

City of Salem Zoning Board of Appeals
Meeting Minutes
April 17, 2019

A meeting of the Salem Zoning Board of Appeals (“Salem ZBA”) was held on Wednesday, April 17, 2019 in the first floor conference room at 98 Washington Street, Salem, Massachusetts at 6:30 pm.

Chair Mike Duffy calls the meeting to order at 6:30 pm.

Chair Duffy asks for any changes or updates the Board should know. Brennan Corriston notes that the Board has received a request to continue for 435-443 Highland Avenue. Chair Duffy notifies the public that only four Board members are present tonight. He states that applicants have the option of requesting a continuance to the next Board meeting, when there may be a full Board present.

ROLL CALL

Those present were: Mike Duffy (Chair), Paul Viccica, Jimmy Tsitsinos, and Jimmi Heiserman. Also in attendance were Brennan Corriston – Staff Planner, Tom St. Pierre – Building Commissioner, and Lorelee Stewart – Recording Clerk.

REGULAR AGENDA

Location: **26 Cross Street (Map 36, Lot 57) (R2 Zoning District)**

Applicant: **Liann DiMare**

Project: A continuation of a public hearing for all persons interested in the petition of LIANN DIMARE for a special permit per Section 15-6 (d) of the Salem Code of Ordinances to allow the continued operation of one non-owner occupied short-term rental unit in the two-family house at 26 CROSS STREET (Map 36, Lot 57) (R2 Zoning District).

Documents and Exhibitions

- Application date-stamped January 14, 2019 and supporting documentation

Chair Mike Duffy introduces the first agenda item. Attorney Peter Calabrese introduces himself. He is the attorney for Liann DiMare who operates short term rentals with iTrip (similar to Airbnb.) She is applying for a special permit to operate 26 Cross Street as a non-owner occupied short term rental. He states that the unit was used as a short term rental since 6/2017 through 11/ 2018. His client has taken over as manager after a break in use as a short term rental. Currently the unit is being used through with Ms. DiMare and iTrip. He addresses how Ms. DiMare meets all aspects of a special permit including tourism, parking, and utilities. He adds there will be no change to the appearance of the property and there are benefits to local owners allowing them to keep their property. There is no environmental impact and this continued use will increase tax revenue and allows Salem to be affordable to those not wanting to pay as much as a hotel costs.

Chair Duffy revisits issues raised at the last meeting. He states that the Board had questions about building department compliance issues. Ms. DiMare has a letter from the Building Department stating that all violations have been fixed. Paul Viccica asks about the violations. Ms. DiMare replies

by saying there was a dead vehicle on the property that was a violation. She adds that the third floor needed to be combined with second floor unit which is in process. Building Inspector Steve Cummings states that he visited and that the work looks good, everything is in compliance.

Chair Duffy asks questions about the timeline establishing the use of the unit. Ms. DiMare states that she submitted Airbnb reviews in her packet for them to look at to 8/2017 through 11/2018 to establish its use as a short term rental. Ms. DiMare points out the break in usage due to roof repairs. Mr. Viccica asks how he knows that these link to the property. Does the prior manager of Cross Street, Ms. Debra Crosby, have a short term rental in another place? Ms. DiMare replies that Ms. Crosby has a place on Lafayette that she is renting. Mr. Viccica asks if the reviews in the packet are from the unit on Lafayette or the unit on Cross and how could they tell the difference. Ms. DiMare refers them to a lease in the packet as back up documentation. The Board reviews documents. Mr. Viccica says the tenant on the second floor had permission to rent but not that she did. He says that nothing is dated.

The Board works to clarify the previous arrangement. The owners gave the second floor tenant permission to rent other rooms. Ms. DiMare states that the owners decided to switch in June to her. Ms. DiMare explains that the second floor tenant is no longer there. Ms. DiMare does not have the financial records because Airbnb reviews and record are tied to the host. Mr. Viccica went online and looked up the sites. He is looking for proof of use for the unit and got confused because the reviews are confusing. Ms. DiMare clarifies by saying that Ms. Crosby was the tenant referred to in the lease and now does Airbnb on Lafayette. Mr. Viccica states that he can find Lafayette but nothing regarding Cross Street or your next request on Federal. Attorney Calabrese refers Mr. Viccica to a screenshot as proof. Mr. Viccica says the screenshot indicates proof but the proof is not dated. He asks will this be a single duplex as a whole unit rental, because it looks like Ms. Crosby was short term renting three individual units. He asks if she was renting or leasing. Ms. DiMare says it was used as an Airbnb. Mr. Viccica says it looked to inspectors like a boarding house in the past. There is indication it was rented and done badly. Ms. DiMare states that she tried to piece all of the data together from what she had access to. She also tried to get Ms. Crosby to help. Mr. Viccica researched the history online says it caused a lot of problems in the neighborhood including parking. The rooms were named "Peace, love and harmony." He will make a special condition that it be one unit if approved. He asks about other unit and learns that it is a long term tenant. The other unit has 4 beds and 2 baths with the second and third combined.

