

**CITY OF SALEM
JOINT PUBLIC HEARING
OF THE CITY COUNCIL AND PLANNING BOARD
MARCH 30, 2021 AT 6:30 P.M.**

A Joint Public Hearing of the City Council and Planning Board was held via remote participation, on Tuesday, March 30, 2021, at 6:30 P.M. in accordance with State law and Governor Baker's Emergency Order dated, March 12, 2020, Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §20, and the Governor's March 15, 2020, Order imposing strict limitation on the number of people that may gather in one place. The purpose of the public hearing is to provide interested parties with an opportunity to comment on two proposed Zoning Ordinance Amendments relative to ADU's summarized below. Pursuant to M.G.L. c. 40A § 5, these ordinances require a simple majority of the City Council in favor to be adopted.

Notice of this hearing was posted on March 15, 2021, at 7:59 A.M. and advertised in the Salem News on March 15, 2021, and March 22, 2021.

SUMMARY OF AMENDMENTS

1. A. Amending Section 3.1 Table of Principal and Accessory Use Regulations by deleting the accessory use "Accessory Living Area" in its entirety and replacing it with "Affordable Accessory Dwelling Unit constructed within or attached to a Principal Dwelling" in the RC, R1, R2, R3 and NRCC zoning districts allowed by right and adding Affordable Accessory Dwelling Unit within an Existing Detached Accessory Building in the RC, R1, R2, R3 and NRCC zoning districts allowed by right.

B. Amending Section 10 Definitions by deleting the definition of "Accessory Living Area" in its entirety and inserting the definition of "Affordable Accessory Dwelling Unit" in its place.

C. Amending Section 3.2.4 Accessory Buildings and Structures to include dimensional regulations for detached affordable accessory dwelling units.

D. Amending 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 requires a special permit. The purpose of the proposed new ordinance is to add to the supply of rental housing to meet the needs of smaller households, to encourage efficient use of the city's housing supply while preserving the character of city neighborhoods, to allow the owner of an existing or proposed principal dwelling to construct one additional dwelling unit that is incidental and subordinate to the principal dwelling, and to increase the supply and diversity of housing options in response to demographic changes such as smaller households and older households. The ordinance allows for an affordable accessory dwelling unit within a principal dwelling or within an existing detached accessory structure by right provided certain requirements are met, requires the property owner to reside on site, and removes the tenant restrictions of only a family member or caregiver. It prohibits an accessory dwelling unit from being created within a new detached structure.
2. Amending Sections 3.1, 10, and 3.2.4 and 3.2.8 as set forth above, except this proposed amendment also allows for an affordable accessory dwelling unit by special permit within a new detached structure in the RC, R1, R2, R3 and NRCC zoning districts.

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All Councillors were present.

Councillor Christine Madore presiding.

The following Planning Board Members were in attendance: Kirt Rieder, Carole Hamilton, Helen Sides, Bill Griset, Sarah Tarbet, Todd Waller, Tom Furey & Noah Koretz. Absent: DJ Napolitano

Also in attendance were: Mayor Kim Driscoll, Tom Daniel, Director, Planning & Community Development Amanda Chiancola, Senior Planner, Planning & Community Development Mason Wells, Planner

**#68 – AMENDING ZONING RELATIVE TO ADUs – SEC. 3, 10, 3.2.4 & 3.2.8
(WITHOUT NEW CONSTRUCTION DETACHED ACCESSORY BUILDING) –
(COMPLETE TEXT CAN BE FOUND AT END OF AGENDA)**

Mayor Driscoll: The benefits of ADUs creating smaller units in size so more affordable and there can be a maximum limit on rent. Who is the rent affordable for? Owner must be able to recoup cost of investment, but should still be affordable, not cost-burdened; you can reasonably pay for unit without going over 30% of income to help those who make too much for subsidies but not enough to afford market rate. Favorable support by many organizations. I would like to turn it over to Amanda Chiancola gave a presentation on the Proposed Accessory Dwelling Unit Ordinance.

Amanda Chiancola: This presentation is more geared to the second filing that allows new construction. Very briefly give an overview. She went over the definition of an ADU. Went over the adopted ordinance on the books that was adopted in January of 2018. Then she explained the purpose of the proposed Ordinance. To add affordable rental units to the housing stock to meet needs of smaller households, increase the supply of housing and the diversity, preserve the character of the neighborhood, to maximize independent living, to allow owner to construct one additional ADU. There is a need for more small housing options. Only 24% of housing units are studios or one bedrooms and 71% of Salem's households consist of one or two people. The definitions of family household and non-family household were explained, and the 2018 median income was \$80,694 and \$44,184 respectively. Some of the proposed ordinance requirements include: ADU rent cannot exceed 70% of fair market rent, 1 parking space if ADU is more than ½ mile from MBTA bus or train (no parking space required if less than ½ mile), minimum of 350 sf and max of 900 sf., max 2 bedrooms, each lot is limited to one ADU, not allowed in multifamily of 4 or more, the property owner must live in either the principal dwelling or the ADU, utilities must be connected by a single service, cannot be sold or transferred separately, short term rentals prohibited.

