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CITY OF SALEM, MASSACHUSETTS BOARD OF APPEALS

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July 3, 2019

Decision

City of Salem Board of Appeals

2019 JUL -3 PM 3:00
CITY CLERK
SALEM, MASS

Petition of FELIPE SENA for a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance to expand a nonconforming single-family home by building a roof over a portion of the existing deck at 253 LORING AVENUE (Map 31, Lot 142) (R1 & ECOD Zoning Districts).

A public hearing on the above Petition was opened on June 19, 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, 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 May 23, 2019, the petitioner requested a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* to expand a nonconforming single-family home by building a roof over a portion of the existing deck at 253 Loring Avenue.
2. Petitioner Felipe Sena and representative Cesar Rosales presented the petition.
3. The property is a single-family home located in the Residential One-Family (R1) zoning district and the Entrance Corridor Overlay District.
4. The property appears to be nonconforming to at least minimum lot area, minimum lot width, maximum lot coverage by all buildings, minimum depth of front yard, and minimum width of rear yard.
5. The petitioner is proposing to build a roof to cover part of the existing deck at the property.
6. Covering a portion of the deck constitutes an expansion of the nonconforming structure; doing so will increase the nonconformity of maximum lot coverage by all buildings.
7. The requested relief, if granted, would allow the petitioner to expand the nonconforming single-family home at 253 Loring Avenue by building a roof over a portion of the existing deck.
8. At the June 19, 2019 public hearing, representative Cesar Rosales discussed the petition. Mr. Rosales explained that 253 Loring Avenue is his father-in-law's property. He stated that the deck already exists at the property. The proposal is to cover the deck.
9. At the public hearing, Board member Paul Viccica asked if this is an open structure that is not enclosed. Mr. Rosales answered in the affirmative. Mr. St. Pierre asked how much further along construction is than what is shown in the pictures submitted with the application. Mr. Rosales stated that there is nothing more; just the posts that are shown in the picture. Mr. Viccica and Building

Commissioner Tom St. Pierre explained the need for some more detailed drawings, citing concerns about snow loads, wind uplift, and other problems. Mr. St. Pierre told Mr. Rosales to talk to the Building Department when he comes in for the permit.

10. Board member Peter A. Copelas asked Mr. St. Pierre if he would approve of the Board making (any approval) contingent on more formal plans being submitted to him (the Building Commissioner). Mr. St. Pierre responded in the affirmative.
11. At the June 19, 2019 public hearing, no (0) members of the public spoke in favor of or in opposition to the petition. One (1) member of the public, Brooke Morrissey representing Gary Pierce, owner of the house next door (251 Loring Avenue), asked about the existing poles and the height of the roof. Ms. Morrissey looked at the drawings and stated that that (the height) was Mr. Pierce's concern. Mr. St. Pierre stated that approval is per the drawings submitted and that the drawings show a nine-foot-high roof, which would preclude the petitioner from building the roof on top of the existing poles. Mr. St. Pierre explained that this is a pitch roof. Ms. Morrissey explained that the concern was that the roof would go on top of the existing poles.
12. At the public hearing, the Board discussed the height of the roof. Chair Duffy noted that the application refers to a nine foot (9') height. The Board discussed that this is to the eave. Mr. Rosales stated that they have to cut the posts.
13. Chair Duffy noted that the application states that the roof will be twelve feet (12') wide, 15.8' long, and nine feet (9') in height.
14. The Board discussed the height; Mr. St. Pierre noted the Board's concern about a steep roof going much higher than a shallow roof. Mr. Viccica stated that the Board should include a condition that the peak of the roof be no taller than fourteen (14') feet.
15. Mr. St. Pierre asked the representative if he would accept a twelve foot (12') high (overall) roof. Mr. Rosales responded in the affirmative.

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: The proposal will improve the living space for the owner, resulting in improvements to the visual and functional character of the dwelling.
2. There will be no impact on traffic flow and safety, including parking and loading.
3. There will be no additional burden on utilities and other public services.
4. There will be no change in impacts on the natural environment, including drainage. There will be gutters on the roof and runoff will be controlled.
5. Neighborhood character: The proposed addition will not be inconsistent with the character of the neighborhood.
6. Potential fiscal impact, including impact on City tax base and employment: The proposal may increase the assessed value of the property, thus increasing the City's tax base.

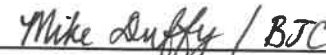
On the basis of the above statements of fact and findings, the Salem Board of Appeals voted four (4) in favor (Peter A. Copelas, Mike Duffy (Chair), Jimmi Heiserman, and Paul Viccica) and none (0) opposed to grant the requested Special Permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance to expand a nonconforming single-family home by building a roof over a portion of the existing deck at **253 Loring 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.

Special Condition:

1. The height of the new roof covering the deck shall be no greater than twelve feet (12') to the ridge as measured from the existing slab.

 / BJC

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.