Chair Duffy opens the hearing for public comment.

Susan Matula of 10 Lemon Street discusses the past use of this property and refers to a letter from July 2018 written by the building inspector Tom St. Pierre. The letter cites the third floor unit only having one egress and mentions other code violations. Ms. Matula asks, if the apartment was illegal how can the applicant get a special permit? She questions the support letter of the current tenants on the first floor because they cite liking tourists but they weren't living there at the time the apartment was illegal apartment. Does the illegal past give them right to go forward to this request? She submits pictures and some police records for review. She cites past manager Debra Crosby creating illegal parking which has been removed and many other past problems.

Jeff Cohen of 12 Hancock Street says that he was very involved in the short term rental ordinance which had three points: fairness by creating an even playing field for Inns and Bed and Breakfasts which have safety requirements, neighborhood quality and diminished rental stock. He does not

support the special permit. There is a bed and breakfast close by that provides more to guests. It has a sprinkler system, parking and pays commercial taxes. This one applicant fails in every category for a special permit.

Susan Matula speaks again and states the third floor is illegal and it shouldn't be granted a permit. Building Inspector Steve Cummings clarifies for Ms. Matula that the City never gave the owner an option to make the third floor legal.

Chair Duffy says that the Board has a letter of support dated March 31, 2019 from neighbors Lesley Niccolini and Brian Reilly at 12 Lemon Street. It states that they live next to the owners and mentions the Engles have used the property as an Airbnb for 2 years. They cite the usage of a new broker.

Ms. DiMare responds to the parking violations. She is surprised of any parking violations currently because we aren't renting. Mr. Calabrese states these problems happened before and Ms. DiMare is being brought in to improve the situation. She gives clear instructions to renters about how to park without violation.

The Board discusses the need for direct evidence of the unit being used as an Airbnb. Ms. DiMare explains to the Board, who are questioning the timeline of usage as a short term rental, that Ms. Crosby (the former Airbnb host of the Cross Street unit) did not host two units at the same time. She hosted Cross Street and then moved to Lafayette Street to host there. The reviews Ms. DiMare selected as proof of usage were downloaded from the Airbnb site. Ms. DiMare selected reviews based on dates and knowledge that Ms. Crosby never hosted two units at once. The Board remains uncertain when Ms. DiMare states that she feels there are enough bad reports from the past that should count as evidence of use. Mr. Viccica feels that the Board still needs proof.

Mr. Corrison adds that Debra Crosby is host but Wendy Samuels is the owner.

Jeff Cohen speaks to the issue of printout of information he describes the process. He states there is no reason not to get financials (from Airbnb). Ms. DiMare states that the Airbnb platform won't give financial. Ms. Matula speaks again about Ms. Crosby's use of 26 Cross Street and gives a description of short term rentals from the City website and asks Board about unrelated people in short term rentals.

Chair Duffy highlights the evidence before the Board. Mr. Calabrese feels they have proof of use. Mr. Viccica says that Ms. Crosby used Cross Street as many things but it is not clearly indicated that she used it as a short term rental. If it was clearly indicated we could approve. He adds that it has to be before July 19th.

Mr. Calabrese states they have circumstantial evidence, the lease and more. Mr. Viccica states the Board has no actual proof of it being a short term rental, citing Ms. Crosby managing several properties.

Mr. Calabrese wants to move past Ms. Crosby. He wants to focus on his client Ms. DiMare. He discusses the agreement between the Engles (the owners of Cross Street) and Ms. DiMare. He cites M.G.L. Chapter 40A section six and says the unit was conceived and planned as a short term rental because of the agreement and the work done to the house. Mr. Viccica states he cannot know the

intent of those plans. Mr. Viccica asks Ms. DiMare if she can get the needed proof from Ms. Crosby. Ms. DiMare wants to try to get the evidence for the Board because it would give her the special permit. Mr. Tsitsinos adds that he wants a parking plan. Mr. Viccica clarifies that the house only has two units. One is a combination of the second and third floor and the first floor is a long term tenant. Ms. DiMare states that he is correct.

