

**CITY OF SALEM
AUGUST 15, 2019
CONTINUATION OF A
JOINT PUBLIC HEARING OF THE
CITY COUNCIL AND THE PLANNING BOARD**

A Continuation of a Joint Public Hearing of the Salem City Council and the Planning Board was held in the Council Chamber on Thursday, August 15, 2019 at 7:00 P.M. for the purpose of continuing discussion on the following two (2) separate Zoning Ordinance Amendments summarized below:

1. An Ordinance Amending Zoning Section 3.2.8 Accessory Living Areas by deleting the existing text in its entirety and replacing it with a new ordinance. The existing text requires accessory units to be used solely by a family member or caregiver and for the unit to be dismantled once the need no longer exists. The proposed new ordinance is to help residents, and seniors particularly, to remain in their home by allowing small, accessory use within the same property by right, provide certain requirements are met. The proposed ordinance adds more flexibility to create housing options, removes the tenant restrictions of only a family member or caregiver (anyone may rent the unit), adds, among other things, the purpose of adding moderately priced rental units to the housing stock to meet the needs of smaller households and moderate-income households, to encourage efficient use of the city's housing supply while preserving the character of city neighborhoods, to preserve family bonds, and to permit the owner of an existing or proposed detached dwelling to construct one additional dwelling unit that is incidental and subordinate to the principal dwelling. The Building Inspector shall administer and enforce the provisions of this section unless a special permit is required then the Zoning Board of Appeals will be the Special Permit Granting Authority. The ordinance provides procedures, application process, requirements for accessory dwelling units, Special permits and termination of use.
2. An Ordinance Amending Zoning Section 3.1 Table of Principal and Accessory Use Regulations of the City of Salem Zoning Ordinance to allow an accessory living

Notice of this meeting was posted on July 11, 2019 at 3:05 P.M.

Councillor Peterson was recorded as an excused absent.

Councillor Stephen Dibble presided.

Councillor Dibble had the Planning Board introduce themselves. In attendance was Chair Ben Anderson, DJ Napolitano, Matt Smith, Noah Koretz, Carole Hamilton and Matt Veno.

Also, in attendance were the Mayor, Amanda Chiancola and Mason Wells, Staff Planner.

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**#370 – AMENDING A ZONING ORDINANCE RELATIVE TO ACCESSORY LIVING
USES – CHAPTER 3.0 – USE REGULATIONS BY DELETING AND REPLACING 3.2.8
(SEE FULL TEXT BELOW)**

Councillor McCarthy stated at the last meeting there were a series of questions that were asked that Planning was going to get the answers for, so before we start too much discussion, we should let Amanda go over those questions and answers so we are all on the page.

Councillor Furey stated that housing is a Human Right. Demand for Housing outweighs the supply. Salem is a gateway city many cannot afford to live and work in Salem. We are in urgent need for housing.

Councillor Dibble asked the Planning Board to take a look at the 800 s.f. requirement, the 2yr owner occupied requirement (too short of a time), no short-term rentals allowed and affordability of rents.

The Mayor and Amanda Chiancola addressed the Council and the public stating they worked hard to look at the questions asked and to get answers. The Mayor stated currently R-1 Zone only allows caregivers or family members. Only 7 were approved; 4 were new units and 3 were made legal. The 800 sf came out of the Affordable Trust Housing Board. It was a number to make it small enough to live as an accessory but big enough to use and not make it hard to build. The 2-year requirement was decided upon from the IRS matrix. But this is open for discussion. For example, if someone built an accessory unit and then their job transferred them somewhere else it would not be a hardship. Affordability restriction is not something the city can do. Can't tie it to anything. Can't tell people what they can rent their units for. Usually a smaller unit such as 800 s.f. would not support high rents, but people have to invest \$ and we want people to build these and not to limit them.

Councillor Turiel stated the sticking point for him was the 2-year ownership. It should be ownership period. Concern it would become investment properties even if on same utilities.

Councillor Dominguez asked how we can assure that these units will be affordable.

