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CITY CLERK  
SALEM, MASS

July 31, 2019

Decision

City of Salem Board of Appeals

Petition of BENJAMIN AND CHRISTINE DZEDULIONIS for a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance to enlarge an existing nonconforming single-family home by adding a second story addition on the existing footprint and adding a new front porch at 19 OAKVIEW AVENUE (Map 21, Lot 106) (R1 Zoning District).

A public hearing on the above Petition was opened on July 17, 2019 pursuant to M.G.L Ch. 40A, § 11 and closed on that date with the following Salem Board of Appeals members present: Peter A. Copelas, Mike Duffy (Chair), Jimmi Heiserman, Rosa Ordaz (alternate), Jimmy Tsitsinos, and Paul Viccica (alternate).

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 June 25, 2019, the petitioner requested a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* to enlarge an existing nonconforming single-family home by adding a second story addition on the existing footprint and adding a new front porch at 19 Oakview Avenue.
2. Attorney William Quinn, representing petitioners Benjamin and Christine Dzedulionis, presented the petition.
3. The property is a single-family home located in the Residential One-Family (R1) Zoning District.
4. The property is nonconforming to minimum lot area and minimum depth of side yard on one side (the southeast side of the property).
5. The proposal is to add a second-story addition on the existing footprint and to add a new front porch.
6. As noted in the Statement of Grounds submitted with the application, "All proposed construction complies with the dimensional requirements of the Ordinance except as to the extension of an existing nonconforming side setback because of the addition." The attached front porch will extend six (6) feet from the existing building towards Oakview Avenue; because of the situation of the building on the lot, the outer corner of the porch will be eight (8) feet from the side lot line – a larger setback than between the existing building and the lot line, but still nonconforming to the requirement.
7. Although the addition is described as a second story addition in the application text, the plans indicate that the total height of the building will be 2.5 stories. The height of the building still meets the maximum height allowances of the R1 zoning district of 2.5 stories and 35 feet.

8. The requested relief, if granted, would allow the petitioner to enlarge an existing nonconforming single-family home by adding a second story addition on the existing footprint and adding a new front porch at 19 Oakview Avenue.
9. At the July 17, 2019 public hearing, Attorney Quinn discussed the petition. Attorney Quinn explained that the petitioners are hoping to expand their home to accommodate three children of whom they are guardians, in addition to their three children. Architect Peter Sandorse presented the elevations and explained the vertical expansion of the house as well as the addition of the porch.
10. At the public hearing, Chair Duffy asked if the new height will be thirty-two (32) feet. Mr. Sandorse confirmed. Jimmy Tsitsinos asked what the third floor will be used for; Mr. Sandorse confirmed it will only be used as an attic, and there will be no staircase going up.
11. Chair Duffy noted that with the addition, the property will still be within requirements for height in stories and feet. He added that the only nonconformity being addressed is the side yard setback; the building will not encroach further into the side yard setback, it will just be continued along the existing wall.
12. At the July 17, 2019 public hearing, Attorney Quinn submitted a petition signed by five (5) neighbors, located at 17 Oakview Avenue, 30 Cedarview Street, 20 Oakview Avenue, 23 Oakview Avenue, and 2 Riverview Avenue, in support of the petition. He stated that this was signed by the neighbors on all sides.
13. At the July 17, 2019 public hearing, one (1) member of the public spoke in favor of the petition and no (0) members of the public spoke in opposition to the petition.
14. At the July 17, 2019 public hearing, Chair Duffy reviewed 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. Social, economic and community needs served by the proposal: Providing additional space for this family is serving a valid social, economic and community need.
2. Traffic flow and safety, including parking and loading, will not be impacted.
3. Adequate utilities and public services service the property.
4. Impacts on the natural environment, including drainage: the property will be on more or less the same footprint as existing, so no negative impact is anticipated.
5. Neighborhood character: The proposal is in keeping with the style of the existing house; given the support of the neighbors, the proposal appears to be in keeping with the neighborhood character.
6. Potential fiscal impact, including impact on City tax base and employment: There is a potential positive fiscal impact on the City tax base, as this proposal will likely increase the assessed value of the property.

On the basis of the above statements of fact and findings, the Salem Board of Appeals voted five (5) in favor (Jimmy Tsitsinos, Jimmi Heiserman, Paul Viccica, Mike Duffy (Chair), and Peter A. Copelas) 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 enlarge an existing nonconforming single-family home by adding a second story addition on the existing footprint and adding a new front porch at **19 Oakview Avenue**, 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. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board.

  
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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.