Chair Duffy requests a motion to continue to this petition to the next BOA meeting on May 15, 2019.

Motion and Vote: Paul Viccica moves to continue the public hearing for all persons interested in the petition of Liann DiMare for a special permit per Section 15-6 (d) of the Salem Code of Ordinances to allow the continued operation of one non-owner occupied short-term rental unit in the two-family house at 26 Cross Street (Map 36, Lot 57) (R2 Zoning District) to the next regularly scheduled meeting on May 15, 2019. The motion is seconded by Jimmy Tsitsinos. The vote is four (4) in favor (Mr. Viccica, Chair Duffy, Mr. Tsitsinos and Mr. Heiserman) and none (0) opposed.

Location: **82 Federal Street (Map 26, Lot 631) (R2 Zoning District)**

Applicant: **Liann DiMare**

Project: A continuation of a public hearing for all persons interested in the petition of LIANN DIMARE for a special permit per Section 15-6 (d) of the Salem Code of Ordinances to allow the continued operation of one non-owner occupied short-term rental unit in the two-family house at 82 FEDERAL STREET (Map 26, Lot 631) (R2 Zoning District).

Documents and Exhibitions

- Application date-stamped January 14, 2019 and supporting documentation

Attorney Peter Calabrese, representing petitioner Liann DiMare, states this is a residential property which will provide accommodations to Salem visitors. It gives affordable accommodations with large parking area. There will be no exterior changes and no notice of inadequacies from the City. The property is set back from street which helps with neighborhood character. Ms. DiMare will maintain property for iTrip. This will have positive financial impact. He states that this was used prior to the Ordinance. The City Solicitor said in a letter that it is up to board to appeals to decide what engaged means legally. Mr. Calabrese cites a case Janes v. Board of Appeals Essex that uses a definition citing steps taken to use the entity for a designed purpose as a factor in “grandfathering” He cites law that the board should use to interpret this case (40A Section 6.)

Mr. Duffy has questions related to being engaged at the time. Attorney Calabrese continues to tell the board of the law “if someone takes steps to do something you cannot take away their effort to do so with an ordinance.”

Ms. DiMare explains the repairs to wallpaper, bathroom and furnishing. This was done before the contract with her showing the investment in the property. She says that the property is so stunning that putting tenants into it would ruin it. They had to do a lot of repairs. The repairs started one day after the signed contract on July 7th. There is checklist to prepare to be a short term rental. Mr.

Viccica clarifies that they are stipulating this has never been a short term rental. You are saying you intended to. Ms. DiMare says they were involved in process of doing this when the ordinance started. Ms. DiMare spoke about being involved with the ordinance and asking the Mayor's Office about whether they would be considered as engaged or in use.

Attorney Calabrese details the process of a short term rental which has many steps. There is a lot of lead-up to doing this work. The analysis is at the beginning not at the end. Mr. Viccica says they received nothing from the City Solicitor and there is discussion about interpreting the law. Attorney Calabrese says they are relying on case law. Attorney Calabrese says the case he cites answers this exact question. He says that the steps are conceiving, planning and operating. He explains the case he is referring to. There is discussion about case law especially about when does action start; Attorney Calabrese says it starts with conception. Jimmi Heiserman asks when the unit was listed in 2018. Ms. DiMare replies late August of 2018. Mr. Viccica asks if they have you continued to list it as a short term rental while they are waiting for a permit. Mr. Corriston adds that the ordinance is effective on April 15.

Ms. DiMare brings up that the City's attorney didn't reply because she may not have gotten our letter. Mr. Viccica states that his suggestion would be to ask the City Solicitor whether the petitioner and representative's argument makes sense. Attorney Calabrese offers to help them make the legal interpretation. He discusses layman's definition of use is someone in the unit. Mr. Corriston says that Assistant City Solicitor Vickie Caldwell may not have had Attorney Calabrese's letter. Chair Duffy states that it is the City Solicitor's job to advise the Board on legal issues. He states that there is a gradient of activity: it is not someone's mental cognition that triggers the use; there has to be enough activity undertaken. He states that he thinks that is the question right now. Attorney Calabrese responds that this is why they are providing a contract execution, spending of funds, and physical construction work that is finished.