Mayor: The practicality of the ordinance is to utilize existing space i.e. basement, attic, garage to create units as accessory. If put an affordable restriction would require income threshold or can only charge so much hard to differentiate what to a basement unit would get for rent. Maybe someone put more money into the unit others may be more basic. How do we monitor applicants and income thresholds? Smaller units generally rented at lower costs but not a guarantee. Onerous on City or Owner. You want someone to live there you know ore want to help. Can't control rent they charge – they are investing hard to mandate it.

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Councillor Madore A lot of feedback on owner occupied component. If change to holder of lease needs to live in either unit for that period of time. If we can come up with a definition that can be defined by a rental relationship. How we make sure there isn't so many hurdles so people will invest.

DJ Napolitano - PB Member asked on the ones we have do we have any ide how much to build-out?

Amanda Chiancola replied looked at building permits and valuation on the certificate of occupancy about \$50,000.

DJ Napolitano – Owner occupied suggestions. R-2 and R-3 investment properties R-1 rent out long term. See some benefit in R-2 if keep in R-1 if build ADU owner occupied in perpetuity. R-2 and R-3 allow non-owner occupied after a certain period of time give R2 and R3 some flexibility if they have to move in then they won't do it.

Noah Koretz – PB Member – commented on affordable 1. Deed restriction, 2. Is public housing and 3. Is Naturally reoccurring. Private homeowners will not put a deed restriction on their home. Only reason to do this if you were a business. Solution to #3 is more housing and the government is not building public housing anymore.

Matt Smith – Shouldn't be looking at ADU as an investment property. Take that out of the equation. Let's be realistic not going to create high rentals.

Ben Anderson, Chair of Planning Board, if in line with Councillor Turiel, then ownership remains in perpetuity. Likes the 2-year time frame – It's an investment for the future. Understand if reverted back or keep.

Mayor – Goal is to have it stay with property. If buy it – keep as accessory – not going away.

Amanda Chiancola referred to page 6 of the Q&A for a possible definition, in summary, a person who pulls permit has to be that person and the new owner if buys property they have to leave it for 2 years.

Ben Anderson – The purpose of this ordinance is for additional housing not just affordable but won't be high priced based on just the size alone. Provide housing not low-income housing only.

George O'Brine – 5 Locust St. – This proposal is not good for R1. It takes a right to live in a R1 district away.

Elizabeth Wolfe – 95 Bay View Ave. – Lived in Salem for 45 years and 40 at this home. Talk about affordability, not sure what that really means. It could me \$25,000 to build out this type of unit. I'm a retiree from the City of Salem. I can't afford to put out \$25K to put

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in an additional live area even if interested. This is supposed to make it easier for seniors to live in their own home yet if put in money then valuation of home goes up and takes increase, then renters have to pay enough to cover cost can't have affordability and increase in taxes at the same time. Population increases, traffic increases, market value never goes down in Salem. Don't think this will work.

Patti Morsillo – 53 Broad St. – Provide needed low-income rentals to single moms, seniors, students. There are empty nesters who don't want to sell their home but can't find an affordable place in Salem. ADUs are only one available option.

Rolf Franke Otten – 30-2 Beckford St. – has a 2 family but not owner occupied but family occupied. Daughter lives there and another renter but still has a whole floor that's unused which has 2 entrances/exits and parking. Only problem not owner occupied but family occupied.

Erin Schaeffer – 22 Warren St. – lives in an Accessory Dwelling Unit. Very affordable was able to walk here tonight. The landlord keeps it below market rate, because she has great tenants in us. We invest in her property. My wife and I have great jobs, two great incomes, but still can't afford a house in Salem. She has a friend who lives in 900 s.f. when it was just two of them starting out and now, they have 2 kids and are still there because cannot afford home in the Salem. Important to have ADUs in all districts.

Josiah Fisk – 358 Essex St. (home), 10 Derby Sq. (business) – either we open it up or limit it. If open it up in R2 or R# then changing R2 to R3 and R3 to R4 (even though it doesn't exist) Take advantage and exploit this option. Strongly favor perpetuity – runs with property. 5-10 years down the road what will this become if only allow 2yr ownership then can become Airbnb, short-term rental.

