

City of Salem Zoning Board of Appeals
Meeting Minutes
March 20, 2024

A meeting of the Salem Zoning Board of Appeals (“Salem ZBA”) was held on Wednesday, March 20, 2024 at 6:30 pm via remote participation in accordance with Chapter 2 of the Act of 2023 and a Special Act extending remote participation meetings.

Chair Nina Vyedin calls the meeting to order at 6:30 pm.

Chair Vyedin explains how individuals can participate in the meeting remotely via Zoom, and that instructions to participate remotely can also be found on the Salem website. Ms. Vyedin also explains the rules regarding public comment.

ROLL CALL

Those present were: Nina Vyedin, Ellen Simpson, Carly McClain, and Hannah Osthoff. Also in attendance were Daniel Laroe – Staff Planner, Voula Orfanos — Zoning Officer, and Jonathan Pinto – Recording Clerk. Those absent were: Paul Viccica

CONTINUANCES

Location: **98 Lafayette Street (Map 34, Lot 413) (B5 Zoning District)**

Applicant: **North Shore Community Development Coalition**

Project: A continuation of a public hearing for all persons interested in the petition of public hearing for all persons interested in the petition of NORTH SHORE COMMUNITY DEVELOPMENT COALITION at 98 LAFAYETTE STREET (Map 34, Lot 413) (B5 Zoning District) for a Variance per Section 3.2.4.3 Accessory Buildings and Structures to construct a 230 sq.ft accessory structure located at the rear of the property. 120 Sq.ft is allowed.

Documents and Exhibitions

- Application date-stamped January 24, 2024 and supporting documentation.

Chair Vyedin introduces the petition.

Michael Proscia from Jones Architects introduces himself on behalf of the petitioner. He also introduces Yinette Guzman from the North Shore CDC and provides a brief background of the proposal to remind the Board from last meeting. The accessory structure will serve an educational purpose for the North Shore CDC and be a recreation of a traditional grandmother’s house.

Mr. Proscia indicates there were two additional documents provided for the petition. He presents additional information regarding operations. The existing dumpsters will be moved to a new location on site and will be wheeled for pickup as they are currently (trash vehicles cannot make it back into the alley). Mr. Proscia shows plans to demonstrate where the dumpsters are, where they will go, and where the accessory structure will be. He states that everything will be lit. The proposed structure will have two lockable exterior doors. All exterior windows will be wood- slat

louvers, in the traditional Dominican style, and will be locked from the interior. Mr. Proscia explains that two new wrought-iron gates will be installed, one at each ally entrance, to limit access to the rear open area during off-hours. Currently the rear open area (“El Patio”) is open and accessible 24 hours a day. The proposed structure will be open to the public from 9AM to 5PM daily in line with the North Shore CDC’s office hours, according to Mr. Proscia.

Ms. McClain suggests this would classify as a Dover Amendment issue, and therefore the petitioner could do what is proposed by-right without needing to come before the Board. Mr. Proscia states they wanted to make sure and to come before the Board anyway. Ms. McClain explains the Dover Amendment and that this would qualify as it is for an educational purpose.

Chair Vyedin suggests the petitioner finish the presentation and the Board can vote if they would like. Mr. Proscia provides the final details regarding CDC plans and the proposal. There is no off-street parking requirement. Mr. Proscia presents photos of the space as it is used today, along with renderings of the proposal.

Chair Vyedin opens the floor to public comment but there is none.

Mr. Proscia discusses the grounds for variance and provides a statement of hardship, along with a summary of the proposal.

Motion and Vote: Ms. McClain motions to approve the petition of NORTH SHORE COMMUNITY DEVELOPMENT COALITION at 98 LAFAYETTE STREET (Map 34, Lot 413) (B5 Zoning District) for a Variance per Section 3.2.4.3 Accessory Buildings and Structures to construct a 230 sq. ft accessory structure located at the rear of the property, subject to the following terms, conditions, and safeguards:

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 finishes of the new construction shall be in harmony with the existing structure.
6. A Certificate of Inspection is to be obtained.
7. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board.
8. Unless this 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.
9. All construction shall be done per the plans and dimension submitted to and approved by this Board. Any modification to the plans and dimensions must be approved by the Board of Appeals unless such changes are deemed a minor field change by the Building Commissioner in consultation with the Chair of the Board of Appeals.