The Average 1 bedroom rent in Salem: \$1,658 not incl utilities. 70% fair market rent \$1,347 must include utilities. This is a significant investment so if the rent maximum is too low it could prohibit owners from being able to afford a loan.

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Parking requirements are: If more than ½ mile, requires 1 space. No space required if less than ½ mile from public transportation. Parking for principal house does not count toward ADU parking requirement. Why reduce parking near transit? Most homes do not comply with dimensional requirements. Would make it infeasible for most properties to create an ADU. Excessive parking is counterproductive to City's transportation goals for affordability, traffic, and sustainability. Transit Oriented Development (TOD) = housing within ½ mile of public transit.
www.perfectfitparking.mapc.org.

If an ADU is proposed to be built, then a Special Permit Process is needed i.e. - An existing detached building that is not in compliance w/setbacks or other dimensional requirements of principal. Existing detached accessory building that will be expanded. New detached accessory building. A Building permit, not special permit, is required for: If ADU is in an existing detached accessory structure that will not be expanded and meets setbacks required of the principal structure and all other dimensional requirements of accessory structure. ADU is within the principal dwelling. ADU will be attached to the principal dwelling, as long as in compliance with all dimensional requirements.

Businesses Benefit from ADUs: Quotes from Hawthorne Hotel, The Salem Partnership, North Shore Medical Center, Eastern Bank, and Salem Five.

Councilor McCarthy: Accessory unit maximum of 900 square feet: Yesterday's presentation: governor's office lady said ADU would be no larger than ½ size of main house or 900sf? Is that referenced? No, not in Ordinance, section should be added. McCarthy will be motioning to add as amendment. 12 permits issued to this date from 2018 passage of ADU-of those 12 how many were for new construction vs. existing units that were not legal? Three were to legalize; 9 were new units but one was in a home under construction, created at the same time. Only 9 were created due to the new Ordinance.

Councilor Turiel: Two family, split houses and half houses -understands how it would work in a 2 family on say Chestnut w/wall between 2 sides, but how would it work in a 3 family or 4 family? How can this be logistically practical? How many would be owned by a primary owner that owns 1 unit and rents others? Harmless but wonders if worth it to include. Does not approve of idea of requiring affordability and pegging it to an arbitrary number. How can rent be calculated and enforced? Would rather see market take care of it (natural tendency of ADUs more affordable by nature). Would rather see us rely on incentivization to keep cost down than write into the Ordinance. May depress the market and result in fewer ADUs built. Detached structures: does not want to see new detached structures be allowed. Garage/carriage house conversions OK. No new standalone buildings. Two buildings on one lot is still turning it into 2 houses on one lot, but existing structure is already there.

Councilor Hapworth: Excellent Presentation. Based on what you see in other communities, what is the outcome for success. Max and min number of units we can expect? Other Cities? Hard to say because no other Ordinances are like this one. Amy Dane's research at imaginesalem.org found that in North Shore, municipalities that allow ADUs w/out restriction have created 1.4 units per 1000 homes, which would be 34 units over a 3-year period, but this is arbitrary for reasons above. Other communities w/out tenant restriction have said that influx of units upfront tends to utilize existing units (or legalizing existing, which makes them safer).

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Councilor Dominguez: How adherence to requirements will be enforced. Illegal ADUs exist. Concerned that owners may lie about living on property, or about parking, some properties are short term rentals. Suggests that more rental units and more people may induce crime. Building inspector will be in charge of enforcing the Ordinance.

Amanda Chiancola responded - Requiring that owner must sign letter attesting to rents during permit process. Trying to keep process simple. Not enough capacity to check units annually.

Councilor Madore: Its dangerous to associate new units w/people who may cause crime or harm the City The Ordinance will empower existing Salem residents to build units for people who may already be living here.

Councilor Turiel: Asked Amanda if she had an idea in the open market, how much do ADUs rent for compared to market rate Apts?

Amanda Chiancola replied: Realtors and literature indicate that it tends to fall between 6% and 25% below market rate rents. Naturally occurring units will be less than market rate, but we don't know how much less. Must be affordable for current homeowner and renters.

