



KIMBERLEY DRISCOLL
MAYOR

CITY OF SALEM, MASSACHUSETTS BOARD OF APPEALS

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

May 10, 2022

Decision

City of Salem Board of Appeals

2022 MAY 10 PM 1:01
CITY CLERK
SALEM, MASS

The petition of SULLIVAN CAPITAL, LLC at 10 HOWARD STREET (Map 35, Lot 151) (R2 Zoning District), for a Special Permit per Section 3.3.2 *Nonconforming Uses* of the Salem Zoning Ordinance to convert the current boarding house to a place of lodging for tourists and other visitors to the City of Salem. The petitioner is seeking relief in order to renovate the interior and exterior of the building and upgrade the rooms with each having a separate bathroom.

A public hearing on the above petition was opened on April 27, 2022 and was closed on April 27, 2022.

On April 27, 2022, the following members of the Salem Board of Appeals were present: Mike Duffy (chair), Rosa Ordaz, Carly McClain, Paul Viccica, Peter Copelas and Steven Smalley.

Statements of Fact:

The petition is date stamped March 1, 2022. The petitioner seeks a Special Permit per Section 3.3.2 *Nonconforming Uses* of the Salem Zoning Ordinance to convert the current boarding house to a place of lodging for tourist and other visitors to the City of Salem. The petitioner is seeking relief in order to renovate the interior and exterior of the building and upgrade the rooms with each having a separate bathroom.

1. 10 Howard Street is owned by Reza Mojtabai and Linda Zimmer
2. The petitioner was Sullivan Capital, LLC.
3. The petitioner was represented by Attorney Scott Grover.
4. 10 Howard Street is located in the R2 zoning district. (Map 35, Lot 151)
5. The requested relief, if granted, would allow the Petitioner to convert a sixteen (16) unit rooming house into a thirteen (13) or fourteen (14) unit inn for travelers and members of the public.
6. On April 27, 2022, Attorney Scott Grover presented to the board.

7. Attorney Grover displayed photos of the current conditions of the property that demonstrate the property is in a state of disrepair. Attorney Grover also spoke to the many phone calls that the City of Salem has received within recent years due to issues going on within the current rooming house residents. Attorney Grover spoke to that there have been over a hundred (100) phone calls regarding the property.
8. The relief, if granted, would allow for upgrades to the lodging for tourism and other members of the traveling public to the City of Salem. These upgrades would include bathrooms per unit and other amenities.
9. 10 Howard Street is located in the R2 zoning district and a rooming house is not an allowed use. However, under Section 3.3.2 of the Salem Zoning Ordinance one non-conforming use can be transferred to another non-conforming use. This would not be a change of use. However, the property would go under substantial repairs, so they felt it necessary to apply for a Special Permit for the alteration of the use as a rooming house.
10. Chair Duffy opened the meeting up to comments from the board.
11. Peter Copelas spoke that he disagreed that removing a rooming house from the City would benefit the community need. He felt removing the rooming house was the opposite of meeting the community need. He stated that Salem needs a wide range of housing options. He also spoke that he was concerned that this petition was trying to go around the City of Salem's short term rental ordinance. The new use would then become a place for Air BnB's to happen. This would be directly against the ordinance in place on short term rentals.
12. Carly McClain spoke to her agreement with Mr. Copelas. She expressed her concern about people being evicted from the property. That a rooming house can be a last resort for some. She inquired if there was a relocation plan for the current tenants. The petitioner stated that he would work with the current tenants, but there was not a current relocation plan.
13. Ms. McClain also addressed the Special Permit grounds and stated that there would be significant impact on utilities with the addition of bathrooms to this property. There would be an impact on water use and City utilities.
14. Rosa Ordaz inquired with the petitioner about how does someone go about booking these rooms if this isn't going to be a short-term rental or on Air BNB. Mr. Sullivan explained the model for booking. They would allow for direct booking through a website or you could call the front desk, similar to an inn or a hotel.
15. Mr. Sullivan explained to the board that he has already gone in front of the licensing board to get a permit to operate a hotel/inn at this property. It is his intention to license this property as a hotel/inn. He was also informed by the licensing board that going in front of the Zoning Board of Appeals would be the appropriate step to permit the change in use.
16. Mr. Sullivan asked the board to look at the impact on the area in which the property was located, not the impact on housing City wide.
17. Chair Duffy opened the meeting up to Public Comment.
18. Tim Walsh, 5 Howard Street, expressed his concern for the current lodging house and the issues that exist because of it. He stated the building is not taken care of. The police and fire departments are consistently there. He