10. Petitioner shall schedule Assessing Department inspections of the property, at least annually, to project completion and a final inspection upon project completion.

Ms. Osthoff seconds the motion. **The vote is four (4) in favor (Nina Vyedin, Ellen Simpson, Carly McClain, and Hannah Osthoff) and none (0) opposed. The motion passes.**

Location: **28 Fairmount Street (Map 25, Lot 444) (R2 Zoning District)**

Applicant: **Fairmount Street, LLC**

Project: A continuation of a public hearing for all persons interested in the petition of 28 FAIRMOUNT STREET, LLC at 28 FAIRMOUNT STREET (Map 27, Lot 164) (R2 Zoning District) for a Special Permit per Section 3.3.5 Non-conforming Single- and Two-Family Structures to request Board of Appeals approval for work of a previous owner which added two dormers to the 3rd floor and to alter the rear exterior stairs/deck.

Documents and Exhibitions

- Application date-stamped January 25, 2024 and supporting documentation.

Chair Vyedin introduces the petition.

Attorney Bill Quinn introduces himself on behalf of the petitioners, who are contractors that recently purchased the property. Mr. Quinn states that the previous owner received a demolition permit and then proceeded to do much more work, including installing dormers and a rear stair tower, without obtaining permits. It was a two-family house that was converted to a three-family house, and a stop work order was issued. Mr. Quinn states the building has laid fallow since then and was sold to the current petitioner.

Mr. Quinn provides a table that summarizes the information requested by the Board at the previous meeting. The table shows the zoning requirement, pre-existing conditions, existing conditions, and proposed conditions, showing a comparison of what was done before the illegal work was commenced and what the petitioners seek to do today. The only new nonconformities are the definition of the third story, a change from 2.5 stories. Mr. Quinn notes that after learning more about the proposal, many neighbors' concerns were assuaged. With respect to one neighbors concerns regarding surface water and drainage, he presents new plans showing the parking and proposed curbing at the back of the lot for water mitigation. The surface for parking will also now be semi-permeable with stones.

Chair Vyedin opens the floor to public comment but there is none.

Motion and Vote: Ms. Simpson motions to approve the petition of 28 FAIRMOUNT STREET, LLC at 28 FAIRMOUNT STREET (Map 27, Lot 164) (R2 Zoning District) for a Special Permit per Section 3.3.5 Non-conforming Single- and Two-Family Structures to request Board of Appeals approval for work of a previous owner which added two dormers to the 3rd floor and to alter the rear exterior stairs/deck, subject to the following terms, conditions, and safeguards:

following 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 finishes 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.
9. Unless this 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.
10. All construction shall be done per the plans and dimension submitted to and approved by this Board. Any modification to the plans and dimensions must be approved by the Board of Appeals unless such changes are deemed a minor field change by the Building Commissioner in consultation with the Chair of the Board of Appeals.
11. Petitioner shall schedule Assessing Department inspections of the property, at least annually, to project completion and a final inspection upon project completion.

Ms. McClain seconds the motion. **The vote is four (4) in favor (Nina Vyedin, Carly McClain, Ellen Simpson, and Hannah Osthoff) and none (0) opposed. The motion passes.**

REGULAR AGENDA

Location: **18 1/2 Pickman Street (Map 35, Lot 551) (R2 Zoning District)**

Applicant: **Steve Arias**

Project: A public hearing for all persons interested in the petition of STEVE ARIAS at 18 ½ PICKMAN STREET (Map 35, Lot 551) (R2 Zoning District) for a Special Permit per Section 3.3.5 Nonconforming Single- and Two-Family Structures of the Salem Zoning Ordinance to expand the living area of their home to create a primary bedroom suite. Modifications and additions to the roof are sought. The ridge height of the new roof will match the height of the existing roof and the building height will remain unchanged.

Documents and Exhibitions

- Application date-stamped January 24, 2024 and supporting documentation.

Chair Vyedin introduces the petition.

Ryan McShera from Red Barn Architecture introduces himself on behalf of the petitioner. Mr. McShera presents a site plan and describes the property and its existing nonconformities. He states the primary change is to the roof of the top floor of the building, and that there is no expansion of the footprint as part of this proposal. Mr. McShera notes the area of the roof that will be modified with the proposal and presents elevations showing the existing hip roof. The new roof, according to Mr. McShera, would be a gabled roof on all sides. Mr. McShera contends the proposal is not more detrimental to the neighborhood than the existing building and states the petitioner has also been in front of the Historic Commission, which approved of the proposal. He indicates there is also a letter of support from Historic Salem Inc., and four letters of support from abutters. Chair Vyedin notes the letters of support as well.