Councilor Dibble: Planning Board and City Council should get written comments on Ordinance from Zoning Enforcement Officer. Legality of City establishing cost of rent in a private home? Can we ask the City Solicitor? Concerned about additional loading on aging infrastructure. Affordable ADU -does not feel 30% below market rate is deep enough. Recommends 50%. Concerned about a "second house being allowed." Claims that this allows every property to "become a two-family property" and that "R1 doesn't go away but it kind of does." How far from primary house does ADU have to be? Second house should not interfere with a butter. Why are we limiting to 2 bedrooms? If split single-family, neither unit will be conducive for family's w/children and original house would be lost. Concerned about short term rentals -neither the ADU nor principal dwelling should be allowed to add gross square footage to house -what if it is a big house and you don't need to do an addition? Are we requiring you add square footage? The Zoning Enforcement officer has been sent this but had no comments. Limiting to 2 bedrooms, accessory must be subordinate in size and function to primary home. Why were 2 orders submitted 2 weeks apart? Second one filed by Councilor McCarthy,

Amanda Chiancola: First ordinance did not allow a new detached structure; the second filing does allow a new detached ADU w/special permit.

Councilor Dibble asks several times if this would allow "a second house" on the lot?

Amanda replied - "No, this is for the addition of an ADU."

Councilor Flynn: Many new construction projects are empty -can't find people to rent. There is a lot of push back in Ward 4 -majority not in favor. How does it legally affect what a true R1 neighborhood is? It would no longer be an R1 neighborhood by definition.

Amanda Chiancola has not heard about new developments having trouble renting units; Salem's estimated rate is 3.8% for rentals, which is very low, and not many units are available.

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As for legality in R1: ADUs are accessory, subordinate units, so still an R1 because units are secondary, can easily be removed and primary home can stand on its own.

Councilor Flynn: how can a second standalone dwelling be removed? The hope is that it does NOT get taken down as we need these units, but if there was an issue w/compliance it could be dismantled by removing what makes it a second unit, ex. the kitchen.

Helen Sides: Concerned it may be "too difficult" to do this with so many regulations, want to be careful not to make it too much or too hard. Regarding Councilor Dominguez' comments that people who decide to do this with their property may be more likely to break law/misuse property-this is offensive. The Affordability question: opportunity taken by homeowner to make it affordable for them to stay there. Many may be family related so they should be able to afford to pass affordability on. Regarding Councilor Dibble's concern that the owner can flip it, that this makes it inexpensive to turn part of a house into an ADU-it is not easy or inexpensive. Especially bathrooms, etc., all required to be connected to same utilities. This makes it part of one dwelling, not "another house." Parking restrictions are overly restrictive. Square footage w/ADU has to add additional parking when zoning already limits access onto property w/curb cut, how will off street parking be provided? Not as damaging as many people view it to be. Adding onto 3 or 4 family unit: doesn't think any members, even architects can say off the cuff that there is no way to add on. ADU stake financing, design to figure out what's possible. Don't take the opportunity off the table.

Tom Furey: This matters to real people and speaks to a real need, don't lock in homeowners to a certain rent, as they have expenses for property upkeep as well. ADUs can bring families closer together. Will enhance a single family neighborhood.

Noah Koretz: Enforceability is easy to handle -a manageable number of units citywide. Pegging affordability to rental limits, do it through the tenants. All units will be registered, communication to tenants via mail or email, if you got a letter from City saying your landlord is charging you too much, what would you do? Issue is a "red herring", and enforcement won't be a problem, tenants will be informed how much they should be charged. Thus it is a non-issue. Affordability/legality: missing middle -affordability needs of community are on a vast continuum, most "Affordable" deed restricted, public subsidy units have rigid income requirements, if you don't fall under a threshold but can't afford market rate, you are out of luck living here. Data on people working for City and other jobs in City are in that position. Sees benefit of restricting affordability but feels there are too many imposed requirements, ADUs in the real world tend to be naturally affordable, many go to family members or known people. For people who are elderly, the house is their main asset. This enables them to downsize -owner moves into ADU and allows family to move into larger house, maybe look after them.

Sarah Tarbet: Was accessibility of units considered (don't want to make more difficult, but if want to focus on elderly population, should be accommodations for those with mobility challenges. You can use back door or existing entry only, but typically these are not at grade. Size of unit 900sq. feet large for a one bedroom or studio, if primarily focused on elderly living alone or families w/out children, could go smaller than that. Approves of owner of home could use ADU then rent out primary residence.

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Amanda Chiancola: Purpose of Ordinance is to create more housing options for smaller households, but not just older adults. Will include family's w/children, particularly single parents. Should have 2 bedrooms -allow flexibility for them. Many ADUs created so far have been in basements, can be challenging as egress may be thru bulkhead, don't want to create challenge to creation of ADU.

