



KIMBERLEY DRISCOLL  
MAYOR

# CITY OF SALEM, MASSACHUSETTS BOARD OF APPEAL

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FILE #  
CITY CLERK, SALEM, MASS

2015 SEP -2 P 2: 19

September 2, 2015

## Decision

### City of Salem Board of Appeals

Petition of WILLIAM PETERSON, seeking a Special Permit per Sec. 3.3.3 *Nonconforming Structure* to reconstruct, extend, alter or change a nonconforming structure to construct an addition on an existing two-family (2) residential unit. The applicant is also seeking Variances per Sec. 4.1.1 *Table of Dimensional Requirements* of the Salem Zoning Ordinance for relief from rear and side-yard setbacks, minimum lot area per dwelling unit and minimum lot area to construct a rear addition at the property of 4 WATSON STREET (Map 16 Lot 176) (R2 Zoning District).

A public hearing on the above Petition was opened on July 15, 2015 pursuant to M.G.L Ch. 40A, § 11. The public hearing was continued at the request of the petitioner to August 19, 2015 and closed on this date with the following Salem Board of Appeals members present: Peter A. Copelas (Vice-Chair), Jimmy Tsitsinos, Tom Watkins, Mike Duffy, Paul Viccica (alternate).

The Petitioner seeks dimensional variances per Sec. 4.1.1 Table of Dimensional Requirements of the Salem Zoning Ordinance for relief from rear and side-yard setbacks, minimum lot area, and minimum lot area per dwelling unit. The applicant withdrew the request for a special permit as the proposal was revised to use the structure as a single-family home.

#### Statements of fact:

1. In the petition date-stamped June 23, 2015 and revised on August 3, 2015, the Petitioner requested variances per Sec. 4.1.1 Table of Dimensional Requirements to allow the construction of a rear addition.
2. A public hearing for the petition was opened on July 15, 2015 and continued to the next regularly scheduled meeting on August 19, 2015 at the request of the applicant after a building code review showed that the proposed architectural plans were non-compliant with the building code.
3. William and Alexandra Peterson, petitioners, presented the petition.
4. The petitioner revised the petition to propose that the building be used as a single-family home due to difficulty being able to structurally meet the means of egress requirements for each unit.
5. The petitioner withdrew the request for a special permit to reconstruct, extend, alter or change a nonconforming structure to construct an additional unit, as the intent is to use the structure as a single-family home.
6. The petitioner requests variances for relief from rear and side-yard setbacks, minimum lot area, and minimum lot area per dwelling unit to construct a rear addition to bring the rear stairwell up to current building code standards.

7. The rear addition is needed to expand an existing rear stairway that is two-feet wide and is not compliant with current building code.
8. The petitioner presented a petition from four (4) abutters in support of the project.
9. The requested relief, if granted, would allow the Petitioner to construct a rear addition to expand an existing rear stairway that does not meet current building code standards.
10. At the public hearings four (4) members spoke in favor and no (0) members spoke in opposition to the proposal.

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 Variance:**

- 1) Given the size and shape of the nonconforming structure the variances requested are warranted because the second egress to the building would not meet current building code requirements without the requested relief.
- 2) Literal enforcement of the provisions of the Ordinance would involve substantial hardship to the applicant.
- 3) Desirable relief may be granted without substantial detriment to the public good, and without nullifying or substantially derogating from the intent of the district or the purpose of the ordinance.

On the basis of the above statements of facts and findings, the Salem Board of Appeals voted five (5) in favor (Peter A. Copelas (Vice-Chair), Jimmy Tsitsinos, Tom Watkins, Mike Duffy, Paul Viccica (alternate) and none (0) opposed, to grant variances per Sec. 4.1.1 *Table of Dimensional Requirements* of the Salem Zoning Ordinance for relief from rear and side-yard setbacks, minimum lot area per dwelling unit and minimum lot area to construct a rear addition subject to the following eight (8) standard **terms, conditions, and safeguards**:

#### **Standard Conditions:**

1. The 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 new construction shall be in harmony with the existing structure.
6. A Certificate of Occupancy shall be obtained.
7. A Certificate of Inspection shall be obtained.
8. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board.

  
Rebecca Curran, 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.*