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MAYOR

# CITY OF SALEM, MASSACHUSETTS

## BOARD OF APPEALS

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CITY CLERK  
SALEM, MASS.

**March 1, 2017**

### **Decision**

### **City of Salem Board of Appeals**

**Petition of THOMAS PELLETIER, seeking a Special Permit per 3.3.3 *Nonconforming Structures* of the Salem Zoning Ordinance to reconstruct, extend, or structurally change the existing historic carriage house at the property of 138 NORTH STREET (Map 27 Lot 272)(R2 Zoning District)**

A public hearing on the above Petition was opened on February 15, 2017 pursuant to M.G.L Ch. 40A, § 11 and closed on that date with the following Salem Board of Appeals members present: Mr. Duffy (Acting Chair), Mr. Tsitsinos, Mr. Watkins, Mr. Hacker (alternate), Mr. Viccica (alternate).

The Petitioner seeks a Special Permit per 3.3.3 *Nonconforming Structures* of the Salem Zoning Ordinance to reconstruct, extend, or structurally change the existing historic carriage house.

#### **Statements of fact:**

1. Thomas Pelletier, petitioner, presents the petition.
2. In the petition date-stamped December 16, 2017, the petitioner requested a Special Permit per Sec. 3.3.3 *Nonconforming Structures* of the Salem Zoning Ordinance to reconstruct, extend, or structurally change the existing historic carriage house.
3. In a decision dated June 29, 2016, the petitioner received a special permit from the Zoning Board of Appeals to allow a dwelling unit in a historic carriage house.
4. The petitioner has started restoration of the historic carriage house and has determined that the restoration of the roof and south façade are not possible.
5. The petitioner is proposing to restore the historic carriage house by saving as much of the original materials as possible and will reconstruct and rebuild in-kind to be as close to the original materials, structure, and details as possible.
6. The petitioner is proposing to construct a new roof to be rebuilt in kind as per the drawing submitted with the second gable on the north side.
7. The petitioner is also proposing to remove and completely rebuild the south wall in kind and restore it to as close as the original as possible.
8. The petitioner is proposing to dismantle the north wall and reuse any timber frame and sheathing that is salvageable to be used to rebuild a new wall as per the drawing. New clapboard will be used for the trim and any detail trim that is not salvageable will be milled to replicate existing trim.
9. The petitioner is proposing to restore the west wall using the existing structure, sheathing, and trim.
10. The petitioner is proposing to restore the east wall using the existing structure and sheathing. New clapboard and windows will replace the existing.
11. The petitioner is proposing to install new windows to replace the existing windows.

12. Lastly, the petitioner is proposing to construct a foundation and relocate the building two (2') feet from the property line on the north side (Dearborn Street) to allow for footings and one (1') foot on the east side (North Street) to allow for footings.
13. The petitioner is proposing to dig approximately 8' feet deep on the property to create a foundation for the existing carriage house structure.
14. There is not currently a basement or foundation for this structure.
15. The petitioner plans to be reviewed by the Historic Commission for comments on windows.
16. The requested relief, if granted, would allow the Petitioner to reconstruct, extend, or structurally change the existing historic carriage.
17. At the public hearing abutters expressed concerns that this project will require that a portion of an abutting driveway would have to be removed for the installation of a foundation for the carriage house and requested that the petitioner be liable for any property damage and replacement of the driveway.
18. At the public hearing three (3) members of the public spoke with apprehension to the project and asked clarifying questions about the project. No (0) members of the public spoke in favor of, and one (1) 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 reconstruction, extension or structural changes are not substantially more detrimental than the existing structure to the neighborhood.**

1. Social, economic and community needs served by the proposal as an additional dwelling unit would provide housing to the community.
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 the impact on City 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 (Mr. Duffy (Acting Chair), Mr. Tsitsinos, Mr. Watkins, Mr. Hacker (alternate), and Mr. Viccica (alternate)) and none (0) opposed, to grant a Special Permit per *3.3.3 Nonconforming Structures* of the Salem Zoning Ordinance to reconstruct, extend, or structurally change the existing historic carriage house, 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 shall obtain street numbering from the City of Salem Assessor's Office and shall display said number so as to be visible from the street, if needed.
9. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to the Planning Board.
10. Unless the Decision expressly provides otherwise, any zoning relief granted does not empower or authorize the Petitioner to demolish or reconstruct the structure(s) located on the subject property to an extent of more than fifty percent (50%) of its floor area or more than fifty percent (50%) of its replacement cost at the time of destruction. If the structure is demolished by any means to an extent of more than fifty percent (50%) of its replacement cost or more than fifty percent (50%) of its floor area at the time of destruction, it shall not be reconstructed except in conformity with the provisions of the Ordinance.

Special Conditions:

1. The petitioner shall be reviewed by the City of Salem Historic Commission for approval of the plans prior to construction.
2. The petitioner shall employ a third party professional to assess and document existing conditions of all directly abutting properties to the construction site (138 North Street) and to return or replace in-kind or better, if damaged. The assessment and documentation of existing conditions shall take place prior to any construction.

  
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Mike Duffy, Acting 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.*