Councilor McCarthy: Unit cannot be more than ½ size of main house, so if the latter is 1600sq. feet, the accessory unit may not be more than 800sq. feet. 900sq. feet is the cap, and the addition will depend on how big the house is. Can't over-addition house relative to size of existing. Make sure wording is correct, if putting addition, to create ADU in basement or attic, whatever works for them designed to maintain the character of the home and provide another unit. Statistics on the number of people living alone in Salem are astounding. ADU must be smaller than the main house. A homeowner has a 3 bedroom house that they live in by themselves, and wants to create a smaller unit for themselves to live in because maybe they lost a significant other/have no family in the area/feel more comfortable living in a smaller space. They then rent out the main portion of the house. This flexibility is important. There are no easy answers, don't want to lose integrity of R1 neighborhood, but if you own a home and the person next to you is widower or alone...Back in the day when they were married, had many kids, maybe there were 8 people in the same family under the same roof. But now they have aged out of their home, living by themselves. They are not comfortable w/affordability aspect, if someone could move into his mom's house, if part of rent was them shoveling/doing maintenance, this could be part of it. Whatever arrangement works for them. Ordinance about giving homeowners the flexibility. It's an option, they don't have to do it. An auxiliary structure on a property, if you go by the rules (conform w/zoning) is capped out at 18' in height, same as a 1.5 story garage, maybe dormers. No one will add a McMansion, if they wanted additional height would need to add onto main structure. If someone has an oversized lot, no garage, wants to add 1 or 2 car garage w/ADU above, it is not a big deal. See Chestnut St. carriage houses.

Councilor Prosniewski What are abutter's rights in the permitting process? If they do not want a detached structure in an R1 neighborhood, what weight does their opinion hold? Does not prohibit someone from building a separate structure that is not a garage, will look like 2 homes. Amanda Chiancola: A special permit is discretionary: ZBA has specific criteria, if unit does not comply w/setbacks of primary structure or any other dimensional requirements, will need additional permits. ZBA must take into account traffic, utilities, community needs, neighborhood character, natural environment, so is a case-by-case basis. They do listen to public comments and these factor in.

Councilor Madore: No more than 1 ADU on a single lot. How does this directly conflict w/Section 4 A1: An ADU cannot be allowed on a lot w/more than 4 units-so for lots of 4 or fewer units 100% of homeowners must all sign on to allow them to build an ADU. Means that one owner has the ability to dictate the property rights of the others in this decision. Too restrictive, may draw lawsuits. For example ,unit A of a row house builds an ADU, in 2030 Unit B would like to but can't since Unit A already did.

Senator Joan Lovely: In support of Ordinance, Joint Committee on Housing, notes that it addresses housing situation. Thank you to Amanda Chiancola for the thorough presentation. Communities may resist solutions such as this, but supply and demand lead to high rents. as

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various issues discussed before; adult children may not be able to stay in the community but not at parents' homes, keeps adult kids here.

Steve Kapantais, 23 Wisteria St. - Many cannot afford to live in Salem. Agrees that ADU will help seniors, young professionals. Concerns w/Affordable ADU: no language or constraints on who they will be rented to. No guarantee they will be rented to those who need them. In favor of ADUs, IF they are for those they are intended for, against if we don't ensure they go to who needs them.

Stephen Nickerson, 5 Cedarcrest Ave. - Concerned about traffic, adequacy of water and sewer, parking during snow emergencies. Converting R1 neighborhoods to R2. Lots of new construction -Why do we need ADU's as they will exacerbate problems. What do you mean by "elderly?"

Jeff Cohen, 12 Hancock St. - In support of ADU's Many residents cannot afford to live or age in place here. Imaginary negative affect on neighborhood -homeowners will maintain safety. It was suggested that the City dictate rent but at 50% AMR. If utilities are included, that would not be viable as utilities can be 40% of cost. Concept of confluence -homeowner age in place, young person w/child living paycheck to paycheck, provisions should ensure that these units are affordable to those who need them. This Ordinance should pass unanimously w/current revisions.

Fawaz Abusharkh, 4 Harrison Rd. - Approves of the restrictions in the Ordinance. Concerned about who gets the ADU in a multi-family, does not want each unit to be able to have its own ADU. Principal unit should not be allowed as short-term rental.

Ben Johnson, 19 Aborn St. - Generally, in favor. Lives in 4-bedroom house, alone, debating making an ADU. 1 utility hookup = 1 electric meter. Are people subletting electricity/gas to ADU, even if not family? Is this a departure from how this was previously done? If so, (electric being included) do the numbers shown include that?

Amanda Chiancola: The max rent of 70% DOES include utilities (a 2 bedroom at \$1635 must include utilities). Single utility hookup is a requirement. Cannot have separate utilities for ADU as it must be subordinate, not a separate unit.

Jen Lynch, 38 Charles St. on Behalf of League of Women Voters of Salem League works towards access and meeting needs of low and moderate income. Previous lacked regulatory teeth. Mismatch between size of housing units and size of households, this limits opportunities for smaller households. This includes affordability in definition. Ordinance will not solve crisis but will help. Creating livable space w/in existing building reduces need for construction of new buildings, consumption of land, materials, etc.

