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CITY OF SALEM, MASSACHUSETTS BOARD OF APPEALS

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CITY CLERK
SALEM, MASS

May 29, 2019

Amended Decision

City of Salem Board of Appeals

Petition of HARRY'S HOUSE LLC to amend the special permit and variance granted by the Zoning Board of Appeals on December 3, 2018, to reference revised construction plans which remove the proposed cantilevered addition and re-design the dormers and related roof construction, for the existing nonconforming structure at 15 BECKET STREET (Map 41, Lot 129) (R2 Zoning District). No new or increased nonconformities are created by these revised plans. The proposed use remains three-family with parking per the previously submitted site plan.

A public hearing on the above Petition was opened on May 15, 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 an amendment to a previously issued decision, dated December 3, 2018, to reference revised construction plans which remove the proposed cantilevered addition and redesign the dormers and related roof construction.

Statements of Fact:

1. In the petition date-stamped April 24, 2019, the Petitioner requested an amendment to the previously issued decision dated December 3, 2018, to reference revised construction plans which remove the proposed cantilevered addition and redesign the dormers and related roof construction.
2. Attorney William Quinn, representing petitioner Harry's House LLC, presented the petition.
3. The property is a nonconforming multifamily residence (with four dwelling units) located in the Residential Two-Family (R2) zoning district.
4. In the decision dated December 3, 2018, the Board of Appeals granted a special permit per Sections 3.3.3 and 3.3.4 of the Salem Zoning Ordinance to extend, reconstruct or change an existing non-conforming structure, and a variance per Section 4.1.1 *Table of Dimensional Requirements* for relief from the maximum number of stories to allow the addition of third floor dormers. It is noted in this decision that the petitioner proposed to reduce the total dwelling units in the structure from four (4) to three (3).
5. The petitioner is proposing to make several design changes, and is seeking an amendment to the previously issued decision granting a special permit and variance in order to reflect the revised construction plans. As noted in the Statement of Grounds submitted with the application, "the applicant has altered the building improvement plans to remove the previously proposed cantilevered addition, and alter the roof design to slightly increase the size of the proposed dormer additions." These changes will "increase the overall building height from 30' 10" to 32' 9", which is still under the permitted maximum height of 35"; "slightly increase the size of the dormers, which therefore still

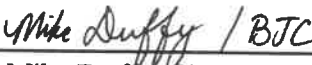
- trigger the need for a [h]eight variance as to the maximum number of stories from 2.5 stories to 3 stories”; and “decrease the overall square footage of the building.”
6. The proposal remains to reduce the number of dwelling units from four (4) to three (3) and to provide three (3) off-street parking spaces.
 7. The application to amend the previously issued decision was accompanied by revised floor plans and elevations prepared by Livermore - Architecture, Inc., titled “Becket Street Residential Renovation Project” and dated 04/29/19. The site plan, prepared by LeBlanc Survey Associated and dated October 15, 2018 was re-submitted (unchanged from the initial application for special permit and variance). Updated elevations were later submitted, prepared by Livermore - Architecture, Inc. with a revision date of 05/13/19, eliminating the overhang on the rear right side elevation.
 8. At the May 15, 2019 public hearing, Attorney William Quinn explained that upon undertaking construction work, the owner realized that there would be problems with the proposed design, including obscuring daylight and encroaching on the neighbor. The property owner, Joy Barton, hired Steve Livermore to revise the plans. Attorney Quinn stated that these revisions do not increase nonconformities, and that the revisions make the property more in character with the neighborhood. He added that the parking and footprint will not change. Attorney Quinn stated that the proposal reduces the encroachment on the side of 11-13 Becket Street, and after a recent design change, removes overhangs which were extending into the setback between 15 and 17 Becket Street. Architect Steve Livermore explained the architectural changes.
 9. Attorney Quinn stated that the owners of 17 Becket Street, the Haydens, had been at the meeting and were happy with the plans, but had since left. He added that he knew there was a letter in opposition from another neighbor; Attorney Quinn stated that the property owner (Joy Barton) had tried to communicate with Mr. Chalupowski (the property owner, who lives off-site) regarding removing part of the chain-link fence between their properties, but she could not get in touch with him. Attorney Quinn explained that the reason for removing part of the fence was to make it easier to create a curb cut. He added that the owner is willing and expects to repair the fence and to repair any damage to anything along the fence. Chair Duffy asked who owns the fence. Attorney Quinn stated that the same character of fence goes all the way around their property, so the property owner believed it was hers, but the neighbor (Mr. Chalupowski) claims that it belongs to him. Attorney Quinn stated that it will be replaced at Ms. Barton’s expense. Board member Paul Viccica discussed fenestration with Architect Steve Livermore. Mr. Livermore clarified that the plans submitted do not show all fenestration; they are as-built plans at this point. Mr. Viccica asked if each bedroom will have a legal-sized window. Mr. Livermore stated that it will.
 10. At the May 15, 2019 public hearing, no (0) members of the public spoke in favor of or in opposition to the petition. Chair Duffy noted that the Board received a letter from Chester Chalupowski of 11-13 Becket Street in general opposition (not necessarily particular to the amendment) and attaching some photographs and a fence invoice proposal or estimate. Gary Gill spoke about the petition, including about the fence, but did not state clear support for or opposition to the petition.
 11. Chair Duffy stated that the Board has already made its findings with respect to the special permit and variance. Peter Copelas added that the changes lessen the impact of all of the reasons the Board made its decision.

On the basis of the above statements of fact and the statements of fact and findings from the December 3, 2018 decision, 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 amend the special permit and variance granted by the Zoning Board of Appeals on December 3, 2018, to reference revised construction

plans which remove the proposed cantilevered addition and re-design the dormers and related roof construction, for the existing nonconforming structure at **15 Becket 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.

 / 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.