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CITY OF SALEM, MASSACHUSETTS BOARD OF APPEAL

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April 3, 2019

Decision

City of Salem Board of Appeals

2019 APR -3 PM 3:17
CITY CLERK
SALEM, MASS.

Petition of CHRISTOPHER KINNON for a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance to extend the existing nonconforming structure by adding an attached 18' by 18' garage (with a room over it) along the existing nonconforming front yard setback which would create a new nonconformity in side yard setback at the single-family home at 9 PARALLEL STREET (Map 23, Lot 141) (R2 Zoning District).

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 4, 2019, the Petitioner requested a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* to add an attached 18' by 18' garage (with a room over it) along the existing nonconforming front yard setback, which would create a new nonconformity in side yard setback.
2. Petitioner Christopher Kinnon presented the petition.
3. The property is a one-family house in the Residential Two-Family (R2) zoning district.
4. The property is nonconforming to depth of front yard. The required front yard depth is 15 feet in the R2 zoning district; an 11 foot setback is provided.
5. The petitioner is proposing to build an attached 18' by 18' garage with a room above it to the side of the existing home. Under this proposal, the garage would be built along the existing, nonconforming front yard setback, and would create a new nonconformity in width of side yard (side yard setback). Per the proposal, the garage will end 3 feet away from the side lot line; in the R2 zoning district, a 10 foot side yard is required.
6. Per the proposal, the garage will have a room above it, but no dwelling units will be added.
7. The requested relief, if granted, would allow the petitioner to add an attached 18' by 18' garage with a room above it to the side of the existing home, along the existing nonconforming front yard setback and creating a new nonconformity in side yard setback.
8. At the March 20, 2019 public hearing, the petitioner discussed the proposal. The petitioner noted that he has appeared before the Conservation Commission. He described the addition as a one-car garage. The petitioner noted that the existing side entrance to the house would be removed. The petitioner added that the plans submitted with the petition show the roofline going above the existing house;

this was an architectural error, and the roofline of the addition will align with the roofline of the existing house. The petitioner stated that the siding and roofing of the addition will match with the existing building.

9. At the public hearing, the Board asked about the space above the garage. The petitioner explained that it will be an enclosed room, not a kitchen or a bathroom.
10. The Board asked about the side of the house where the addition is proposed. The petitioner explained that the area is currently a concrete patio and a driveway.
11. At the March 20, 2019 public hearing, no (0) members of the public spoke in favor of or in opposition to the petition.
12. 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** 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 will not be impacted as this will remain a single-family home.
2. Traffic flow and safety, including parking and loading will improve because there will be fewer vehicles parked on the street.
3. The existing utilities and public services are adequate because this will remain a single-family dwelling.
4. There will be no impacts on the natural environment, including drainage, as this enclosed garage will replace an area that is currently cement driveway, which is already impervious.
5. The proposal fits with the neighborhood character and other dwellings in the neighborhood.
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 (Jimmi Heiserman, Peter A. Copelas, Mike Duffy (Chair), 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 extend the existing nonconforming structure by adding an attached 18' by 18' garage (with a room over it) along the existing nonconforming front yard setback which would create a new nonconformity in side yard setback at the single-family home at **9 Parallel 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 shall obtain street numbering from the City of Salem Assessor's Office and shall display said number so as to be visible from the street.
9. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board.

Mike Duffy / 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.