Rosa Ordaz, 13 Forest Ave. - In support of ADU, echoes Senator Lovely and Jen Lynch comments Council meeting last Thurs., there was a moratorium wetlands and flood zones, she thanks Councilors Riccardi and Morsillo on their green initiatives. ADUs diversify housing stock but are a step in the right conservation direction, reducing carbon footprint of new development.

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James Davis, 32 Buffum St. - In favor of Ordinance, overdue, Council has consistently let the perfect be the enemy of the good. Infrastructure concerns are overblown. We are looking at 30-40 units, no large impacts to parking/traffic. Insinuation that it will be associated with crime is insulting. It is a workforce housing ordinance, opens walkability to those who already work here.

Filipe Zamborlini, 62 Perkins St. - In support of Ordinance. Has young children, notes high cost of daycare, also lack of availability, need alternatives to grow family -will need bigger place. If he purchases a 3-family, he can have in laws move in and assist w/development costs, if 2 family, can't happen as their income is not enough, can't rent to them and afford cost. Would need ADU and other property rented. If single family, that is not even in the picture, they cannot afford any in Salem b/c need to pay for child care. Would like to stay in Salem but may take an ADU to be able to do that. Feels that detached units are desirable b/c elderly family members may want to feel independence. Allows young people to consider the future 25-30 years out.

Derek Thomas, 48 St. Peter St. In favor of Ordinance. Is an ADU builder; designed/built more ADUs in MA than any other general contractor or design/builder. Listed on ADU.org as the only one. Has built ADUs in all situations -attached, detached, basement, attic, above garage, etc. These are real situations and real people.

Alice Merkl, 28A Federal St. - In support of ADU. It creates naturally affordable living spaces. Would provide housing for those who want to stay in Salem but cannot afford to. COVID will increase housing issues.

Geoff Millar, 29 Boardman St. - Feels like his value to Salem community is attached to whether or not he has a deed attached to his name. Comments and people we see on screen, he is one of a small number of current renters participating in the conversation. Easy [to object to this] when you've "got yours, locked in for 30 years w/payment that only changes based on taxes not market," which means you take a protectionist view. Encourages all to reject any argument telling you the sky is falling if this passes but also that this is the savior to the housing crisis. This is a tool in the toolbox, if so, it needs to not be so difficult that no one can use it. We should not put a price cap on it -others looked at caps and said "that's a lot of money for rent." But it is a good deal for many people, renter and landlord, as utilities are included. He pays more than the cap, before utilities, which make a big difference. Quality of life for abutters of ADUs: Property that has an ADU also has owner continuing to live on it. None of your neighbors are trying to destroy the quality of life on the parcel they live on. 900sq. feet limit may not make sense. This is not a lot. Understands the need to keep it secondary, accessory, but the number is arbitrary. Not sure there needs to be a 2-bedroom limit.

Mary Whitney, 356 Essex St. Unit 2 - Does not approve of detached structure portion, concerned about the addition of impervious surfaces and loss of green space.

Councilor McCarthy asked if Amanda Chiancola's presentation will be on City's website? Yes

Councilor Dibble – Agrees with Steve Kapantais' comment re limiting availability to those who actually need it. Price cap w/out lower income proof is counterproductive. Is it legally possible on private property to limit rent? Or tell them who they can rent to? Agreed w/Steve Nickerson's comments. City Engineer to weigh in on infrastructure impacts of additional growth -he would like these comments. Detached structures take away from overall neighborhood, wants to hear

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from zoning enforcement Tom St. Pierre, Tom Daniel, Amanda Chiancola. New detached and existing detached structures must be examined separately but both must be considered. He notes, again, that “having 2 houses on a single-family lot has never made sense to me at all” and that the ADU ordinance is “allowing a brand new house to be built in somebody’s backyard.”

Councilor Turiel Feels discussion has been less heated, more productive. Thanks to Planning Board, who navigate these processes and help make decision. Commends Planning Board, who volunteer their time and expertise. To clarify: 2 versions of Ordinance, intent for detached structures as a separate proposal was to keep PB discussion w/in the four corners of the zoning discussion. Needed to be counted in this process. New standalone ADUs should not be permitted by right. Conversion or addition to existing structure is reasonable to be as of right, new not so much. Hopes Planning Board discussion will include an affordability component, if we can do with incentives vs. hard requirement. Wants all units to be more affordable than regular units, many are naturally affordable but wants to drive prices down further. Fewer roadblocks will allow people who want to, to build them. more obstacles = people don’t want to navigate, will not produce a unit. Optimistically we may see only 30-40 units/year, maybe more the 1st year as people legalize existing units. This is one small piece of the puzzle, but it will help. Every person who moves in is assisted. Still have Inclusionary Zoning Ordinance that has not gone through, Reuse Ordinance, etc.

