electrical meters. The second floor addition will require a new line from the existing pole.
4. There will be no impacts on the natural environment, including drainage, as the new roofline will be similar to the existing roofline.
5. The design of the proposed addition will match up with the design of the existing building. The proposal fits with the neighborhood character.
6. The potential fiscal impact, including impact on City and tax base and employment, is positive: this proposal could enhance the value of the property and thus increase the City's tax base.

On the basis of the above statements of fact, the Salem Board of Appeals voted five (5) in favor (Mike Duffy (Chair), Peter A. Copelas, Jimmi Heiserman, Jimmy Tsitsinos, and Patrick Shea) and none (0) opposed to grant the requested Special Permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance to extend the existing nonconforming two-family home and exceed maximum height of buildings (stories) by demolishing the existing second story, replacing the second story, and adding a third story at **181 Marlborough Road**, 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.