



# CITY OF SALEM, MASSACHUSETTS BOARD OF APPEALS

98 WASHINGTON STREET ♦ SALEM, MASSACHUSETTS 01970  
TEL: 978-619-5685

KIMBERLEY DRISCOLL  
MAYOR

2022 MAR -1 PM 12:10  
CITY CLERK  
SALEM, MASS

**March 1, 2022**

## Decision

### **City of Salem Board of Appeals**

The petition of OLD FEZZIWIG, LLC at 393 ESSEX STREET (Map 25, Lot 200) (R2 Zoning District) for a special permit per Section 3.3.2 *Nonconforming Uses* to change from one non-conforming use (Dental Office) to another non-conforming use (Multi-Family Dwelling). The relief if granted will allow for the construction of five (5) residential units. The proposal is for one (1) unit on the first floor and two (2) units on the second floor and two (2) units on the third floor.

A public hearing on the above petition was opened on February 16, 2022 and was closed on February 16, 2022.

On February 16, 2022, the following members of the Salem Board of Appeals were present: Mike Duffy(chair), Rosa Ordaz, Carly McClain, Paul Viccica and Steven Smalley.

The petitioner seeks a special permit per Section 3.3.2 *Nonconforming Uses* to change from one non-conforming use (Dental Office) to another non-conforming use (Multi-Family Dwelling). The relief if granted will allow for the construction of five (5) residential units. The proposal is for one (1) unit on the first floor and two (2) units on the second floor and two (2) units on the third floor.

### **Statements of Fact:**

The petition is date stamped January 25, 2022. The petitioner has requested a special permit per Section 3.3.2 *Nonconforming Uses* to change from one non-conforming use (Dental Office) to another non-conforming use (Multi-Family Dwelling). The relief if granted will allow for the construction of five (5) residential units. The proposal is for one (1) unit on the first floor and two (2) units on the second floor and two (2) units on the third floor.

1. 393 Essex Street is owned by Old Fezziwig, LLC.
2. Old Fezziwig, LLC was represented by Joseph Correnti, Attorney.
3. 393 Essex Street is located in the R2 zoning district. (Map 25, Lot 200)
4. The requested relief, if granted, would allow the Petitioner to construct five (5) residential units in the structure.
5. On February 16, 2022, Joseph Correnti presented the petition for 393 Essex Street to the Board.
6. 393 Essex Street is currently vacant but has been used as a commercial dental office on its first floor. There are also three (3) existing residential units above the vacant dentist office.
7. The proposal is to eliminate the dentist office on the first floor and convert that to a single dwelling unit.
8. Attorney Correnti also discussed how they will be continuing the process of conversion with input from the Salem Historical Commission.
9. Dan Ricciarelli, architect, discussed the proposed plans. They will keep all the salvageable historical elements that are within the structure. They will also be adding a sprinkler system to the building.
10. Chair Duffy opened the meeting to Board members for questions. There were none.
11. There was a letter submitted from Historic Salem Inc. read for the record. The letter was requesting that they keep within the historical elements of the current structure. The letter requested that the board go over the building plans to see that the plans stay within the historical context of the current structure.
12. Paul Viccica asked Attorney Correnti to go over the site plan for the proposed construction. There are two curb cuts on the site. There are currently nine (9) parking spaces on the site. The current owner plans to add grass and loam to the areas where the parking spaces are no longer needed to add some green space to the property.
13. Mr. Ricciarelli mentioned how they are seeking historical tax credits for the project. This will make them fall under the purview of the National Park Service and Massachusetts Historical Society.
14. Chair Duffy opened the meeting to public comment.
15. Louis Serriani, Botts Court, spoke in opposition to the proposal.
16. Lois Ferraresso, 315 Essex Street, inquired as to the layout of the new units in the proposed conversion of the structure. She expressed concern over the addition of the two units on the third floor and how that would not keep within the historical context.
17. Mr. Ricciarelli spoke to the historical fabric on the third floor and how they were keeping the columns from the structure which were the historical elements on the top floor of the structure.
18. Chair Duffy expressed his appreciation for Ms. Ferraresso's concern and encouraged her to attend the Historical Commission's meetings on the proposed plans when the time came.

19. Attorney Correnti reiterated that the owner and architect are aware of the historical significance and the construction, if approved, will proceed with that knowledge.
20. Chair Duffy addressed the special permit criteria.
21. Due to the ongoing COVID-19 pandemic and related precautions and Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §18, and the Governor's March 15, 2020 Order imposing strict limitations on the number of people that may gather in one place, the December 15, 2021 meeting of the Board of Appeals was held remotely, via the online platform Zoom.

### **Special Permit Findings:**

The Board finds that the proposed modifications will not be substantially more detrimental than the existing nonconforming use to the neighborhood and that the adverse effects of the proposed use will not outweigh its beneficial impacts to the City and the neighborhood:

1. Social, economic, or community needs were served by this petition.
2. Traffic flow and safety, including parking and loading: there will not be an impact on parking.
3. Adequate utilities and other public services: The petition will not impact utilities or public services.
4. Impacts on the natural environment, including drainage: There will be a positive impact on the natural environment.
5. Neighborhood character: The project will increase the character of the residential neighborhood.
6. Potential fiscal impact, including impact on City tax base and employment. There will be a positive fiscal impact on the city or its tax base.

On the basis of the above statements of fact and findings, the Salem Board of Appeals voted five (5) in favor ( Rosa Ordaz, Mike Duffy (chair), Carly McClain, Paul Viccica and Steven Smalley) and none (0) opposed to grant OLD FEZZIWIG, LLC a special permit per Section 3.3.2 *Nonconforming Uses* to change from one non-conforming use (Dental Office) to another non-conforming use (Multi-Family Dwelling). The relief if granted will allow for the construction of five (5) residential units. The proposal is for one (1) unit on the first floor and two (2) units on the second floor and two (2) units on the third floor.

**Receiving five (5) in favor votes, the petition for a special permit is approved.**

**Standard Conditions:**

1. Petitioner shall comply with all city and state statutes, ordinances, codes and regulations.
2. All construction shall be done as per the plans and dimensions submitted to and approved by the Building Commissioner.
3. All requirements of the Salem Fire Department relative to smoke and fire safety shall be strictly adhered to.
4. Petitioner shall obtain a building permit prior to beginning any construction.
5. Exterior finishes of the new construction shall be in harmony with the existing structure.
6. A Certificate of Occupancy is to be obtained.
7. A Certificate of Inspection is to be obtained.
8. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board.
9. All construction shall be done per the plans and dimensions submitted to and approved by this Board. Any modification to the plans and dimensions must be approved by the Board of Appeals unless such changes are deemed a minor field change by the Building Commissioner in consultation with the Chair of the Board of Appeals.

A handwritten signature in black ink that reads "Mike Duffy IDL". The signature is written in a cursive style and is positioned above a horizontal line.

Mike Duffy, Chair  
Board of Appeals

A COPY OF THIS DECISION HAS BEEN FILED WITH THE PLANNING BOARD AND THE CITY CLERK.

Appeal from this decision, if any, shall be made pursuant to Section 17 of the Massachusetts General Laws Chapter 40A, and shall be filed within 20 days of filing of this decision in the office of the City Clerk. Pursuant to the Massachusetts General Laws Chapter 40A, Section 11, the Variance or Special Permit granted herein shall not take effect until a copy of the decision bearing the certificate of the City Clerk has been filed with the Essex South Registry of Deeds.