



KIMBERLEY DRISCOLL  
MAYOR

# CITY OF SALEM, MASSACHUSETTS BOARD OF APPEALS

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CITY CLERK  
SALEM, MASS

January 3, 2018

## Decision

### City of Salem Board of Appeals

**Petition of MATTHEW KEANE seeking a Special Permit per *Sec. 3.3.5 Nonconforming Structures* of the Salem Zoning Ordinance to add a 24 x 24 garage to the rear of the existing residential structure, remove existing garage and relocate R.O.W. at 414 LAFAYETTE STREET (Map 32 Lot 169) (R1 Zoning District).**

A public hearing on the above Petition was opened on July 19, 2017 and continued to September 20, 2017, October 18, 2017, November 15, 2017, and December 20, 2017 pursuant to M.G.L Ch. 40A, § 11. The hearing was closed December 20, 2017 with the following Salem Board of Appeals members present: Rebecca Curran (Chair), Peter A. Copelas, Tom Watkins, Mike Duffy, Jimmy Tsitsinos.

The petitioner is seeking a Special Permit per *Sec. 3.3.5 Nonconforming Structures* of the Salem Zoning Ordinance to add a 24 x 24 garage to the rear of the existing residential structure, remove existing garage and relocate R.O.W.

#### Statements of fact:

1. In the petition date-stamped June 27, 2017, the Petitioner requested a Special Permit per *Sec. 3.3.5 Nonconforming Structures* of the Salem Zoning Ordinance to add a 24 x 24 garage to the rear of the existing residential structure, remove existing garage and relocate R.O.W.
2. On July 19, 2017, Attorney John Keilty- 40 Lowell Street, Peabody, MA, presents the petition on behalf of the petitioner.
3. The property is located in an R-1 Zoning District and is an existing non-conforming use and structure.
4. The petitioner is seeking a special permit per *Sec. 3.3.5 Nonconforming Structures* to add a 24' x 24 two-story garage onto the existing two-family dwelling unit.
5. The petitioner currently has a dilapidated single story single car garage located in the northwestern most corner of the property. The currently existing single car garage is +/- 250 square feet.
6. In 2016, the applicant filed a petition with the Zoning Board of Appeals to request an expansion of the existing non-conforming single car garage. The petitioner was proposing a 24' x 24' foot two-story garage. The petitioner withdrew the petition without prejudice.
7. The current application before the Board of Appeals is similar to the 2016 application, but distinctly different in that the petitioner is requesting to construct a 24' x 24' foot two-story structure that is attached to the two-family structure. The proposed addition is +/- 1,152 square feet.

8. The petitioner is proposing to demolish the existing single car garage and proposing a 24' x 24' two-story addition that is attached to the rear of the existing two (2) family structure. The petitioner is also proposing to relocate an existing right-of-way that provides access to rear house lot.
9. The location of the addition will create a new non-conformity as to the rear setbacks. The petitioner is proposing a fifteen (15') foot setback where thirty (30') feet is required.
10. At the July 19, 2017 meeting, the petitioner requested to continue to the September 20, 2017 meeting. The Board requested at this meeting that the petitioner revise his elevation plans to more accurately show the proposed building height and materials.
11. At the September 20, 2017 meeting, the Board requested that the petitioner consider an alternative garage design to reduce the bulk and height of the garage in order to better fit with existing two car garages in the neighborhood.
12. The Board requested that the elevation drawings be scaled and draw showing the context of how the proposed addition will relate to the existing structure. The Board also requested a revised plot plan that shows the existing and proposed right-of-way and existing and proposed parking spaces.
13. At the September 20, 2017 meeting, the petitioner requested to continue to the next regularly scheduled meeting on October 18, 2017.
14. At the October 18, 2017 meeting, the petitioner requested a continuation to the next regularly scheduled meeting on November 15, 2017, because there were only four (4) Board members present. No testimony was heard.
15. At the November 15, 2017 meeting, the petitioner requested a continuation to the December 20, 2017 meeting to allow more time to make adjustments to his plot plan. No testimony was heard.
16. At the December 20, 2017 meeting the petitioner presented, the public spoke for and against the petition, and the Board discussed the merits and special conditions for the proposal. The petitioner presented a revised plot plan dated December 12, 2017.
17. At the public hearing thirteen (13) members of the public spoke in favor of and three (3) 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, makes the following findings:

**The Board finds that the proposed expansion of the non-conforming structure is not substantially more detrimental than the existing structure to the neighborhood.**

**Special Permit Findings:**

1. There are social, economic and community needs served by the proposal as the petitioner is proposing to improve and existing structure.
2. There will be no impacts to traffic flow and safety, including parking and loading as the petitioner will be reducing the width of the driveway, repaving the driveway, and installing landscaping on the entire property everywhere except where the driveway and two front (2) parking spaces are located.
3. There will be no impact to the adequacy of utilities and other public services.
4. There will be no impacts on the natural environment, including drainage.
5. The proposed addition and property improvements are in keeping with the existing neighborhood character.

6. The potential fiscal impact, including impact on City and tax base and employment is positive.

On the basis of the above statements of facts and findings, the Salem Board of Appeals voted five (5) (Rebecca Curran (Chair), Peter A. Copelas, Tom Watkins, Mike Duffy, Jimmy Tsitsinos) in favor and none (0) opposed, to allow a Special Permit per *Sec. 3.3.5 Nonconforming Structures* of the Salem Zoning Ordinance to add a 24 x 24 garage to the rear of the existing residential structure, remove existing garage and relocate R.O.W. 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 Inspection is to be obtained.
7. A Certificate of Occupancy 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.

**Special Conditions:**

1. The petitioner shall have a certified plot plan with the relocated right-of-way to be recorded with the South Essex Registry of Deeds prior to the issuance of a building permit. The petitioner shall provide a copy of the recorded right-of-way to the Building Inspector prior to the issuance of a building permit.
2. The driveway shall not be wider than ten (10') feet and the two (2) front parking spaces shall be 22' x 19' in dimension and reflected on the certified plot plan that is recorded with the South Essex Registry of Deeds prior to the issuance of a building permit.
3. The curbcut shall be limited to the width that is currently there now.
4. The petitioner shall not park any vehicles along the side yard fence line as this will be the new access way to the rear property.
5. The petitioner shall provide adequate access of no less than eight (8) feet of unobstructed width to the rear property during construction
6. The petitioner shall install a solid wooden fence along the property line for the entire length between 416 and 414 Lafayette Street to minimize the visual impact of the proposed addition prior to the issuance of a certificate of occupancy for the addition.
7. The petitioner shall install grass on the entire property except where the new driveway and front two (2) parking spaces are located as shown on the certified and recorded plot plan.

8. The petitioner, owner or assigns shall only utilize the second story space above the garage for storage as proposed and presented to the Board.
9. The petitioner, owner, or assigns shall not utilize the flat garage roof as a roof deck.
10. The petitioner shall not have a railing along the roof line of the proposed addition.

  
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.*