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CITY OF SALEM, MASSACHUSETTS BOARD OF APPEAL

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CITY CLERK, SALEM, MASS.

August 29th, 2014

Decision

City of Salem Board of Appeals

Petition of NICK MOSHER, requesting a special permit per Sec. 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance, to allow the addition of a second floor deck onto an existing nonconforming single-family residence, at the property located at 462 LAFAYETTE ST (R1 Zoning District).

A public hearing on the above Petition was opened on July 16, 2014 pursuant to M.G.L. Ch. 40A, § 11. The hearing was closed on that date with the following Salem Board of Appeals members present: Ms. Curran (Chair), Mr. Duffy, Mr. Watkins, and Mr. Copelas (Alternate).

The Petitioner seeks a Special Permit per Section 3.3.3 *Nonconforming Structures* of the Salem Zoning Ordinance.

Statements of fact:

1. In the petition date-stamped June 19, 2014, the Petitioner requested a Special Permit in order to construct a deck over the existing one-car garage on the property.
2. Mr. Michael Shapiro, D&H Construction, Peabody, MA presented the petition on behalf of the applicant.
3. The existing building is nonconforming, so the addition of the proposed deck requires a Special Permit.
4. The deck would be placed over the existing garage, with an overhang at the front of the garage, and stairs providing egress from the deck to the rear yard would be added to the back of the garage. The front edge of the deck would be even with the front façade of the house.
5. Due to the angle of the structure relative to the side lot line, the extension of the deck toward the street would result in an additional six inches of encroachment on the required side yard width. The front corner of the deck would be approximately 2.5 feet from the side lot line, while the rear corner of the existing garage is three (3) feet from the side lot line.
6. An existing second-story side window would become the door to the deck. This window is located above the front edge of the existing garage, necessitating the extension of the deck beyond the front edge of the garage in order to facilitate access to the deck.
7. The requested relief, if granted, would allow the Petitioner to construct a deck over the existing attached one-car garage, with rear stairs and a front overhang.
8. At the public hearing, no members of the public spoke in favor of, or 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 petitions, 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:

1. The impact of the proposal on the community's needs is no different than what currently exists.
2. The proposal does not impact parking or loading in the area.
3. The proposal does not impact the adequacy of utilities or other public services.
4. The proposal is in keeping with the character of the neighborhood.
5. The proposal does not impact the natural environment.
6. The proposal does not have an economic or fiscal impact.

On the basis of the above statements of facts and findings, the Salem Board of Appeals voted four (4) in favor (Mr. Watkins, Ms. Curran, Mr. Copelas and Mr. Duffy in favor) and none (0) opposed, to grant the requested Special Permit to allow the expansion of an existing nonconforming structure, subject to the following **terms, conditions, and safeguards**:

1. The 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 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.



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.