George Carey, 112 Bay View Ave. – Restaurant owner at Pickering Wharf – supports this proposal agrees with the Mayor (doesn't often) helps seniors and new generation. As an Employer over 20 years employees come from elsewhere. This option is to give one leg on the stool. Look at different options. In response to the lady who spoke about cost to build - To put out \$25K at 4% for a 10 year long is \$259/month to keep themselves in their own home. Likes it as one of the tools – doing nothing will not help – really need to do something sooner than later. Losing young people will have an impact on our city. Prefers to have Employees live here and work here.

Steve Kapantais, 23 Wisteria St. – In favor of ADUs. Some language is ambiguous and needs to be changed. Agree with Mayor can't control rents, but ADU rented as a moderate price moderate income. Doesn't know what this means – how do you define moderate. 5-10 years from now board changes and different language – either take out or define.

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Mickey Northcutt, 18 Peabody St., Director of NSCDC. Affordable options for people without a long time to wait. I'm on Affordable Housing Trust Board and its hard to ascertain how many would do this – build with private money. Investing in their own property maybe for aging parents. Salem has illegal versions of this. Option that you don't have to wait 10 years to go through the process. For younger people who want to live and work in Salem. Do in all areas not just densely populated areas.

David Friedberg, 57 Britannia Circle (also NS Realtor) – Supports ADU go through Planning Board and Zoning Board of Appeals to keep character of neighborhood. Again if \$50,000 to renovate a unit at 5% interest cost will be \$200/month. Taxes going up but if rent unit for \$800 it covers your mortgage, taxes, utilities and will get more money when you sell. Would like Single family homes in R1 for ADU to be kept owner occupied in perpetuity. If live next door to an Air Bnb then can't control what goes on. If owner occupied keep things in control.

Gary Gill - 12 Pope St – Meet people at Willows who said they should have bought in Salem 5 years ago, but can't afford it now. There is nothing for Veterans or Seniors in last 30 years. Affordable is important piece like Noah had to say. One bedroom can rent for \$1,495. Someone has to make change stop asking for 10%.

Jeff Swartz – 23 High St. and Chamber of Commerce. Supports ADU. Improvements to housing stock increase tax revenues. Address traffic and parking issues. If live and work in Salem can be very helpful.

Andy Knapp, 23 Linden St. – Heard heartfelt stories here tonight. I hope whatever comes out of this process is used for those situations. Concern about the ordinance as written because motivation no so benign. Part of Linden St. he lives on is in the R2 district. If had children or parents very interested in doing this or if interested in maximizing revenue for self-interest. Out of 5 stated purposes only one can be enforced the rest are hopes. Can enforce owner occupied, Parking requirements could be waived. Concerns about enforcement capability. Right now, illegal STR is going on. The character of Salem will change. There should be serious fines for violations and escalating fines. Experience with Real Estate can bring out the best in people or the worst. Not enough to protect against the worst of people.

Cheryl Rafuse – 84 Barstow St. Five years ago, pickings were slim. Just graduated – found a studio about 200 sf and had to use a ladder to get to her bed. And her rent was \$850.00. Watching friends and colleagues look outside of Salem. Good to age in place but also need young people. Diversity in housing options will help.

Maggie Smith – 10 Hancock St., In favor of ADU. In Rhode Island live above a garage of older couple. We formed our own community and built relationships. Convergence of older and younger people even if this could help 2 or 3 families it is a benefit.

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Zachary Nix – 8 Glendale St. – works 7 days a week to afford rent in Salem.

Alice Merkle – 28A Federal St. #2. In favor of ADU and language. Advocate for affordable housing. Ok with 2-year owner occupy. With size of unit tend to be of lower price – someone in their home will rent to someone they know.

Flora Tonthant – 30 Northey St. She has a 20-year-old that has a good job, but can't live in Salem. She stated it was easier to live in NY. People are one rent increase away from being homeless. Frustrated and disappointed that certain councillors don't feel this is good enough or perfect enough. We have housing crisis.

Melissa Faulkner, 209 North St. – We need Affordable housing for Veterans and Seniors. ADUs could hurt elderly. Expense for building out. They should be given a tax exemption. She has 5 kids and fought to keep them together in Salem. Housing is a human need. There are people struggling out there. We need to have empathy. We should look at the property case by case. For example, if a person just bought the property so not two year minimum. Look at all concerns and compromise.