Chair Vyedin opens the floor to public comment but there is none.

Mr. McShera discusses the statement of grounds and special permit criteria.

Motion and Vote: Ms. Osthoff motions to approve the petition of STEVE ARIAS at 18 ½ PICKMAN STREET (Map 35, Lot 551) (R2 Zoning District) for a Special Permit per Section 3.3.5 Nonconforming Single- and Two-Family Structures of the Salem Zoning Ordinance to expand the living area of their home to create a primary bedroom suite, with modifications and additions to the roof where the ridge height of the new roof will match the height of the existing roof and the building height will remain unchanged, subject to the following 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 finishes 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.
9. Unless this 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.
10. All construction shall be done per the plans and dimension submitted to and approved by this Board. Any modification to the plans and dimensions must be approved by the Board of Appeals unless such changes are deemed a minor field change by the Building Commissioner in consultation with the Chair of the Board of Appeals.
11. Petitioner shall schedule Assessing Department inspections of the property, at least annually, to project completion and a final inspection upon project completion.

Ms. Simpson seconds the motion. **The vote is four (4) in favor (Nina Vyedin, Carly McClain, Ellen Simpson, and Hannah Osthoff) and none (0) opposed. The motion passes.**

Location: **152-156 Derby Street (Map 35, Lot 348) (B1Zoning District)**

Applicant: **Demetra Karlis**

Project: A public hearing for all persons interested in the petition of DEMETRA KARLIS (A/KOUNSALIEH), TRUSTEE at 152-156 DERBY STREET (Map 35, Lot 348) (B1 Zoning District) for a Variance from Section 5.1.8 Table of Required Parking Spaces of the Salem Zoning Ordinance to remove the requirement in the December 30, 2013, Board of Appeals decision that the owner lease three (3) off-site parking spaces within a reasonable distance of the residential units. The petitioner proposes to change the present nonconforming use as a first-floor restaurant with 2 dwelling units above subject to a condition to lease off-street parking to the same use with no requirement to lease off-street parking.

Documents and Exhibitions

- Application date-stamped February 8, 2024 and supporting documentation.

Chair Vyedin introduces the petition.

Attorney Bill Quinn introduces himself on behalf of the petitioner and notes that he was before the Board previously for this petitioner, who is an elderly widow who was trying to run her late husband's restaurant. She is now trying to sell the property with all the restaurant equipment. Mr. Quinn discusses more of the background information, and the desire to get the property into sellable condition. Mr. Quinn explains that in 2013 the restaurant received permission from the Board to expand the restaurant and add a second story apartment, with the condition of requiring leased off street parking, which was satisfied with parking spaces rented in the former Captain Dusty's parking lot. The neighborhood has since changed, and Mr. Quinn explains that Captain Dusty's and its former parking lot have been redeveloped into condominiums. The petitioner attempted to find other off street parking options to no avail. Mr. Quinn explains the relief sought, which has been updated since last time from a special permit (request withdrawn and refiled) to a variance to remove the requirement from the December 30, 2013, Board of Appeals decision related to off-site parking. Mr. Quinn argues this is a balancing of public interest and efficient use of space, and notes that without the existing condition the restaurant and property would be able to be sold. He also notes there is on street resident permit parking, as well as other street parking options nearby. Mr. Quinn also notes the proposal is not inconsistent with the neighborhood and how it has been developed, noting other nearby restaurants without parking and homes and condos without off-street parking. He discusses the petitioner's hardship, noting that if the Board denies the request, she would be unable to sell the property and also unable to operate it as it previously and currently exists, and potentially need to demolish part of the property.

Chair Vyedin thanks Mr. Quinn and confirms the relief requested is more appropriate.

Chair Vyedin opens the floor to public comment, noting a letter in support was submitted.

Ward 1 City Councilor Cindy Jerzylo introduces herself and speaks against the proposal, stating that the requirement should stay because of the limited parking in the neighborhood. She argues that the requirement was put in for a reason, and that residents struggle with parking. Councilor Jerzylo suggests there must be parking spots available, noting there could be space for two spots and asks if they could use the handicap accessible space near the restaurant.

