



KIMBERLEY DRISCOLL
MAYOR

CITY OF SALEM, MASSACHUSETTS BOARD OF APPEALS

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

CITY CLERK
SALEM, MASS

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October 16, 2019

Decision

City of Salem Board of Appeals

Petition of CHRISTOPHER GIZZI for a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance to add a 25' by 8' porch nonconforming to rear yard setback to the rear of a to-be-constructed two-family home at 52-54 APPLETON STREET (Map 27, Lot 181) (R2 Zoning District).

A public hearing on the above Petition was opened on October 2, 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, Jimmy Tsitsinos, and Paul Viccica.

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 July 31, 2019, the petitioner requested a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance to add a 25' by 8' porch nonconforming to rear yard setback to the rear of a to-be-constructed two-family home at 52-54 Appleton Street.
2. Petitioner Christopher Gizzi presented the petition.
3. The property is a two-family home in the Residential Two-Family (R2) zoning district.
4. With the existing structure, the property is nonconforming at least in terms of rear yard setback, side yard setback (both sides), minimum lot area, minimum lot area per dwelling unit, and minimum lot frontage.
5. The proposal is to demolish the existing structure and construct a new two-family house on the property. The proposed structure would conform to the side yard setbacks. The proposed 25' by 8' porch at the rear of the structure would make the property nonconforming to rear yard setback by providing a 22 foot setback instead of the required 30 feet in the R2 district. The property would remain nonconforming to the other criteria noted above.
6. The requested relief, if granted, would allow the petitioner to add a 25' by 8' porch nonconforming to rear yard setback to the rear of a to-be-constructed two-family home.
7. At the October 2, 2019 public hearing, petitioner Christopher Gizzi explained the request. He stated that his plan is to demolish the existing house and to build a new two-family home there, with the proposed porch. The porch would be attached to the second floor. Chair Duffy asked about the layout of the backyard. Mr. Gizzi noted that the house is there now but that there is not a noticeable slope in that area. Building Commissioner / Zoning Enforcement Officer Tom St. Pierre asked

whether the houses behind Mr. Gizzi's property are higher; Mr. Gizzi responded that they are at about the same level.

8. Tom St. Pierre noted that the petitioner received a waiver of demolition delay from the Historical Commission.
9. At the October 16, 2019 public hearing, no (0) members of the public spoke in favor of or in opposition to the petition.
10. At the public hearing, Peter Copelas stated that this proposal is a significant improvement to the siting of the property and the building itself.
11. At the public hearing, Chair Duffy read from the Statement of Grounds in discussing the special permit criteria (noted below).
12. Paul Viccica asked about parking and siting of the house. Mr. Gizzi explained that the siting of the house allows for the existing curb cut to be used for one parking spot on one side of the structure, and a potential second curb cut for a second parking spot on the other side of the structure. Mr. Gizzi stated that he believes the existing curb cut is 11 feet, so they will have to reduce it by one foot, and they are hoping for a 10-foot curb cut on the other side.
13. The Board asked about the entrances and the porches. Mr. Gizzi answered that the second floor porch has stairs to the ground and constitutes the second means of egress for that unit.

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, 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 that are served by the proposal: No impact is anticipated.
2. There will not be negative impacts to traffic flow and safety, including parking and loading. The deck will be at the rear of the home.
3. Adequate utilities and public services service the property. A light will be mounted on the house.
4. No impacts on the natural environment, including drainage, are anticipated.
5. The property will be conducive to and will enhance the character of the neighborhood and the City.
6. Potential fiscal impact, including impact on City tax base and employment: No fiscal impact is anticipated.

On the basis of the above statements of fact and findings, the Salem Board of Appeals voted five (5) in favor (Paul Viccica, Jimmy Tsitsinos, Peter Copelas, Mike Duffy (Chair), and Jimmi Heiserman) 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 add a 25' by 8' porch nonconforming to rear yard setback to the rear of a to-be-constructed two-family home at **52-54 Appleton 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. A Certificate of Occupancy is to be obtained.
6. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board.

 /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.