Jeff Cohen, 12 Hancock St. – Not realizing generational living. Most Development in Salem leaves out smaller units.

Marsh Finkelstein, 2 Clifton Ave. – here because of housing. No doubt in my mind that so many people would come and live here if they could afford it. Planning Board understands nitty gritty and trust them. Can't buy a house in Salem due to money. If spend so much time on little things then missing out. Can be great. Maybe not perfect, but will help others. Like to see people have more options lot more positive in it.

John Boris – 5 Bedford St., Supports Mayor's proposal. Endless stream of people looking for affordable housing.

Fawaz Abusharkh, 4 Harrison Rd. – When started this – way to find for people to stay in their house. Can't lose sight of why we are doing this. Regarding owner occupied understand people's lives change and may need to move, but to sell in 2 years and make a profit. Not about making an investment. Not the purpose of this ordinance. Keep sight on prize. If we cannot police it then keep affordability. Owner occupied could be a family member.

Polly Wilbert, 7 Cedar St., - Sent an email to the Councillors to understand the properties we have in Salem. We have 5,000 single family units and the next largest is condos with 4,400. Condo Assoc not going to allow ADUs. How to incentivize seniors to create an ADU – should get a tax exemption or amnesty. 1,500 two families and 500 three families. Needham did this and in 2016, 2017, 11 units were built and they are twice as wealthy as we are. Population density the same as Salem's. What are we going to be doing if not as wealthy? Not attractive enough now. Non-Owner-occupied property speculation. If someone bought a 3 family for \$350,000 and converted into 3 condos now living next to a

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\$1M building. Dense properties – parking a problem. Mission of this City is to grapple with details for Quality of life.

Cynthia Nina-Soto – Resident of 6 Laurent Rd. and also President -Elect of NS Realtors of Beverly. Support Ordinance – Housing Crisis – coming late to the game. Over 200 cities/towns in MA allow ADUs, only 30 or so allow family and the other 30 or so have no zoning for ADUs. ADUs can be integrated into neighborhoods. MLS listings last 6 months renting in Salem Less than 1,00 sf – 71 units rented between \$1,000-\$2,600. The Median was \$1,700. Or \$2.13 cost per s.f. Illegal Units rented out much cheaper - \$1.00-\$1.50/cost per s.f. because in a basement or attic not really comfortable to live in. Cost to build these units \$50-\$125/ s.f or around \$40K-\$100K for some of these units. As a realtor doesn't happen R-1 doesn't become an R-2. Evaluate as in Assessor's record 2 family with an in-law apartment. Taking rent for 2 rental units not in-law. ADUs common sense approach.

The Mayor and Amanda Chiancola came back up to address some questions and concerns and answered Councillor Dibble's questions

Councillor Dibble's questions:

Q: Zoning Change in R-1 lose right to live in R-1

A: Accessory unit small in size even in more affluent areas only 11 units.

Q: Owner – Could it be a family member

A: We talked a lot about ownership. Ownership is important but not overly restrictive. Level of comfort doing more good than harm not to incentivize.

Q: Short Term Rentals or Air BnBs cannot make an accessory unit

A: Unit a Short-term rental but could not rent out other half because must live there.

Q: on the word/definition of "moderate"

A: Will of the Council and Planning Board – can tweak language only in the purpose section not a requirement.

Matt Veno referenced in preamble then in purpose section 3A(a) has to address purpose if apply has to reference purpose – will find it helpful.

Carol Hamilton – the word moderate needs tweaking or elimination or to better clarify the word

Councillor Turiel – Question on Ownership Page 7 option 3. Revise the language requirement like temporary absences have a family member come to live in the property while the owner of record is away. Question on the memo has this been posted? It's on ImagineSalem.org.

Councillor Dibble asked if an existing non-conforming 5unit building was in an R-2 can you add another unit to make it 6? More non-conforming. Mayor – Let me walk through the process.

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Amanda asked if the 5 units are legal non-conforming or created without permits? Let's say legal. Then that's a question the Planning Board and City Council should consider. Do you want to allow an accessory unit in that type of situation? If they want this or not. A homeowner has a legal non-conforming 2 family in a R-1 and wants to build an accessory unit for her disabled daughter, cannot do so under the current ordinance. Case by case specifics – keep that in mind

Mayor also stated can they meet the parking requirements and also setbacks? Some may be extreme examples. At very least ZBA for a special permit. If in Historic District will need Historic Commission review. Have some protections.