Chair Duffy opens the hearing for public comment.

Jane Arlander of 93 Federal Street presents a signed petition in opposition from 42 neighbors. The petition is accompanied by a letter explaining the reasons for opposition. She discusses the points addressed in the letter:

- A 12 guest rental does not feel consistent with intent of the ordinance.
- Cites this as detrimental to neighborhood. It was a single family for 50 years
- This unit was not in operation by the date it needed.
- Units were occupied by long term tenants.
- Nearby is the B5 district
- Driveway parking is tandem and illegal
- Front yard filled with cars.
- Enriches owner at the expense of neighborhood.

Chair Duffy notes for the record that he received this letter and that Dr. Arlander spoke to most of the points addressed in the letter. He notes that there was the petition attached with approximately forty signatures, and a list of the signing parties. Staff Planner Brennan Corriston notes that they received an additional two signatures which have been added to the project file.

(Name unclear) of 92 Federal Street is against because it takes away from affordable housing

Jeff Cohen of 12 Hancock Street states that he is co-chair of one city board and vice chair of another. He describes the city process for the ordinance. There were public hearings and finally adopted by City Council. He states that he owns a three family house in Salem, and he takes issue with the comment that tenants will ruin the property. He cites Salem's housing shortage and compares the situation to Boston. He is in strong opposition because the three intents of ordinance are to maintain neighborhood character, create fairness with Inns and Bed and Breakfasts, and to not decrease the rental stock.

John Carr of 7 River Street with a law office on North Street, states regarding the legal question you will not get any resolution from the applicants' self-serving attorney. A legal opinion seeks to determine if they are eligible. If they are right eligible it doesn't say you shall be granted. The BOA can still grant a special permit or deny one. This is destructive of neighborhood and the BOA should enforce the neighborhood. No evidence of this meeting visitors demands. He asks the Board to turn it down.

Jennifer Firth of 3 Carpenter Street addresses the preparation portion of Ms. DiMare's argument. She says that putting money into house doesn't mean you are prepping for a short term rental. Gives example of her neighbor "staging" a house she owns.

Connie Arlander of 91 Federal St. says I have been in the neighborhood for 41 years and I am against the proposal. She cites security, with no one to oversee the behavior of 12 guests. Hotels have security; this doesn't. The iTrip web site says that they are trained in screening guests. How do you vet the guests? How do we vet all 12 guests? Smokers outside has been an issue because of no smoking inside. It is next door to a historic landmark, the Pierce Nichols house. She reads a letter from Jim McAllister who was approached by the owners. At first he said he would be neutral but after only 2 rentals he is against this use because of parking and noise. She hands letter to Mr. Corrison and ends by stating let's not take a rental unit off the market.

Carol Carr of 7 River Street says she has lived in the neighborhood 45 years. This neighborhood is the first historic neighborhood in Salem. It takes a lot of work to maintain historic homes. This isn't a good fit.

Richard Lindeman of 113 Federal Street is against this special permit and cites previous testimony regarding negative impact to the neighborhood.

Attorney Calabrese addresses the concerns and mentions use of nuisance laws as a safeguard. There could be special conditions assessed for approval. He says a reasonable restriction could be applied for music after a certain hour. Another suggestion is no exterior light after a certain hour. This allows the owner to use the property and the neighbors to be safe with conditions.

Chair Duffy asks about parking. Ms. DiMare says there are three tandem spots. Guests use parking garage as well. There is no street parking period. Our quiet hours are after 11 pm and before 7 am. She says she picks up her phone anytime, even 3 am. She says she actively manages her units. Ms. DiMare addresses the argument that this is not a place for tourists; she states that it's a natural use.

Darleen Melis of 115 Federal Street speaks about her driveway. It takes 2 people to move cars in tandem parking and it is chaos. She wants to know where they will put snow in the winter

Jane Arlander speaks again regarding the use of nuisance laws. She says that you call the police for acute issue for instance a shooting and chronic nuisance which this would be, most people don't call the police in these cases but they cause stress. She discusses a situation at the property involving cars coming out of the tandem driveway. A cab used his horn excessively. I won't call the police for this but it is a nuisance. Guests were loud at 12:30 am.

John Carr states that for over 25 years he served on the historic commission and created 5 historic districts. We welcome tourists to walk through the neighborhood but we are opposed to 12 unknown people.

