



KIMBERLEY DRISCOLL  
MAYOR

# CITY OF SALEM, MASSACHUSETTS BOARD OF APPEAL

98 WASHINGTON STREET ♦ SALEM, MASSACHUSETTS 01970  
TEL: 978-745-9595

2019 JAN 30 PM 3:00  
CLERK  
SALEM, MASS

January 30, 2019

## Decision

### City of Salem Board of Appeals

**Petition of PETER BOHLIN for a special permit per Section 15-6 (d) of the Salem Code of Ordinances to allow the continued operation of two non-owner occupied short-term rental units in the mixed-use building at 100 WASHINGTON STREET (Map 35, Lot 15) (B5 Zoning District).**

A public hearing on the above Petition was opened on January 16, 2019 pursuant to M.G.L Ch. 40A, § 11 and closed on that date with the following Salem Board of Appeals members present: Mike Duffy (Chair), Peter A. Copelas, Jimmi Heiserman, Patrick Shea, and Jimmy Tsitsinos.

The Petitioner seeks a special permit per Section 15-6 (d) of the Salem Code of Ordinances to allow the continued operation of non-owner occupied short-term rentals. 100 Washington Street is a mixed-use building at which two non-owner occupied short-term rental units have operated. The Petitioner is seeking to continue this use by special permit, per the procedure set forth in Section 15-6 (d) of the Salem Code of Ordinances.

#### Statements of Fact:

1. In the petition, date-stamped November 29, 2018, the Petitioner requested a special permit per Section 15-6 (d) of the Salem Code of Ordinances to allow the continued operation of non-owner occupied short-term rentals. 100 Washington Street is a mixed-use building at which two non-owner occupied short-term rental units have operated. The Petitioner is seeking to continue this use by special permit, per the procedure set forth in Section 15-6 (d) of the Salem Code of Ordinances.
2. Petitioner Peter Bohlin presented the petition.
3. The property is a mixed-use building located in the Central Development (B5) Zoning District. Two units at this property have operated as non-owner occupied short-term rental units since April and May of 2018, according to the petition.
4. Chapter 15 of the Salem Code of Ordinances, *Short-Term Rentals*, was enacted by an amendment to the Code of Ordinances that was approved by the Mayor on October 1, 2018. Section 15-6 sets forth *Requirements for Short-Term Rentals*. Section 15-6 (d) *Short-Term Rental of a Non-Owner Occupied Unit* states, in relevant part, that "An Operator may use his or her Non-Owner Occupied Unit as a Short-Term Rental only if the Operator was engaged in the Short-Term Rental of the property as of the date this Ordinance was filed with the Council and provided that the Operator obtains a Special Permit from the Zoning Board of Appeals." The same Section states that "Qualifying Operators must petition for a Special Permit within 60 days of the date of passage of this Ordinance in order to be eligible for this exception."
5. This use began in April and May 2018, according to the application. Petitioner submitted confirmations of two Airbnb bookings with the application, one from April 2018 and one from May

2018. This is before the ordinance allowing short-term residential rentals in the City of Salem was filed on July 19, 2018.