Councilor McCarthy: The Mayor did not bring in second Ordinance, he did, as it was in the Ordinance a couple years ago. People asked to add, and the Solicitor said to add it. Both came in 6 weeks ago, not 2 weeks ago for the 2nd one, as Councillor Dibble claimed. That came in 2 weeks after the original. Solicitor thought better to add it in, he personally does not have a preference. The Council’s job is to vet these things. He takes offense at Councillor Dibble’s claim that the “Mayor is trying to add second home on family’s lots.” He does not intend this. The second one was brought in over a month ago, both over 6-8 weeks ago. The Planning Board is to deliberate at its own meeting and provide a recommendation to the City Council, who can refer to Committee for further deliberation, or accept and further the Ordinance.

Councillor Morsillo motion that the public hearing be closed was adopted by a unanimous roll call vote of 11 yeas, 0 nays and 0 absent.

Councillor Morsillo motion that the matter be referred to the Planning Board for their recommendation was adopted by a unanimous roll call vote of 11 yeas, 0 nays and 0 absent.

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**#97 – AMENDING ZONING RELATIVE TO ADUs – SEC. 3, 10, 3.2.4 & 3.2.8 (WITH
DETACHED ACCESSORY BUILDING) – (COMPLETE TEXT CAN BE FOUND AT END OF
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Councillor Morsillo motion that the public hearing be closed was adopted by a unanimous roll call vote of 11 yeas, 0 nays and 0 absent.

Councillor Morsillo motion that the matter be referred to the Planning Board for their recommendation was adopted by a unanimous roll call vote of 11 yeas, 0 nays and 0 absent.

On the motion of Councillor Sargent the meeting adjourned at 9:17 P.M.

ATTEST:

ILENE SIMONS
CITY CLERK

FULL TEXT OF THE 2 ZONING AMENDMENTS BELOW:

**#68 – AMENDING ZONING RELATIVE TO ADUs – SEC. 3, 10, 3.2.4 & 3.2.8 (WITHOUT
DETACHED ACCESSORY BUILDING)**

ORDINANCE to amend a zoning ordinance relative to accessory dwelling units.

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

Section 1. The City of Salem Zoning Ordinance Section 3. Table of Principal and Accessory Use Regulations is hereby amended by deleting the use entitled Accessory Living Area and adding the following new uses within Section E Accessory Uses:

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E. ACCESSORY USES	RC	R1	R2	R3	B1	B2	B4	B5	I	BPD	NRCC
Affordable Accessory Dwelling Unit attached to a Principal Dwelling (as defined in Sec 3.2.8) or within a Principal Dwelling.	Y	Y	Y	Y	N	N	N	N	N	N	Y
Affordable Accessory Dwelling Unit within an Existing Detached Accessory Building, as defined in Sec 3.2.8	Y	Y	Y	Y	N	N	N	N	N	N	Y

Section 2. Section 10 Definitions is hereby amended by deleting the definition “Accessory Living Area” in its entirety and inserting the definition “Affordable Accessory Dwelling Unit” as follows:

“Affordable Accessory Dwelling Unit: A housekeeping unit with a maximum rent at least 30 percent below the United States Department of Housing and Urban Development (HUD) fair market rent limit for Salem, with its own sleeping, cooking and sanitary facilities, located either in a detached accessory building existing as of the effective date of the affordable accessory dwelling unit ordinance’s passage, or within or attached to a principal dwelling and subordinate in size to the principal unit(s), separated from it in a manner which maintains the appearance of the principal unit(s), and allowed pursuant to Section 3.2.8 of this ordinance.”

Section 3. Section 3.2.4 Accessory Buildings and Structures is hereby amended by deleting paragraph 4 in its entirety and replacing it with the following new paragraphs 4, 5 and 6 as follows:

“4. Accessory structures, garages and detached affordable accessory dwelling units shall not exceed one-half (1.5) stories or eighteen (18) feet in height.

5. Detached affordable accessory dwelling units shall comply with all regulations set forth in Section 3.2.4 (Accessory Buildings and Structures) of this Ordinance with the exception of setbacks, which shall comply with Section 3.2.4(6).

6. Detached affordable accessory dwelling units shall comply with all setbacks of the principal structure, as set forth in Section 4.1 of this ordinance (Dimensional Requirements), irrespective of whether the principal structure on the property in question complies with such setbacks or not, unless otherwise permitted by a Special Permit pursuant to subsection 3 of Section 3.2.8.”

Section 4. Section 3.2.8 Accessory Dwelling Areas is hereby amended by deleting Section 3.2.8 in its entirety and replacing it with the following: “3.2.8 Affordable Accessory Dwelling Units. Affordable Accessory Dwelling Units shall be allowed as provided set forth in this section.