Jeff Cohen of 12 Hancock Street speaks about nuisance laws and how you could call the police one night and the next day you have a different guest. Bad guests could be a frequent thing. He discusses what he thinks the City Solicitor meant and he does not think she meant the word engaged. Every investment has a risk.

Francis Flaherty of 90 Federal Street says this is a great neighborhood but I'm not sure I would have invested in my home if I'd known about the short term rental three doors down. I am opposed.

Mr. Corrison clarifies that the actual wording in the ordinance is engaged.

Chair Duffy states that there is not an actual, "consummated" rental usage. He states that he would feel more comfortable to have a direct answer back (from the City Solicitor's Office) that the issue was looked at and it does or does not change the analysis. Mr. Viccica feels that the BOA needs to decide what engaged means. The main point is that the unit on Federal Street was not in use prior to the date in ordinance which is July 19, 2018.

Paul Viccica states that they asked the question, and that the answer was that this Board needs to be able to determine what "engaged" is and "engaged" has been. Mr. Viccica states that his understanding is that there was no question that this residence was not actually rented prior to the filing date. Mr. Viccica states that he understood that there was an argument to be made, but that the relevant point is that this was not used as a (non-owner occupied) short-term rental before July 19, 2018, and the petitioner says so. Mr. Viccica states that he thinks that on that basis, the Board has been quite constant. Mr. Viccica suggests that the Board should find that the petitioner was not engaged in the short-term rental of the property as of the date the ordinance was filed. He adds that he does not need the City Solicitor to weigh in on whether or not the argument should be considered. Board member Jimmy Tsitsinos states that he agreed with Mr. Viccica, and that he would be backing the Federal Street neighborhood.

Chair Duffy reminds the applicant of the short-handed board and the option to request a continuance. Mr. Carr addresses Chair Duffy and says that Chair Duffy afforded the applicant this option at beginning of meeting. The applicant declined and the hearing went forward. He adds that option is closed. He states that it is tempting to kick a can down the road but there will be an appeal either way if this is approved.

Chair Duffy states that the Board can consider a request, it does not have to be granted and he does not know what the opinions are of the other members of the Board. He states that if there is no motion to continue, then he would have to take a motion on the application.

Motion and Vote: Paul Viccica moves to approve the petition of Liann DiMare for a special permit per Section 15-6 (d) of the Salem Code of Ordinances to allow the continued operation of one non-owner occupied short-term rental unit in the two-family house at 82 Federal Street (Map 26, Lot 631) (R2 Zoning District), subject to the following standard conditions: The petitioner shall comply with all city and state statues, ordinances, codes and regulations. All construction shall be done as per the plans and dimensions submitted to and approved by the Building Commissioner. All requirements of the Salem Fire Department relative to smoke and fire safety shall be strictly adhered to. The petitioner shall obtain a building permit prior beginning any construction. Exterior finishes of the new construction shall be in harmony with the existing structure. A Certificate of Occupancy is to be obtained. A Certificate of Inspections is to be obtained. The petitioner is to obtain approval from any City Board or Commission including but not limited to, the Planning Board.

Before the vote is taken, Mr. Corriston interrupts and reads one letter into the record from Melissa Nierman who is in favor of the short term rental. She lives in the McIntire District and runs NowAge Travel at 144 Washington Street. She says sees the need for this type of space for work retreats.

Jimmy Tsitsinos seconds the motion.

The vote is none (0) in favor and four (4) (Paul Viccica, Mike Duffy (Chair), Jimmy Tsitsinos, and Jimmi Heiserman) opposed. The motion fails and the special permit is denied.

Location: **435-443 Highland Avenue (Map 3, Lot 127) (B2 & ECOD Zoning Districts)**
Applicant: **Life Storage LP**
Project: **The applicant requested a continuation to the regularly scheduled meeting on May 15, 2019 of a public hearing for all persons interested in the petition of LIFE STORAGE LP for variances from Section 4.1.1 Table of Dimensional Requirements of the Salem Zoning Ordinance for maximum height of buildings to replace the two existing self-storage buildings with a single self-storage building at 435-443 HIGHLAND AVENUE (Map 3, Lot 127) (B2 & ECOD Zoning Districts).**

Documents and Exhibitions

- Application date-stamped February 27, 2019 and supporting documentation

Chair Duffy alerts the public that the Attorney for 435-443 Highland Ave, Life Storage LP has requested a continuance until May 15, 2019.