Noah Koretz asked if we have a sense of how many non-conforming.

DJ Napolitano – Legal non-conforming but meet by right requirements you would not need to apply for a special permit. Correct? If meet by right can build in any zone you are in. Take Councillor Dibble's example of the 5 units in a R-2 if add unit in basement then you could build this accessory living unit because not making another unit – not making it 6 units.

Mayor responded - Correct if not violating any of the requirement i.e. parking and set back. Let's say you want to make the ADU in your basement. You are not adding an extra unit. So, if you already meet the parking and set back requirements then you can add an ADU as of right.

Councillor Dibble asked about violations and fines. In research did you look at other cities and towns about escalating fines.

Amanda responded focused on our requirements. The ordinance requires a certificate of fitness and that has escalating fees. Instead of adding fees to this ordinance we linked it to existing fines.

Councillor Dibble to Amanda - In researching other cities and towns did they have an affordability portion.

Amanda replied yes, Ipswich has a deed restriction, but I wouldn't recommend a deed restriction. What would it look like how do you manage it? Very difficult to rent out because if need to provide income then you are overqualified. There are drawbacks to deed restrictions.

Noah K – If have deed restriction, it will make it impossible – no one will do a deed restriction. Only done in professional managed buildings.

DJ - I applaud the board for thinking about affordability but not in this ordinance that's in the inclusionary ordinance. We need to include many ways to get more housing in Salem.

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Councillor Dibble – Seniors – to stay in their house. Can they get a tax break?

Mayor – See if feasible under State Law – we would have to seek special permission, so can't commit to that. But we could offer a lot of guidance to walk somebody through this process. Match.com for housing structure.

Councillor Dibble – Clarify not allowing not making these condo conversions.

Mayor – Addressed in handout cannot be considered separate units. They cannot be considered transferred individually.

David Friedberg – One more question -Misunderstood, if create an ADU if owner can move into the ADU then make the other section an AirBnB then don't support this.

Councillor Dominguez – Thank you for all the comments, but need to be transparent. We need to provide affordable housing. What is the purpose of this if cannot make or require affordable rent? Thought this would be a tool. Need to tell people this is not the tool for affordability. Human Crisis we need to focus on. Let's wait for next ordinance. We are losing people and diversity now because they can not afford to stay in Salem now. That's my concern.

Councillor McCarthy – Purpose in Section A – It's about dignity and allowing homeowners to stay in their home. If a family member needs to live with you can set up their own space and provide them with dignity. And if then no longer needed, then yes, I made an investment in my home. Then maybe rent out to another family member or someone else I would want that ability without having any restrictions. Or another example, if someone lives beyond the time they expected, but can no longer afford to live in your own home, but want to stay there. I need an option if I can rent out a space in my home to supplement income. Not a silver bullet. Won't solve affordable housing crisis. But need options. For a few people you want this or could use this, we should give them the ability. Agree with Owner Occupied provide homeowners with the benefit not for investors. Let's make it so we don't open the flood gates. These is just one little piece.

Councillor Milo – Heard the words, might, we think, we hope, we want. Is there any data anywhere based on tonight what this will create? Number of developers with permitted projects. How about putting pressure on the developers that are no moving forward with their project. That will get us more units. i.e. 117 units next to CLC, we will get 11 affordable housing. You can get more affordable units in one development then piece meal. We are getting pieces of puzzle; can we get the whole puzzle. I haven't seen Inclusionary Ordinance, I don't know how it will affect tonight's decision or the whole puzzle. We have an existing ordinance to have in-law apartments to age in place. Not minimizing anything but need to figure out what we are talking about. Interested in helping people. What does this address? How many can this help or is time better spent working with developers to build their projects. So, circling back how many will we get from this and do we know?

