



KIMBERLEY DRISCOLL  
MAYOR

# CITY OF SALEM, MASSACHUSETTS BOARD OF APPEAL

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2017 MAY 31 PM 1:35  
CITY CLERK  
SALEM, MASS

May 31, 2017

## Decision

### City of Salem Board of Appeals

A public hearing for all persons interested in the petition of CARMINE DEFALCO seeking a Special Permit per *Sec. 3.3.5 Nonconforming Single and Two Family Structures* of the Salem Zoning Ordinance, to remove an existing rear portion of the structure and to replace it with a new 18' x 26' one-story addition at the property located at 13 OAK STREET (Map 26, Lot 21)(R-2 Zoning District)

A public hearing on the above Petition was opened on May 17, 2017 pursuant to M.G.L Ch. 40A, § 11 and closed on that date with the following Salem Board of Appeals members present: Rebecca Curran (Chair), Tom Watkins, Mike Duffy, Jimmy Tsitsinos, and Paul Viccica (alternate).

The petitioner is seeking a Special Permit per *Sec. 3.3.5 Nonconforming Single and Two Family Structures* of the Salem Zoning Ordinance, to remove an existing rear portion of the structure and to replace it with a new 18' x 26' one-story addition.

#### Statements of fact:

1. Carmine Defalco, petitioner, presented the petition.
2. In the petition date-stamped April 25, 2017, the petitioner requested a Special Permit per *Sec. 3.3.5 Nonconforming Single and Two Family Structures* of the Salem Zoning Ordinance, to remove an existing rear portion of the structure and to replace it with a new 18' x 26' one-story addition.
3. The petitioner is proposing to remove an existing 10' x 12' one story structure to be replaced with a new 18' x 26' one- story addition.
4. The existing structure is a rear kitchen that is original to the home. The existing one-story rear structure is dilapidated and non-functional. The petitioner has rehabilitated this existing structure and the rear portion of the structure is the last component of this project.
5. The existing structure is non-conforming as to the side yard and rear yard setbacks. The petitioner is proposing to reduce the rear yard setback from +/- 23.7' feet to +/- 15.5' feet. The petitioner is also proposing to reduce the west side yard setback from +/- 15' feet to +/- 8' feet.
6. The requested relief, if granted, would allow the petitioner to remove an existing rear portion of the structure and to replace it with a new 18' x 26' one-story addition, which will include a kitchen and additional bedroom.
7. At the public hearing no members of the public spoke in favor of, and none (0) 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 proposed expansion of the non-conforming single-family structure is not substantially more detrimental than the existing non-conforming structure.

1. Social, economic and community needs are served by the proposal.
2. Traffic flow and safety, including parking and loading is adequate.
3. Adequacy of utilities and other public services will not be negatively impacted.
4. Impacts on the natural environment, including drainage will remain the same.
5. The proposal fits with the character of the neighborhood.
6. Potential fiscal impact including impact on City the 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) in favor (Rebecca Curran (Chair), Tom Watkins, Mike Duffy, Jimmy Tsitsinos, and Paul Viccica (alternate)) and none (0) opposed, to grant a Special Permit per *Sec. 3.3.5 Nonconforming Single and Two Family Structures* of the Salem Zoning Ordinance, to remove an existing rear portion of the structure and to replace it with a new 18' x 26' one-story addition, as shown on the plans and petition filed herein, 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 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.*