Motion and Vote: Paul Viccica moves to continue the hearing to the next regularly scheduled meeting on May 15, 2019. The motion is seconded by Jimmy Tsitsinos. **The vote is four (4) in**

favor (Mike Duffy (Chair), Paul Viccica, Jimmi Heiserman, and Jimmy Tsitsinos) and none (0) opposed.

Location: 14 Lyme Street (Map 34, Lot 70) (R2 Zoning District)

Applicant: Eric Sullivan

Project: A public hearing for all persons interested in the petition of ERIC SULLIVAN for a special permit per Section 15-6 (d) of the Salem Code of Ordinances to allow the continued operation of one non-owner occupied short-term rental unit (a single-family house) at 14 LYME STREET (Map 34, Lot 70) (R2 Zoning District).

Documents and Exhibitions

- Application date-stamped March 21, 2019 and supporting documentation

Attorney William Quinn introduces his client Eric Sullivan. Mr. Sullivan bought the property in a crowded neighborhood located in an R2 district but the property has always been a single home. He has made cosmetic fixes and investments in the property. There has been no parking at this location since 1885. Mr. Sullivan started short term renting in May 2018. He has continued in this manner. This has never been a troubled property in any way. The ordinance prohibits future non-owner occupied short term rentals. There won't be any more of them. He discusses the deadline to file for a special permit, June 15, 2019. Mr. Sullivan qualifies for a special permit under the ordinance. His property has 3 bedrooms so he cannot pack people in. Mr. Quinn talks about the need for affordable housing efforts as well as efforts by the City on behalf of tourists. Mr. Sullivan's property is a house behind the large church on Canal Street. Parking on this street is public as it is on nearby Canal Street. Mr. Sullivan does own property with parking nearby to accommodate guests during snow emergencies. This project fits with the neighborhood character and taxes will increase because of its use. Jimmi Heiserman asks if it was always rented as whole house. Attorney Quinn says yes and highlights that they will not be able to change the use from one unit to three units.

Mr. Viccica asks for clarification of statement of grounds. He asks if it Attorney Quinn's intent to say the owner was engaged in short term rental on or after? Or did you mean to write on or before? Attorney Quinn answers that the ordinance says "on or after". He adds that regarding it use, it was used as a short term rental several months before and ever since. Mr. Corrison says the ordinance states "as of the date this ordinance was filed."

Jeff Cohen of 12 Hancock Street speaks in favor of the petition and suggests that there should be a condition. Mr. Cohen states that there is a section of the Ordinance (regulating short-term residential rentals) that exempts bed & breakfasts and inns because they have their own criteria and regulations. Jeff Cohen states that he thinks there should be a condition that if someone tries to convert this property (at 14 Lyme Street) into a multi-unit Airbnb with three bedrooms, this should be exempt from the Ordinance and go in front of the building inspector because all bed and breakfasts in Salem have to get a special permit.

Attorney Quinn states that he does not have any trouble with that condition as long as it is written carefully. There is discussion of how the condition ought to be phrased. Attorney Quinn suggests if,

at any point, the owner of the property sought permission to use the property as a bed and breakfast as regulated by the City of Salem, the property would have to comply with the regulations for a bed and breakfast. Chair Duffy suggests that if the property were to come here for a change of use, the Zoning Board would have some jurisdiction anyway. Attorney Quinn suggests that the condition state that any change of use needs to come back to this Board. Chair Duffy notes that the existing Ordinance states that the rental of the unit must be for the entire unit; individual rooms within the unit cannot be occupied separately. Attorney Quinn agrees, stating that that is required under the definitions of a single unit in the Ordinance as adopted by the city. Chair Duffy states that a condition that we could impose would be that the approval is for this building as currently constituted, as one rental unit. Brennan Corrison notes that this was how it was advertised as well: “to allow the continued operation of one non-owner occupied short-term rental unit (a single-family house)” Attorney Quinn states they have no problem with that.

The board discusses special conditions. Mr. Corrison says that he believes the house could revert back to a single family use without the approval of the Board. Referring to the special condition regarding change of use, Chair Duffy states, “with that exception.”