- asked the board to consider the relevant area that this property serves and not the community as the “whole” Salem.
19. Stuart Won, 28 Howard Street, expressed his main concern would be the parking around the new proposed use. This is because there is not a lot of parking available now. If the tourists come in, there would be an issue with parking.
 20. Ty Hapworth, 6 Brown Street, expressed his concern for the loss of the units and the impact that would have on the tenants because of the lack of affordable housing units available in the City of Salem.
 21. Mike Hardiman, 12 Howard Street, supported the claim that the current rooming house has received at least a hundred (100) calls for emergency services. He stated that he felt that 10 Howard Street is a “problem house”. He also expressed that he is full support of affordable housing. He stated that the current situation at the rooming house doesn’t work in part due to an absentee landlord. He was in support of the petition.
 22. Lori Brooks, 2 Kimball Court, expressed that she felt bad for the current tenants due to the building not being maintained. However, there are a few tenants who are not respectful of the neighborhood. She expressed her support for the petition.
 23. Lev McClain, 22 Albion Street, expressed his concern for the current tenants and they will be helped to find new housing. He shared his experience of an associate living in a rooming house who was evicted once the rooming house they were living in was sold to a new owner. He expressed that he wanted the members of the board and City government to work together to help continue the work for affordable housing for the city.
 24. Carol Solomon, 8 Howard Street, stated that she too hears the noise from 10 Howard Street. She also stated that none of the residents on Howard Street have had experience living next to an inn. She stated that she did not feel that there would be that much of difference due to people coming and going and that they would not have any connection to the property over time. She felt that they would be trading one disturbance for another. She is not in favor of the petition but not against it.
 25. Joe Homan, 1 Kimball Court, stated he was not opposed to the property becoming an inn. He stated that he has nothing but problems with the property. He felt that there needed to be a change from the current rooming house. He didn’t know what that should be, but a change is necessary.
 26. Richard Brooks, representing 2 Kimball Court, expressed that he felt that the proposed change in use would serve the community better than the current rooming house.
 27. Chair Duffy recognized the challenge for this petition and how it addresses a greater issue for the City of Salem and its lack of affordable housing.
 28. Paul Viccica made a motion to approve the change in use at 10 Howard Street.
 29. 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 April 27, 2022 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 not served by this petition.
2. Traffic flow and safety, including parking and loading: there will be an impact on traffic or parking.
3. Adequate utilities and other public services: The petition will impact utilities or public services.
4. Impacts on the natural environment, including drainage: No negative impact would be expected.
5. Neighborhood character: The project will not have a negative impact on the residential neighborhood character.
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 one (1) in favor (Mike Duffy (chair)) and four (4) opposed (Carly McClain, Peter Copelas, Rosa Ordaz and Paul Viccica) to deny Sullivan Capital, LLC a Special Permit for Section 3.3.2 *Nonconforming Uses* of the Salem Zoning Ordinance to convert the current boarding house to a place of lodging for tourist and other visitors to the City of Salem.

Receiving four (4) in votes of opposition, the petition for a special permit is denied.

A handwritten signature in cursive script that reads "Mike Duffy / DL". The signature is written in dark ink and is positioned above the printed name.

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.