



KIMBERLEY DRISCOLL  
MAYOR

# CITY OF SALEM, MASSACHUSETTS BOARD OF APPEAL

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

April 3, 2019

## Decision

### City of Salem Board of Appeals

**Petition of CHRIS HINCHEY for a special permit per Section 3.3.5 Nonconforming Single- and Two-Family Residential Structures of the Salem Zoning Ordinance to construct third story dormers at the existing two-story nonconforming two-family home at 37 ROSLYN STREET (Map 33, Lot 139) (B4 Zoning District).**

2019 APR -3 PM 3:17  
CITY OF SALEM

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 February 11, 2019, the Petitioner requested a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* to construct third story dormers at the existing two-story nonconforming two-family home.
2. Petitioner Chris Hinchey presented the petition.
3. The property is a two-family house, which is a nonconforming use in the Business Wholesale & Automotive (B4) zoning district.
4. The property is nonconforming to minimum lot area, lot area per dwelling unit, lot frontage, lot width, and depth of rear yard.
5. The petitioner is proposing to add two third-story dormers to the property. This will increase the height of the building in stories from 2.5 to 3 stories, but will not increase the overall height in feet of the building.
6. The proposal will not affect any existing nonconformities or create any new nonconformities.
7. The requested relief, if granted, would allow the petitioner to add two third-story dormers at the existing two-story nonconforming two-family home.
8. At the March 20, 2019 public hearing, the petitioner discussed the proposal. The petitioner noted that other houses in the neighborhood have similar shed dormers. The petitioner discussed the special permit criteria. He noted that there was no heating system when he bought the house, and when he installed a heating system, he accounted for the third floor. Building Commissioner Tom St. Pierre noted that the proposal will not add any dwelling units; this is just an expansion of the second floor unit into the third floor as a master bedroom with a bathroom.
9. At the March 20, 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.

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 use is not substantially more detrimental than the existing nonconforming use to the neighborhood.

1. Social, economic and community needs served by the proposal: This will create a more livable space suitable for longer-term tenants.
2. There will be no impacts to traffic flow and safety, including parking and loading, as no dwelling units are being added.
3. Utilities and public services are adequate.
4. There will be no impacts on the natural environment, including drainage. Gutters on the shed dormers will drain into existing gutters.
5. The proposal fits with the neighborhood character and other dwellings in the neighborhood. Several other houses in the neighborhood, including direct abutters, have one or more shed dormers.
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 (Peter A. Copelas, Mike Duffy (Chair), Jimmi Heiserman, Patrick Shea, and Jimmy Tsitsinos) 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 construct third story dormers at the existing two-story nonconforming two-family home at **37 Roslyn 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.*