



KIMBERLEY DRISCOLL  
MAYOR

# CITY OF SALEM, MASSACHUSETTS BOARD OF APPEAL

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FILE #  
CITY CLERK SALEM, MASS.

June 29, 2016

## Decision

### City of Salem Board of Appeals

Petition of NORMAN & MARGARET ROBERTS seeking a Special Permit per Sec. 3.3.5 *Nonconforming Single and Two-Family Residential Structures* to allow the petitioner to expand the existing nonconforming structure at the property of 2 ROSEDALE AVE (Map 31 Lot 264)( R1 Zoning District).

A public hearing on the above Petition was opened on May 18, 2016 pursuant to M.G.L Ch. 40A, § 11. No testimony was heard on that date. The petition was continued to June 15, 2016 and closed on that date with the following Salem Board of Appeals members present: Ms. Curran (Chair), Mr. Duffy, Mr. Copelas, Mr. Tsitsinos, Tom Watkins.

The Petitioner seeks a Special Permit per Sec. 3.3.5 Nonconforming Single and Two-Family Residential Structures to allow the petitioner to expand the existing nonconforming structure.

#### Statements of fact:

1. Attorney Grover presented the petition on behalf of the applicants.
2. In the petition date-stamped April 26, 2016 the Petitioner requested a Special Permit per Sec. 3.3.5 Nonconforming Single and Two-Family Residential Structures.
3. The petitioner proposed to replace an existing garage with a one-story addition to create a new family room on the first floor. The petitioner also proposed to remove and replace a sunroom.
4. The existing sunroom does not comply with the side yard setback and the expansion of the sunroom will further reduce the side yard setback to seven (7') feet where ten (10') feet is required.
5. The existing garage is 11.6' feet from the side yard setback. The proposed one-story addition will create a side yard setback nonconformity of eight (8') feet where ten (10') feet is required.
6. There is parking on the existing driveway that does and will continue to accommodate two (2) cars parked side-by-side.
7. The requested relief, if granted, would allow the Petitioner to expand the existing nonconforming structure.
8. At the public hearing a petition was submitted by the applicant with sixteen (16) residents in support of the project.
9. At the public hearing members of the public spoke one (1) spoke in favor and none (0) spoke in opposition to the petition.

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 structural change is not substantially more detrimental than the existing nonconforming structure to the neighborhood.**

1. Social, economic and community needs served by the proposal- The property is a single family home and will remain a single family home and does not impact the community.
2. Traffic flow and safety, including parking and loading- There are no substantial changes to traffic flow and safety, including parking and loading.
3. Adequacy of utilities and other public services- There are no changes to utilities or other public services.
4. Impacts on the natural environment, including drainage- There are no significant changes that would impact the natural environment, including drainage.
5. Neighborhood character- The proposal is in keeping with the neighborhood character.
6. Potential fiscal impact, including the impact on City tax base and employment is positive.

**Special Conditions:**

1. **The structure will remain a single-family home.**

On the basis of the above statements of facts and findings, the Salem Board of Appeals voted five (5) in favor (Ms. Curran (Chair), Mr. Duffy, Mr. Copelas, Mr. Tsitsinos, Tom Watkins) and none (0) opposed, to grant a Special Permit per Sec. 3.3.5 Nonconforming Single and Two-Family Residential Structures to allow the petitioner to expand the existing nonconforming structure, 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 finished 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.

Rebecca Curran/ES  
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.*