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OF THE CITY COUNCIL AND PLANNING BOARD
MARCH 30, 2021 AT 6:30 P.M.**

1. Purpose.
 - A. To add affordable rental units to the housing stock to meet the needs of smaller households and make housing units available to households who might otherwise have difficulty finding housing.
 - B. To encourage the efficient use of the city's housing supply while preserving the character of the city's neighborhoods.
 - C. 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.
 - D. To permit the owner of an existing, or a proposed, principal dwelling to construct one additional affordable dwelling unit per lot. Such a use is incidental and subordinate to the principal dwelling.
 - E. To increase the supply of housing and the diversity of housing options, in response to demographic changes such as smaller households and older households.
2. Procedure.
 - A. The Building Inspector shall administer and enforce the provisions of this section.
3. Special Permit. Pursuant to Section 9.4, in the interests of design flexibility and overall project quality, the Zoning Board of Appeals may grant a Special Permit for the following:
 - A. An existing detached accessory building as defined in subsection 8 of Section 3.2.8 that is not in compliance with the setbacks of the principal dwelling unit.
 - B. An expanded detached accessory building as defined in subsection 8 of Section 3.2.8.
4. Application.
 - A. The Application for the Building Permit, shall:
 1. 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 and in the case of a property held by a condominium trust, all owners of all units within the condominium.
 2. Include a floor plan of the affordable accessory dwelling unit, 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 affordable accessory dwelling unit.
 3. A letter of intent signed by the homeowner(s) shall be submitted to the Department of Planning and Community Development that certifies the rent of the accessory dwelling unit will be at least 30 percent below the established fair market rent limit determined by the United States Department of Housing and Urban Development.
5. Requirements.
 - A. The maximum rent of the affordable accessory dwelling unit, including utilities and parking, shall be at least thirty percent below the established Fair Market Rent limit for the City of

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Salem as determined annually by the United States Department of Housing and Urban Development.

- B. The affordable accessory dwelling unit shall not be constructed within a new detached accessory building, as defined in subsection 8 of Section 3.2.8.
- C. The affordable accessory dwelling unit on a lot that is a half of a mile or less from the MBTA train station or MTBA bus stop shall not require an off-street parking space.
- D. The affordable accessory dwelling unit on a lot that is more than a half of a mile from the MBTA train station or MTBA bus stop shall have one (1) dedicated off-street parking space. 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 affordable accessory dwelling unit.
- E. The affordable accessory dwelling unit shall not result in a net loss of the total measured caliper of private trees on the lot in which the affordable accessory dwelling unit will be located unless a payment in the amount of \$100 per caliper of the tree diameter at breast height (DBH) is made to the tree replacement fund.
- F. The affordable accessory dwelling unit shall not contain less than 350 square feet of habitable space.
- G. The affordable accessory dwelling unit shall not contain in excess of 900 square feet of habitable space.

No more than one (1) affordable accessory dwelling unit shall be located upon a single lot.

- H. An affordable accessory dwelling unit shall not be permitted in a building with five (5) or more units.
- I. At least one (1) owner of the residence in which the affordable accessory dwelling unit is created shall reside in one (1) of the dwelling units as a principal place of residence. For the purpose of this section, the "owner" shall be one or more individuals who hold title to the property and for whom the dwelling is the primary residence as evidenced by voter registration, tax return or other documentation demonstrating primary residence.
- J. Electricity, water and gas shall be provided by a single service to both the affordable accessory dwelling unit and the principal dwelling.
- K. The affordable accessory dwelling unit 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 dwelling unit shall remain in common or single ownership and shall not be severed in ownership.
- L. Entry shall be located through existing entry or on the back or side of the main dwelling.
- M. Egress access shall be located on the side or rear of the building so that visibility from public ways is minimized.
- N. The affordable accessory dwelling unit shall not contain more than two (2) bedrooms.
- O. The affordable accessory dwelling unit shall be clearly subordinate in use, size and design to the principal dwelling.
- P. The affordable accessory dwelling unit must be capable of being discontinued as a separate dwelling unit without demolition of any structural component of the principal dwelling.

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- Q. There shall be no occupancy of the affordable accessory dwelling unit until the Building Inspector has issued a certificate of occupancy that the principal dwelling and affordable accessory dwelling unit are in compliance with all applicable health and building codes.
- R. The Building Permit shall be revoked upon determination by the Building Inspector that any condition imposed by Section 3.2.8 has not been fulfilled.
- S. By filing the Application for a Building Permit for an affordable accessory dwelling unit, 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.
- T. Short term rentals, as defined in Salem Code of Ordinances Chapter 15, are prohibited in the accessory dwelling unit.
- U. The affordable accessory dwelling unit shall obtain a certificate of fitness subject to the provisions of Section 2-705 of the City of Salem Code of Ordinances.

6. Termination.

- A. The affordable accessory dwelling unit use shall terminate immediately upon any violation of any term or condition of this ordinance 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 affordable accessory dwelling unit as a separate dwelling unit.
 - b. The kitchen facilities of the affordable accessory dwelling unit 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 dwelling unit 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.”