Mr. Quinn explains that the small patio area has been surveyed and that it could not legally fit two cars, and has not been used for parking since 2003. He notes there is a handicap parking sign there from when it was used for parking, but there is no parking currently. In attempts to sell the property, it has also been clear that outdoor space is desirable and something both restaurant owners and the public enjoy.

Chair Vyedin confirms there are no additional units being proposed. She asks Mr. Quinn where the current tenants have been parking since the redevelopment of Captain Dusty's. Mr. Quinn explains that one tenant does not own a car, and the other has managed to utilize street parking.

The Board discusses the matter and acknowledges the hardship associated with the requirement, the petitioner's due diligence, and the current state of the neighborhood.

Motion and Vote: Ms. McClain motions to approve the petition of DEMETRA KARLIS (A/KOUNSALIEH), TRUSTEE at 152-156 DERBY STREET (Map 35, Lot 348) (B1 Zoning District) for a Variance from Section 5.1.8 Table of Required Parking Spaces of the Salem Zoning Ordinance to remove the requirement in the December 30, 2013, Board of Appeals decision that the owner lease three (3) off-site parking spaces within a reasonable distance of the residential units. The petitioner proposes to change the present nonconforming use as a first-floor restaurant with 2 dwelling units above subject to a condition to lease off-street parking to the same use with no requirement to lease off-street parking, subject to the following terms, conditions, and safeguards:

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 finishes 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.
9. Unless this 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.

10. All construction shall be done per the plans and dimension submitted to and approved by this Board. Any modification to the plans and dimensions must be approved by the Board of Appeals unless such changes are deemed a minor field change by the Building Commissioner in consultation with the Chair of the Board of Appeals.
11. Petitioner shall schedule Assessing Department inspections of the property, at least annually, to project completion and a final inspection upon project completion.

Ms. Osthoff seconds the motion. **The vote is four (4) in favor (Nina Vyedin, Hannah Osthoff, Carly McClain, and Ellen Simpson) and none (0) opposed. The motion passes.**

Location: **5 Howard Street (Map 35, Lot 187) (R3Zoning District)**

Applicant: **Tim Walsh**

Project: A public hearing for all persons interested in the petition of TIM WALSH at 5 HOWARD STREET (Map 35, Lot 187) (R3 Zoning District) for a Special Permit per Section 3.3.5 Nonconforming Single- and Two-family Structures of the Salem Zoning Ordinance to modify an existing non-conforming single-family structure by constructing an addition that consists of a covered porch and a new deck. The existing structure has nonconforming setbacks, specifically the side setback is 1'+/- where 20' is required and the front setback is 1'+/- where 15' is required. The proposed addition will be less non-conforming on the side setback as it will be 3 feet instead of one foot.

Documents and Exhibitions

- Application date-stamped February 22, 2024 and supporting documentation.

Chair Vyedin introduces the petition.

Tim Walsh introduces himself and his architect Molly Richter. Mr. Walsh presents a plot plan and discusses the proposal, which is to remove an existing covered porch to add a small addition that will allow an expansion of the first-floor bathroom to make it a full bath and bring laundry up from the basement. The second floor will also be reconfigured to have a bigger bathroom. Mr. Walsh states the home is a single family built around 1870 and he and his wife reside in, and that after recovering from hip surgery this proposal would make the home more livable and comfortable as stairs can be challenging. Mr. Walsh discusses the nonconforming lot and existing conditions. He also presents elevations of existing conditions as well as proposed conditions. Mr. Walsh explains that there will also be a small deck on the first floor built as part of the proposal, and a second-floor deck above. Mr. Walsh presents an overhead view of the property and area and describes abutters. He provides photos of existing conditions as well. The rear entrance, Mr. Walsh explains, will face the rear parking rather than the neighbor's yard as it does today. Mr. Walsh presents floor plans of the proposal and describes the interior changes. He contends he spoke with abutters who were all supportive of the proposal, and states that the proposal is in line with the neighborhood characteristics.

Chair Vyedin confirms the setback conditions and that none of the existing nonconformities are being increased.

Chair Vyedin opens the floor to public comment but there is none.

Mr. Walsh summarizes his statement of grounds, and notes this will allow him and his wife to stay in the home.