Motion and Vote: Paul Viccica moves to approve a special permit for Eric Sullivan per Section 15-6 (d) of the Salem Code of Ordinances to allow the continued operation of one non-owner occupied short-term rental unit (a single-family house) at 14 Lyme Street (Map 34, Lot 70) (R2 Zoning District), subject to the following terms, conditions and safeguards. Jimmy Tsitsinos seconds the motion. **The vote is four (4) in favor (Mike Duffy (Chair), Paul Viccica, Jimmi Heiserman, and Jimmy Tsitsinos) and none (0) opposed.**

Standard Conditions:

1. Petitioner shall comply with all city and state statutes, ordinances, codes and regulations.
2. All requirements of the Salem Fire Department relative to smoke and fire safety shall be strictly adhered to.
3. A Certificate of Occupancy is to be obtained.
4. A Certificate of Inspection is to be obtained.
5. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board.

Special Conditions:

1. A Certificate of Fitness is to be obtained.
2. With the exception of reversion to a single-family residential use, the use of this property shall not be changed without approval from the Zoning Board of Appeals.

Location: **31 Greenway Road (Map 24, Lot 9) (R1 Zoning District)**
Applicant: **Andrew Fritz**
Project: A public hearing for all persons interested in the petition of ANDREW FRITZ for a special permit per Section 3.2.8 *Accessory Living Areas* of the Salem Zoning Ordinance to construct an accessory living area within the existing footprint of the single-family house at 31 GREENWAY ROAD (Map 24, Lot 9) (R1 Zoning District).

Documents and Exhibitions

- Application date-stamped March 27, 2019 and supporting documentation

Mr. Fritz and his mother Janet Fritz speak about wanting an accessory dwelling unit at 31 Greenway Rd. They have submitted plans. This is the house Mrs. Fritz grew up in and she says it's getting more difficult to maintain. She wants an in law apartment for herself and her husband. My father built the house in 1956 and we have three generations there.

Mr. Corriston states the "to scale" floor plans are in packets with the names and birthdates of those living there. The board wants to know if they need the original house plans. Mr. Corriston checks the ordinance regarding the need for other plans and replies that the BOA needs the "To scale plans of original and the accessory dwelling unit." Tom St Pierre states you might need to have to the house hard wired. Mr. Fritz says it is hard wired because the city was just out to check.

Chair Duffy reads statement of grounds for special permit criteria.

Motion and Vote: Paul Viccica moves to approve the petition of Andrew Fritz for a special permit per Section 3.2.8 *Accessory Living Areas* of the Salem Zoning Ordinance to construct an accessory living area within the existing footprint of the single-family house at 31 Greenway Road (Map 24, Lot 9) (R1 Zoning District), subject to the following terms, conditions, and safeguards. Jimmy Tsitsinos seconds the motion. **The vote is four (4) in favor (Jimmi Heiserman, Mike Duffy (Chair), Jimmy Tsitsinos, and Paul Viccica) and none (0) opposed.**

Standard Conditions:

1. Petitioner shall comply with all city and state statutes, ordinances, codes and regulations.
2. All construction shall be done as per the plans and dimensions submitted to and approved by the Building Commissioner.
3. All requirements of the Salem Fire Department relative to smoke and fire safety shall be strictly adhered to.
4. Petitioner shall obtain a building permit prior to beginning any construction.
5. A Certificate of Occupancy is to be obtained.
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.

MEETING MINUTES

February 20, 2019 Minutes

Mr. Corriston apologizes and explains to the board that February minutes will be done next month because it has been very busy in the office. He also adds that the July 2018 minutes were never brought for approval probably because of change of staff.

OLD/NEW BUSINESS

2019 ZBA Application Package and Fee Schedule

Paul Viccica notes that there are only four members at the meeting. Discussion related to the 2019 Zoning Board of Appeals Application Package and fee structure is tabled.

Motion and Vote: Jimmy Tsitsinos moves to table the discussion about the application package and fee schedule to the next meeting. Paul Viccica seconds the motion. **The vote is four (4) in favor (Mike Duffy (Chair), Paul Viccica, Jimmi Heiserman, and Jimmy Tsitsinos) and none (0) opposed.**

ADJOURNMENT

Motion and Vote: Paul Viccica moves to adjourn the meeting. Jimmy Tsitsinos seconds the motion. **The vote is four (4) in favor (Mike Duffy (Chair), Jimmi Heiserman, Jimmy Tsitsinos, and Paul Viccica) and none (0) opposed.**

The meeting ends at 9:15 pm.

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

<https://www.salem.com/zoning-board-appeals/pages/zoning-board-appeals-decisions-2019>

Respectfully submitted,
Brennan Corrison, Staff Planner