



KIMBERLEY DRISCOLL  
MAYOR

## CITY OF SALEM, MASSACHUSETTS BOARD OF APPEAL

98 WASHINGTON STREET ♦ SALEM, MASSACHUSETTS 01970  
TEL: 978-745-9595

January 2, 2019

### Decision

### City of Salem Board of Appeals

2019 JAN -2 PM 1:11  
CITY CLERK  
SALEM, MASS

**Petition of JORDAN RYAN requesting a special permit per Section 3.3.5 of the Salem Zoning Ordinance to expand a nonconforming structure by constructing a porch addition at 30 NURSERY STREET (Map 27, Lot 192) (R2 Zoning District).**

A public hearing on the above Petition was opened on November 19, 2018 pursuant to M.G.L. Ch. 40A, § 11, continued to December 19, 2018, and closed on December 19, 2018 with the following Salem Board of Appeals members present: Mike Duffy (Chair), Peter A. Copelas, Jimmi Heiserman, Patrick Shea, and Jimmy Tsitsinos.

The Petitioner seeks a special permit per Section 3.3.5 of the Salem Zoning Ordinance, *Nonconforming Single- and Two-Family Residential Structures*, to allow the petitioner to expand a nonconforming structure.

#### Statements of Fact:

1. In the petition date-stamped October 25, 2018, the Petitioner requested a special permit under Section 3.3.5 of the Zoning Ordinance to expand a nonconforming structure by reconstructing an existing front porch and steps and constructing an addition of 3'6" within the same front setback as the existing porch.
2. Attorney George Atkins, representing Petitioner Jordan Ryan, presented the petition.
3. The property is located in the Residential Two-Family (R2) zoning district. The existing property is nonconforming as to minimum lot area (square feet), minimum lot frontage (feet), minimum depth of front yard (feet), and minimum width of side yard (feet). In this district, minimum required lot area is 15,000 square feet; this lot is 8,060± square feet. Minimum required lot frontage is 100 feet; this lot has 99 feet of frontage. A minimum front yard of 15 feet is required in the R2 district; existing front yard is 5 feet. A minimum side yard width of 10 feet is required in the R2 district; existing side yard is 4± feet.
4. The proposal is to reconstruct the existing porch and extend the porch laterally along the same front yard setback. The structure will not be made more nonconforming as the depth of the front yard setback will not change; however, the existing nonconforming structure will be expanded.
5. The requested relief, if granted, would allow Petitioner to rebuild the existing porch and steps and construct a 3'6" addition to the porch.
6. At the November 19, 2018 public hearing, no members of the public spoke in favor of or in opposition to the petition.
7. At the November 19, 2018 public hearing, the Board heard and discussed the petition. The Board wished to see the elevations (design proposals) of the reconstructed porch and the addition. The Board wanted to be sure that the design would fit with the neighborhood character. The Board voted

- to continue to the next meeting, five (5) in favor (Mike Duffy (Chair), Peter Copelas, Jim Hacker, Patrick Shea, and Paul Viccica) and none (0) opposed.
8. Prior to the December 19, 2018 public hearing, Attorney Atkins provided the proposed elevation as requested by the Board, showing the reconstruction and extension of the porch, as well as an assessor card with a photo showing the existing porch. At the public hearing, Attorney Atkins also provided a photo showing the building in context of the neighborhood.
  9. At the December 19, 2018 public hearing, Attorney Atkins explained that currently, in order to enter the unit on the left side of the house, one has to pass through the other unit. Attorney Atkins explained that the Petitioner, Jordan Ryan, would like to create a second doorway so each unit has its own front entrance. This would be part of the newly built, extended porch, which would have two columns and a railing rebuilt to match the existing porch. Above the porch, the existing door would be replaced by a new window, which is in line with the designs of other homes in the neighborhood.
  10. Attorney Atkins explained that the porch and stairs will not reach further out to the street than existing (i.e., will not encroach on the existing nonconforming setback), but that they will be built along the existing five foot (5') setback.
  11. Per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance, existing nonconforming one- and two-family structures “may be reconstructed, extended, altered, or structurally changed” by special permit from the Zoning Board of Appeals.
  12. At the December 19, 2018 public hearing, no members of the public spoke in favor of or in opposition to the petition.
  13. The Board discussed the proposal. Based on the additional information provided, the Board was satisfied that the proposed design would fit in with the neighborhood character. Chair Mike Duffy noted that this is a relatively minor extension of the front porch along the line of the currently existing five-foot setback, and not a very significant change.

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:**

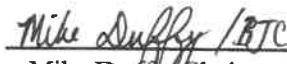
The Board finds that the proposed reconstruction and alteration will not be substantially more detrimental than the existing nonconforming structure to the neighborhood.

1. The proposal is not expected to newly serve social, economic, or community needs.
2. Traffic flow and safety, including parking and loading are not expected to change. Existing parking is sufficient.
3. Utilities and other public services are not expected to change.
4. Impacts on the natural environment, including drainage, are not expected to change.
5. As a two-family dwelling, this property fits into the neighborhood character of this R2 zoning district. The design of the proposed reconstruction and addition is in line with that of other buildings in the neighborhood.
6. Regarding potential fiscal impact, including on city tax base, the rehabilitation of the building may increase the assessed value of the property and thus increase the amount of taxes paid for the property.

On the basis of the above statements of fact and findings, the Salem Board of Appeals voted five (5) in favor (Mike Duffy (Chair), Peter Copelas, Jimmi Heiserman, Patrick Shea, and Jimmy Tsitsinos) and none (0) opposed to grant the requested special permit per Section 3.3.5 of the Salem Zoning Ordinance to expand a nonconforming structure by constructing a porch addition at 30 Nursery Street, subject to the following **terms, conditions, and safeguards:**

Standard Conditions:

1. Petitioner shall comply with all city and state statutes,
2. ordinances, codes and regulations.
3. All construction shall be done as per the plans and dimensions submitted to and approved by the Building Commissioner.
4. All requirements of the Salem Fire Department relative to smoke and fire safety shall be strictly adhered to.
5. Petitioner shall obtain a building permit prior to beginning any construction.
6. Exterior finishes of the new construction shall be in harmony with the existing structure.
7. A Certificate of Occupancy is to be obtained.
8. A Certificate of Inspection is to be obtained.
9. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board.

  
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.*