Motion and Vote: Ms. Osthoff motions to approve the petition of TIM WALSH at 5 HOWARD STREET (Map 35, Lot 187) (R3 Zoning District) for a Special Permit per Section 3.3.5 Nonconforming Single- and Two-family Structures of the Salem Zoning Ordinance to modify an existing non-conforming single-family structure by constructing an addition that consists of a covered porch and a new deck. The existing structure has nonconforming setbacks, specifically the side setback is 1'+/- where 20' is required and the front setback is 1'+/- where 15' is required. The proposed addition will be less non-conforming on the side setback as it will be 3 feet instead of one foot, subject to the following terms, conditions, and safeguards:

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 finishes 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.
9. Unless this 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.
10. All construction shall be done per the plans and dimension submitted to and approved by this Board. Any modification to the plans and dimensions must be approved by the Board of Appeals unless such changes are deemed a minor field change by the Building Commissioner in consultation with the Chair of the Board of Appeals.
11. Petitioner shall schedule Assessing Department inspections of the property, at least annually, to project completion and a final inspection upon project completion.

Ms. Simpson seconds the motion. **The vote is four (4) in favor (Nina Vyedin, Ellen Simpson, Carly McClain, and Hannah Osthoff) and none (0) opposed. The motion passes.**

Location: **30 Northey Street (Map 36, Lot 0020) (R2 Zoning District)**

Applicant: **Flora Tonthat**

Project: A public hearing for all persons interested in the petition of FLORA TONTHAT at 30 NORTHEY STREET (Map 36, Lot 0020) (R2 Zoning District) for a Special Permit per Section 3.3.3 Nonconforming Structures and Section 3.2.8 Affordable Accessory Dwelling Units of the Salem Zoning Ordinance to construct an Accessory Dwelling Unit (ADU) in an existing 20' x 30'10" accessory building. In addition, a Variance from section 4.1.1 Dimensional Requirements for side and rear setback requirements. The detached garage is nonconforming regarding side yard and rear yard setbacks at less than one foot. The proposed accessory dwelling is seven hundred and nine square feet (709) where nine hundred square feet (900) is allowed.

Documents and Exhibitions

- Application date-stamped December 19, 2023 and supporting documentation.

Chair Vyedin introduces the petition and notes there was a request for a continuance.

Motion and Vote: Ms. McClain motions to continue the petition of FLORA TONTHAT at 30 NORTHEY STREET (Map 36, Lot 0020) (R2 Zoning District) for a Special Permit per Section 3.3.3 Nonconforming Structures and Section 3.2.8 Affordable Accessory Dwelling Units of the Salem Zoning Ordinance to construct an Accessory Dwelling Unit (ADU) in an existing 20' x 30'10" accessory building. In addition, a Variance from section 4.1.1 Dimensional Requirements for side and rear setback requirements. The detached garage is nonconforming regarding side yard and rear yard setbacks at less than one foot. The proposed accessory dwelling is seven hundred and nine square feet (709) where nine hundred square feet (900) is allowed, to the next regularly scheduled meeting of the ZBA on April 10, 2024.

Ms. Osthoff seconds the motion. **The vote is four (4) in favor (Nina Vyedin, Hannah Osthoff, Ellen Simpson, and Carly McClain) and none (0) opposed. The motion passes.**

Location: **67 Essex Street (Map 35, Lot 359) (R2 Zoning District)**

Applicant: **Karen N. Jellow**

Project: A public hearing for all persons interested in the petition of KAREN N. JELLOW, TRUSTEE at 67 ESSEX STREET (Map 35, Lot 359) (R2 Zoning District) for a Special Permit per Section 3.3.1 Applicability, Section 3.3.3 Nonconforming Structures and Section 3.3.4 Variance Required of the Salem Zoning Ordinance to construct an addition and roof deck on top of the second-floor roof to improve the habitability of the existing living space on the third floor. This is a three-family home.

Documents and Exhibitions

- Application date-stamped February 27, 2024 and supporting documentation.

Chair Vyedin introduces the petition.