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Mayor responded – The MAPC has done some work on ADU and out of the 100 cities and towns about 20-60 ADU permits issued per city/town that has this. In the last year and half Salem has had 7 permits; 4 new and 3 illegals becoming legal. Hard to estimate the #s because ADUs have always been tied to caregivers or seniors. There are a number of projects that are breaking ground or near completion. Flynn Tan, Salem Suede, behind Shaw's. Salem Oil and Grease hoping start soon. Seeing Blubber Hollow neighborhood coming together. Sequencing of providing tools to you are coming from public conversation. First tool, reuse of municipal and religious buildings, ADUs, Inclusionary Ordinance coming this fall. Also looking at leveraging of public land. What public assets do we have to help drive down the cost of housing. The biggest cost to build is cost of property, then construction. Construction costs are through the roof. Identified 1/2 dozen sites. Most of the land owned by the city is left over for a reason. The new Housing Authority Director from North Andover is really bullish to build housing with CPA\$, loan programs. Supply is an issue. If units from ADU it will be affordable, not deed restricted or Section 8. People willing to live in smaller units. Can't prevent capitalism but if don't do this at all then do nothing. It's a smart growth tool. Easiest thing we can do as fast as we can and as correctly as we can. Many states have allowed ADUs state-wide.

Councillor Milo – Thank you for giving us an update on projects. We need 2,725 by the year 2030. If come up with 1,000 units then over a 1/3 of the way there. To clarify, that number is for people living here now not moving to Salem.

DJ Napolitano – To hear from the Councillors we want more transparency and saying why was this thrown on us and now we saying need whole picture. If we were to discuss all these zoning ordinances at once it would get so convoluted nothing would get pass because no one would understand. I know people who study this daily and I never been to a meeting where ten things were discussed at once. Need to do it piece meal only way to do it; it will actually allow us to have a better, smarter discussion on how to move forward. To do all together we would be here until 5am. Another thing, there was a great tool on the table to reuse Municipal and Religious Buildings to put a serious dent into affordable housing here in Salem and since I've been here the Immaculate Conception Church has been vacant for 10 years and that is a great place for affordable housing. Full affordable housing but to say we need to be more transparent on what we are doing. I came from Everett as a City Councillor and they do not have as many public hearings as Salem does. We should be transparent but when we have a tool in front of us then shouldn't lose the forest through the trees. We have to say ok this isn't perfect but will help affordable housing.

Noah Koretz – Drip, drip dripping on an individual basis. In the last 10 years there have been 2 1/2 more jobs but not housing. It's a supply and demand problem. Way more jobs and not keeping up with housing. This is one way to help out people.

Carol Hamilton – This is just one more tool in our housing tool kit. There needs be a vast bunch of little ways to get there. Public hearing is transparent that is what it is for. We need to get something finished and passed.

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Councillor Madore – I counted a total of 52 people who spoke on this issue tonight and last time and 77% is to support this ordinance. They urge use to work together and adopt this. To hear that the public doesn't know what we are doing we don't give the public enough credit. 80% have come in support of ADUs and stated cannot qualify for affordable housing, deed restricted housing. Asked Amanda since we are trying to define owner occupancy and defining what a family member is very concerned that we need to be careful how we define a family member without violating Fair Housing Laws; priority how we define family member i.e. my dog is a family member.

Councillor Turiel mentioned that we have people who speak regularly on every topic but on this topic, we saw new speakers. This matter brought people in here that never spoke before the Council. This shows that this meant something to them, personal to them, or hoping to build one. And after 3 ½ hours would like to do for this because there were many questions. I would like to close the public hearing and refer to the Planning Board and instead of the Planning Board meeting right away have time to chew on this.

Councillor McCarthy moved that the public hearing on this matter be closed. All those in favor so voted.

Councillor Turiel moved that the matter be referred to the Planning Board for their review and recommendation. It was so voted

#371 – AMENDING A ZONING ORDINANCE RELATIVE TO ACCESSORY LIVING USES – CHAPTER 3.1 – TABLE OF PRINCIPAL AND ACCESSORY USE REGULATIONS (SEE FULL TEXT BELOW)

Discussed as part of Public Hearing above.

Councillor McCarthy moved that the public hearing on this matter be closed. All those in favor so voted.

Councillor Turiel moved that the matter be referred to the Planning Board for their review and recommendation. It was so voted

On the motion of Councillor Furey the hearing adjourned at 10:20 P.M.

