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CITY CLERK
SALEM, MASS

January 2, 2020

Decision

City of Salem Board of Appeals

Petition of PATRICIA LAFORME for a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance to expand an existing, nonconforming two-family home by adding a 10-foot-wide, third-story dormer at 7 WINTHROP STREET (Map 25, Lot 549) (R2 Zoning District).

A public hearing on the above Petition was opened on November 20, 2019 pursuant to M.G.L. Ch. 40A, § 11. No testimony was heard during the November 20, 2019 hearing. The petition was continued to December 18, 2019 and closed on that date with the following Salem Board of Appeals members present: Peter Copelas, Mike Duffy (Chair), Carly McClain, Rosa Ordaz, and Jimmy Tsitsinos. Paul Viccica was absent on December 18, 2019. At the November 20, 2019 meeting, only Peter Copelas, Mike Duffy (Chair), and Rosa Ordaz were in attendance, and no testimony was heard; this is discussed in the Statements of Fact below. On November 20, 2019, Rosa Ordaz, Jimmy Tsitsinos, and Paul Viccica were absent; Carly McClain had not yet been confirmed as a Board member.

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 October 29, 2019, the petitioner requested a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* to expand a nonconforming two-family home by adding a 10-foot-wide dormer to the third story.
2. The property is a two-family home in the Residential Two-Family (R2) zoning district. This is an allowed use in the R2 zoning district.
3. The property is nonconforming to at least minimum lot area, minimum lot area per dwelling unit, maximum lot coverage, and side and rear yard setbacks.
4. There is an existing dormer on the third floor. The proposal is to add another ten (10) foot wide dormer. The two dormers are not proposed to be connected. As noted in the application, the roof line of the dormer will be below the existing roofline and the footprint of the home will not be expanded.
5. The requested relief, if granted, would allow the petitioner to expand the existing nonconforming two-family home at 7 Winthrop Street by adding a 10-foot-wide, third-story dormer.
6. At the November 20, 2019 meeting of the Board of Appeals, only three Board members were in attendance: Peter Copelas, Mike Duffy (Chair), and Rosa Ordaz. Having three members in attendance out of the five-member Board constitutes a quorum (enough members to hold a meeting). However, per the Zoning Board of Appeals' Rules and Regulations, "[t]he concurring vote of at least four (4)

members of the Zoning Board of Appeals shall be necessary in any action taken by the Board.” As such, the Board could not vote to approve any petitions in the November 20 meeting, and all petitions were continued to the next regularly scheduled meeting. In the meeting, the Board voted three (3) in favor (Rosa Ordaz, Mike Duffy (Chair), and Peter Copelas) and none (0) opposed to approve the motion to continue to the next regularly scheduled meeting, December 18, 2019.

7. At the December 18, 2019 meeting of the Board of Appeals, Richard Blanchard, the contractor for the project and representative for petitioner Patricia Laforme, discussed the proposal. He explained that the proposal is to add a ten-foot dormer to the third floor to create a reading room for Ms. Laforme. He discussed the special permit criteria.
8. At the December 18, 2019 public hearing, Chair Duffy asked about the existing and proposed height. He asked whether there is any change to the height. Mr. Blanchard responded that there will not be any change to the roofline of the house and the height of the third floor will not increase. They will stay within the envelope of the house. The dormer will be below the existing roofline by about one foot. The dormer will not protrude past the front envelope of the house.
9. At the December 18, 2019 public hearing, no (0) members of the public spoke in favor of or in opposition to the petition.
10. At the December 18 public hearing, Chair Duffy discussed 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**:

Special Permit Findings:

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

1. Social, economic, or community needs are served by the proposal.
2. Traffic flow and safety, including parking and loading: No impact is anticipated.
3. Adequacy of utilities and other public services: Existing utilities and public services are adequate.
4. Impacts on the natural environment, including drainage: No impact is anticipated. The amount of impervious surface is not increasing.
5. Neighborhood character: The house appears to fit in with neighborhood character. There are dormers on nearby buildings and there is an existing dormer on the house.
6. Potential fiscal impact, including impact on City tax base and employment: This proposal may have a positive fiscal impact and may have a positive impact on the City tax base based on the increased usability of the house.

On the basis of the above statements of fact and findings, the Salem Board of Appeals voted five (5) in favor (Jimmy Tsitsinos, Carly McClain, Rosa Ordaz, Mike Duffy (Chair), and Peter 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 expand an existing, nonconforming two-family home by adding a 10-foot-wide, third-story dormer at **7 WINTHROP 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.
9. All construction shall be done per the plans and dimensions submitted to and approved by this Board. No change, extension, material corrections, additions, substitutions, alterations, and/or modification to an approval by this Board shall be permitted without the approval of this Board, unless such change has been deemed a minor field change by the Building Commissioner in consultation with the Chair of the Board of Appeals.



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.