Attorney Scott Grover introduces himself on behalf of the petitioner, who he indicates is also present to answer any questions. Mr. Grover presents photos of the property and describes it as a large three-family located on lower Essex Street. The photo indicates where the proposed addition and roof deck would go. Mr. Grover explains that the building use is legally nonconforming, as is the structure. He indicates the building has been in Ms. Jellow's family since her grandmother purchased it in the 1940's. Mr. Grover contends the home is in substantial need of rehabilitation, and one of the major challenges is the disproportionate sizes of the three units. Mr. Grover states one unit is large and consumes most of the space, while the other two in the building are much smaller. As part of the renovation, the owners would like to reconfigure the layouts to have three more proportionately sized units, each consisting of three bedrooms. In order to provide the third-floor unit with adequate living space, they are proposing a small addition of approximately 250 square feet to be constructed on a portion of the second-floor roof with an adjacent roof deck. Mr. Grover also notes there will be a new stairway in the back of the building that will meet all setback requirements, however, the new addition will extend an existing setback nonconformity along the lefthand side of the property. Mr. Grover continues to describe the proposal and relief being sought, noting that the advertisement indicates a variance required, but that there is an exception in the ordinance section that the extension of an exterior wall along the same nonconforming distance within a required yard shall require a special permit, and not a variance from the Zoning Board of Appeals. Mr. Grover maintains this situation applies here and provides a site plan to illustrate his point. Mr. Grover asserts the proposal will not be any more detrimental to the neighborhood than the existing structure, and discusses the special permit grounds, including meeting community needs with housing, little to no impact on parking and natural environment or utilities. He states the proposal is in line with the neighborhood and will not have any negative impact. The landscaping will be improved as part of the renovations, and the fiscal impact will increase the tax base for the city. Mr. Grover also indicates that the petitioner has discussed the project with abutters and one has submitted a letter of support.

Chair Vyedin opens the floor to public comment but there is none.

Motion and Vote: Ms. McClain motions to approve the petition of KAREN N. JELLOW, TRUSTEE at 67 ESSEX STREET (Map 35, Lot 359) (R2 Zoning District) for a Special Permit per Section 3.3.1 Applicability, Section 3.3.3 Nonconforming Structures and Section 3.3.4 Variance Required of the Salem Zoning Ordinance to construct an addition and roof deck on top of the second-floor roof to improve the habitability of the existing living space on the third floor, subject to the following terms, conditions, and safeguards:

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 finishes 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.
9. Unless this 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.
10. All construction shall be done per the plans and dimension submitted to and approved by this Board. Any modification to the plans and dimensions must be approved by the Board of Appeals unless such changes are deemed a minor field change by the Building Commissioner in consultation with the Chair of the Board of Appeals.
11. Petitioner shall schedule Assessing Department inspections of the property, at least annually, to project completion and a final inspection upon project completion.

Ms. Osthoff seconds the motion. **The vote is four (4) in favor (Nina Vyedin, Hannah Osthoff, Ellen Simpson, and Carly McClain) and none (0) opposed. The motion passes.**

MEETING MINUTES

February 14, 2024

Chair Vyedin states she has an edit for the minutes, as Voula Orfanos was listed as in attendance but was not present.

Motion and Vote: Ms. Osthoff motions to approve the minutes from the February 14, 2024, meeting of the Zoning Board of Appeals, as amended. Ms. Simpson seconds the motion. **The vote is four (4) in favor, and none (0) opposed. The motion passes.**

OLD/NEW BUSINESS

Vote on Changing April ZBA Meeting

The Board discusses a potential change for the date of the April meeting. The meeting is scheduled for April 10th, and after discussion, the new meeting is proposed to be April 17th.

Motion and Vote: Ms. McClain motions to approve the change to the date for the April meeting of the Zoning Board of Appeals to April 17, 2024. Ms. Osthoff seconds the motion. **The vote is four (4) in favor, and none (0) opposed. The motion passes.**

Vote on Changing June ZBA Meeting

The Board discusses a potential change for the date of the June meeting. The meeting is currently scheduled for June 19, 2024, and after discussion, the Board proposes a new date of June 12, 2024.

Motion and Vote: Ms. Osthoff motions to approve the change to the date for the June meeting of the Zoning Board of Appeals to June 12, 2024. Ms. Simpson seconds the motion. **The vote is four (4) in favor, and none (0) opposed. The motion passes.**

Next Meeting
April 17, 2024

ADJOURNMENT

Motion and Vote: Ms. McClain motions to adjourn the meeting. Ms. Osthoff seconds the motion. **The vote is all in favor. The motion passes.**

The meeting ends at 8:38 PM on March 20, 2024.

For actions where the decisions have not been fully written into these minutes, copies of the Decisions have been posted separately by address or project at:

<https://www.salem.com/zoning-board-appeals/pages/zoning-board-appeals-decisions-2024>

Respectfully submitted,
Daniel Laroe