6. As the above amendment was approved by the Mayor on October 1, 2018, the application was timely filed in accordance with the Section 15-6 (d) deadline.
7. Mr. Bohlin submitted his petition per the process outlined in Section 15-6 (d) of the Salem Code of Ordinances.
8. Section 3.0 *Table of Principal and Accessory Uses* of the Salem Zoning Ordinance was amended in 2018 to include the new use of "Non-Owner Occupied Short-Term Rentals." Non-Owner Occupied Short-Term Rentals are allowed by special permit from the Zoning Board of Appeals in the following Zoning Districts:
  - Residential Two-Family (R2);
  - Residential Multifamily (R3);
  - Business Neighborhood (B1);
  - Business Highway (B2);
  - Business Wholesale & Automotive (B4);
  - Central Development (B5).
9. As noted above, the property is located in the Central Development (B5) zoning district. The Non-Owner Occupied Short-Term Rentals use is allowed by special permit from the Zoning Board of Appeals in this district.
10. The requested relief, if granted, would allow the Petitioner to continue to operate two non-owner occupied short-term rental units in the mixed-use building at 100 Washington Street.
11. At the January 16, 2019 public hearing, Petitioner Peter Bohlin noted that there have been no complaints about the use. Mr. Bohlin noted that there is on-site maintenance and on-site management.
12. Staff Planner Brennan Corrison asked the Petitioner if the units were #42 and #23, as per the original application; Mr. Bohlin responded that the units are #42 and #45, if they can make that change. The change was accepted and is addressed in the conditions of this decision.
13. The Board asked questions about the units. Chair Mike Duffy asked the Petitioner to describe the units. Mr. Bohlin stated that both are small, one-bedroom units, each with a full kitchen and full bath. He stated that they are both furnished and that they provide common amenities. Mr. Copelas asked Mr. Bohlin to tell the Board more about the building as a whole. Mr. Bohlin responded that there are 38 residential units in the building, and that these 2 apartments are on the same level, which makes it easier for neighbors. He added again that the management office is on-site.
14. Chair Duffy noted that there is no parking, but that the petitioner submits that there is train access and nearby public parking and parking garages. Mr. Bohlin stated that as part of the building property there is a parking area out back, but that is not provided to Airbnb guests. He added that there is ample metered parking and garage parking.
15. Chair Duffy asked how long the Airbnb business has been operating in these units. Mr. Bohlin responded that they've been operating for a little over a year.
16. Mr. Bohlin discussed the following in reference to the criteria for special permits:
  - Social, economic and community needs: This use provides visitors a convenient, affordable place to stay. This drives a substantial amount of business to local restaurants, tour companies, bars, and more.

- Traffic flow and safety, including parking and loading: Due to the close proximity of the train, many guests arrive that way. There are also ample parking garages in the area.
  - Utilities and other public services: The building has a dumpster out back which provides as a depository for all trash. Given that this is a short-term rental, the dumpster is rarely used by Airbnb guests, but the cleaning crew has full access.
  - Impacts on the natural environment, including drainage: There are no known effects on natural environment or drainage.
  - Neighborhood character: There are no known effects on neighborhood character. Guests enjoy the neighborhood as is and enjoy being in downtown Salem.
  - Potential fiscal impact, including impact on City tax base and employment: This use provides the city and local businesses with additional revenue and ultimately the city with additional tax revenues.
17. Mr. Corriston asked if the Airbnb confirmations provided as proof of operation were for these specific units (for which the special permit is requested). Mr. Bohlin answered in the affirmative.
18. At the January 16, 2019 public hearing, no (0) members of the public spoke in favor of or in opposition to the petition.

The Salem Board of Appeals, after careful consideration of the evidence presented at the public hearing, and after thorough review of the petition, including the application narrative and plans, and the Petitioner's presentation and public testimony, makes the following **findings** that the proposed project meets the provisions of the City of Salem Zoning Ordinance:

**Findings for Special Permit:**

The Board finds that the continued use will not be substantially more detrimental to the neighborhood.

1. Social, economic and community needs served by the proposal: this use provides a place to stay or visitors and helps drives business to local businesses.
2. There will be no changes to traffic flow and safety, including parking and loading, as the use will not change. Many guests arrive by train; guests with cars can park in nearby parking garages.
3. There will be no change in use of utilities and other public services; as such, existing utilities and other public services are adequate. The building has a dumpster for trash.
4. There will be no change in impacts on the natural environment, including drainage, as the use will not change.
5. There is no change in impact on neighborhood character, as the use will not change.
6. Potential fiscal impact, including impact on City tax base and employment: this use generates revenue for local businesses and contributes taxes to the City.

On the basis of the above statements of fact and findings, the Salem Board of Appeals voted five (5) in favor (Jimmi Heiserman, Patrick Shea, Jimmy Tsitsinos, Peter A. Copelas, and Mike Duffy (Chair)) and none (0) opposed to grant the requested Special Permit per Section 15-6 (d) of the Salem Code of Ordinances to allow the continued operation of two non-owner occupied short-term rental units in the mixed-use building at 100 Washington Street, Units identified by the Petitioner as #42 and #45 at the time of the application, subject to the following **terms, conditions, and safeguards**:

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.

Mike Duffy /BTC  
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.*