ATTEST:

ILENE SIMONS
CITY CLERK

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Full Text of Zoning Ordinance Amendments relative to Accessory Dwelling Units

#370 - A Zoning Ordinance to amend an ordinance relative to accessory living uses.

Be it ordained by the City Council of the City of Salem, as follows:

Section 1. Chapter 3.0 Use Regulation is hereby amended by deleting Section 3.2.8 Accessory Living Areas in its entirety and replacing it with the following:

“3.2.8 Accessory Living Areas. Accessory Living Areas shall be allowed as provided set forth in this section.

1. Purpose.

- A. To provide homeowners with a means of obtaining companionship, security, and services, thereby enabling them to remain in their homes and neighborhoods they might otherwise be forced to leave.
- B. Add moderately priced rental units to the housing stock to meet the needs of smaller households and make housing units available to moderate income households who might otherwise have difficulty finding housing.
- C. To encourage the economic and energy efficient use of the city's housing supply while preserving the character of the city's neighborhoods.
- D. To maximize privacy, dignity, and independent living among family members preserving domestic family bonds as well as to protect the stability, property values, and the residential character of the neighborhood.
- E. To permit the owner of an existing, or a proposed, detached dwelling to construct one additional dwelling unit. Such a use is incidental and subordinate to the principal dwelling.

2. Procedure.

- A. The Building Inspector shall administer and enforce the provisions of this section unless a Special Permit is required then the Zoning Board of Appeals will be the Special Permit Granting Authority.
- B. When a waiver is required, a Building Permit shall not be issued until a Special Permit has been granted and duly recorded.

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3. Application

A. The Application for the Special Permit, if required, shall:

- a. Include a statement of the fact basis upon which the aforesaid purpose has been fulfilled.
- b. Be signed by one hundred (100) percent of the record title ownership interest of the principal dwelling and shall include a copy of the deed to the applicant.
- c. Include a floor plan of the accessory living area, the principal dwelling where it is to be located and all elevations. All plans shall be drawn to scale and identify the existing structure and proposed modifications to create the accessory living area.

B. The Application for the Building Permit shall:

- a. Be signed by one hundred (100) percent of the record title ownership interest of the principal dwelling and shall include a copy of the deed to the applicant.
- b. Include a floor plan of the accessory living area, the principal dwelling where it is to be located and all elevations. All plans shall be drawn to scale and identify the existing structure and proposed modifications to create the accessory living area.

4. Requirements.

- A. The minimum parking required for the principal dwelling pursuant to Section 5.1 of this ordinance shall not count as off-street parking for the accessory living area. The accessory living area shall have a dedicated off-street parking space unless otherwise waived pursuant to Section 5 of this ordinance.
- B. There shall not be a net loss in the caliper of private trees on the lot in which the accessory living area will be located unless otherwise waived pursuant to Section 5 of this ordinance.
- C. The accessory living area shall not contain in excess of 800 square feet of habitable space, unless otherwise waived pursuant to Section 5 of this ordinance.
- D. No more than one (1) accessory living area shall be located upon a single lot.
- E. At least one (1) owner of the residence in which the accessory living area is created shall reside in one (1) of the dwelling units as a principal place of residence at the time of permit issuance and a minimum of two years thereafter.
- F. Electricity, water and gas shall be provided by a single service to both the accessory living area and the principal dwelling.
- G. The accessory living area may not be sold or transferred separate and apart from the principal dwelling to which it is an accessory use. The principal dwelling and the accessory living area shall remain in common or single ownership and shall not be severed in ownership.