8. Definitions.

Attached affordable accessory dwelling unit: An affordable accessory dwelling unit created by adding gross floor area to the principal dwelling after the adoption of this ordinance.

Existing detached accessory building: A detached accessory building that is existing as of the effective date of this ordinance, that has a foundation, and is a minimum of 350 square feet.

Expanded detached accessory building: An existing detached accessory building that is expanded after the effective date of this ordinance.

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New detached accessory building: A detached accessory building that is not existing as of the effective date of this ordinance.

Section 5. This Ordinance shall take effect as provided by City Charter.

#97 – AMENDING ZONING RELATIVE TO ADUs – SEC. 3, 10, 3.2.4 & 3.2.8 (WITH DETACHED ACCESSORY BUILDING)

ORDINANCE to amend a zoning ordinance relative to accessory dwelling units.

In the year Two Thousand and Twenty One

An Ordinance to amend an ordinance relative to accessory dwelling units.

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

Section 1. The City of Salem Zoning Ordinance Section 3. Table of Principal and Accessory Use Regulations is hereby amended by deleting the use entitled Accessory Living Area and adding the following new uses within Section E Accessory Uses:

E. ACCESSORY USES	RC	R1	R2	R3	B1	B2	B4	B5	I	BPD	NRCC
Affordable Accessory Dwelling Unit attached to a Principal Dwelling (as defined in Sec 3.2.8) or within a Principal Dwelling.	Y	Y	Y	Y	N	N	N	N	N	N	Y
Affordable Accessory Dwelling Unit within an Existing Detached Accessory Building, as defined in Sec 3.2.8	Y	Y	Y	Y	N	N	N	N	N	N	Y
Affordable Accessory Dwelling Unit within a new Detached Accessory Building, as defined in Sec 3.2.8	SP	SP	SP	SP	N	N	N	N	N	N	SP

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Section 2. Section 10 Definitions is hereby amended by deleting the definition “Accessory Living Area” in its entirety and inserting the definition “Affordable Accessory Dwelling Unit” as follows:

“Affordable Accessory Dwelling Unit: A housekeeping unit with a maximum rent at least 30 percent below the United States Department of Housing and Urban Development (HUD) fair market rent limit for Salem, with its own sleeping, cooking and sanitary facilities, located either in a detached accessory building, or within or attached to a principal dwelling and subordinate in size to the principal unit(s), separated from it in a manner which maintains the appearance of the principal unit(s), and allowed pursuant to Section 3.2.8 of this ordinance.”

Section 3. Section 3.2.4 Accessory Buildings and Structures is hereby amended by deleting paragraph 4 in its entirety and replacing it with the following new paragraphs 4, 5 and 6 as follows:

“4. Accessory structures, garages and detached affordable accessory dwelling units shall not exceed one-half (1.5) stories or eighteen (18) feet in height.

5. Detached affordable accessory dwelling units shall comply with all regulations set forth in Section 3.2.4 (Accessory Buildings and Structures) of this Ordinance with the exception of setbacks, which shall comply with Section 3.2.4(6).

6. Detached affordable accessory dwelling units shall comply with all setbacks of the principal structure, as set forth in Section 4.1 of this ordinance (Dimensional Requirements), irrespective of whether the principal structure on the property in question complies with such setbacks or not, unless otherwise permitted by a Special Permit pursuant to subsection 3 of Section 3.2.8.”

Section 4. Section 3.2.8 Accessory Dwelling Areas is hereby amended by deleting Section 3.2.8 in its entirety and replacing it with the following:

“3.2.8 Affordable Accessory Dwelling Units. Affordable Accessory Dwelling Units shall be allowed as provided set forth in this section.

1. Purpose.

A. To add affordable rental units to the housing stock to meet the needs of smaller households and make housing units available to households who might otherwise have difficulty finding housing.

B. To encourage the efficient use of the city's housing supply while preserving the character of the city's neighborhoods.

C. 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.

D. To permit the owner of an existing, or a proposed, principal dwelling to construct one additional affordable dwelling unit per lot. Such a use is incidental and subordinate to the principal dwelling.

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B. An expanded detached accessory building as defined in subsection 8 of Section 3.2.8.

C. A new detached accessory building as defined in subsection 8 of Section 3.2.8.

4. Application.

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2. Include a floor plan of the affordable accessory dwelling unit, 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 affordable accessory dwelling unit.

3. A letter of intent signed by the homeowner(s) shall be submitted to the Department of Planning and Community Development that certifies the rent of the accessory dwelling unit will be at least 30 percent below the established fair market rent limit determined by the United States Department of Housing and Urban Development.

5. Requirements.

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B. The affordable accessory dwelling unit on a lot that is a half of a mile or less from the MBTA train station or MTBA bus stop shall not require an off-street parking space.

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