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- H. No separate entry to the accessory living area shall be permitted unless from existing entries, from within the main dwelling, from the back or from the side of the main dwelling.
 - I. The accessory living area shall not contain more than two (2) bedrooms.
 - J. The accessory living area shall be clearly subordinate in use, size and design to the principal dwelling.
 - K. The accessory living area must be capable of being discontinued as a separate dwelling unit without demolition of any structural component of the principal dwelling.
 - L. There shall be no occupancy of the accessory living area until the Building Inspector has issued a certificate of occupancy that the principal dwelling and accessory living area shall be in compliance with all applicable health and building codes.
 - M. The Building Permit shall be revoked upon determination by the Building Inspector that any condition imposed by the has not been fulfilled.
 - N. By filing the Application for Special Permit or a Building Permit for an accessory living area, all owners consent to an inspection without a warrant upon reasonable notice by the Building Inspector to ensure compliance with all terms of this section and conditions imposed upon the grant of the Special Permit.
 - O. Short term rentals are prohibited in the accessory living unit.
 - P. The accessory living unit shall obtain certificate of fitness subject to the provisions of Section 2-705 of the City of Salem Code of Ordinances.
5. Special Permit. Upon the request of the Applicant, the Zoning Board of Appeals may grant a Special Permit pursuant to Section 9.4 to waive the following requirements in the interests of design flexibility and overall project quality, and upon a finding of consistency of such variation with the overall purpose and objectives of the accessory living area ordinance.
- A. Notwithstanding anything to the contrary herein, the minimum required amount of parking may be waived if the Zoning Board of Appeals finds it is impractical to meet the parking standards and that such waivers are appropriate by reason that it will not result in or worsen parking problems in or in proximity to the Project, and upon demonstration to the reasonable satisfaction of the Zoning Board of Appeals that a lesser amount of parking will provide positive environmental or other benefits, taking into consideration:
 - a. The availability of surplus off-street parking in the vicinity of the use being served
 - b. The proximity to public transportation;
 - c. The availability of public or commercial parking facilities in the vicinity of the accessory living area;

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- d. Impact of the parking requirement on the physical environment of the affected lot or the adjacent lots including reduction in green space, destruction of significant existing trees and other vegetation, destruction of existing dwelling units, or loss of pedestrian amenities along public ways; and
 - e. Such other factors as may be considered by the Zoning Board of Appeals.
 - B. The Zoning Board of Appeals may grant a waiver to allow a net loss in the caliper of trees on the lot in which the accessory living area will be located taking into consideration the species of the tree, health of the tree, whether a replacement tree will be planted on another property or if a contribution to a tree replacement fund will be provided.
 - C. The Zoning Board of Appeals may grant a waiver to allow the accessory living area to exceed 800 square feet of habitable space, taking into consideration peculiarities of the layout of the primary dwelling.
- 6. Termination.
 - A. The accessory living unit use shall terminate immediately upon any violation of any term or condition of this ordinance or of the Special Permit that the owner fails to cure, upon two (2) weeks written notice mailed to the applicant and to the occupants at the dwelling address by certified mail, return receipt requested.
 - B. Duty of Owner Upon Termination include:
 - a. The owner shall discontinue the use of the accessory living area as a separate dwelling unit.
 - b. The kitchen facilities of the accessory living area shall be removed unless determined by the Building Inspector to be incidental and subordinate as an accessory use of the principal dwelling.
 - c. Any additional exterior entrance constructed to provide access to the accessory living area shall be permanently closed, unless the Building Inspector provides a waiver. The owner shall permit an inspection by the Building Inspector without a warrant.
- 7. Severability. All the clauses of this ordinance are distinct and severable, and if any clause shall be deemed illegal, void, or unenforceable, it shall not affect the validity, legality, or enforceability of any other clause or portion of this bylaw.”

Section 2. This Ordinance shall take effect as provided by City Charter.

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**#371 – AMENDING A ZONING ORDINANCE RELATIVE TO ACCESSORY LIVING
USES – CHAPTER 3.1 – TABLE OF PRINCIPAL AND ACCESSORY USE
REGULATIONS**

A Zoning Ordinance to Amend a Zoning Ordinance relative to accessory living areas.

Be it Ordained by the City Council of the City of Salem, as follows:

Section 1. Chapter 3.1 – Table of Principal and Accessory Use Regulations of the City of Salem Zoning Ordinance is hereby amended by allowing an accessory living area use in the RC, R1, R2, and is hereby amended by deleting Section 3.2.8 Accessory Living Areas in its entirety and replacing it with the following:

E. ACCESSORY USES	RC	R1	R2	R3	B1	B2	B4	B5	I	BPD	NRCC
Accessory Living Area	Y	Y	Y	Y	N	N	N	N	N	N	-

Section 2. This Ordinance shall take effect as provided by City Charter.