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CITY CLERK
SALEM, MASS.

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July 3, 2019

Decision

City of Salem Board of Appeals

Petition of CLIFFORD GOODMAN 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 22 BERTUCCIO AVENUE (Map 24, Lot 110) (R1 Zoning District).

A public hearing on the above Petition was opened on June 19, 2019 pursuant to M.G.L Ch. 40A, § 11 and closed on that date with the following Salem Board of Appeals members present: Peter A. Copelas, Mike Duffy (Chair), Jimmi Heiserman, and Paul Viccica (alternate).

The petitioner seeks 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.

Statements of Fact:

1. In the petition date-stamped May 22, 2019, the petitioner requested 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 22 Bertuccio Avenue.
2. Petitioner Clifford Goodman presented the petition.
3. The property is a single-family home located in the Residential One-Family (R1) zoning district.
4. The petitioner is proposing to construct a finished accessory living area within the existing footprint of the home to provide an accessory living area for the petitioner's mother. The proposal is for the lower level of the home to be used as an accessory living area.
5. In Section 10.0 *Definitions* of the Salem Zoning Ordinance, "Accessory living area" is defined as: "A housekeeping unit, with its own sleeping, cooking and sanitary facilities, located within a single family dwelling that is subordinate in size to the principal unit, separated from it in a manner which maintains the appearance of the building as a single family dwelling, and allowed by special permit pursuant to Section 3.2.8 of this ordinance."
6. The requested relief, if granted, would allow the petitioner to construct an accessory living area within the existing footprint of the home.
7. As noted in the Statement of Grounds submitted with the petition, the accessory living area "would provide family members with the means to obtain companionship, security and services, and enable the petitioner's mother to easily assimilate into the home."
8. At the June 19, 2019 public hearing, petitioner Clifford Goodman discussed the petition. He explained that his mother needs a place to live that is accessible – a walk-in apartment and a walk-in shower – and that luckily, his home meets her needs. Mr. Goodman stated that his situation fits the (accessory living area) bylaw. He stated that there will be no change to the footprint and that there is

sufficient existing off-street parking so there is no on-street encumbrance. He added that nothing has been changed except a coat of paint.

9. Chair Duffy noted that the Board received a Statement of Grounds, a drawing of the accessory living area, the consent of the owner, and a quitclaim deed showing ownership.
10. The identities and birth dates of the family members who live at the property were also included in the application submitted to the Board of Appeals.
11. At the public hearing, Peter A. Copelas asked the petitioner to explain what was changing in the existing space. Mr. Goodman answered that nothing was changing; there was already electrical, plumbing, kitchen, bathroom, and laundry hookup. Mr. Copelas asked if the petitioner is asking to legalize the accessory unit. Mr. Goodman answered in the affirmative, explaining that no one has lived there as a separate unit, as the need had not existed until now.
12. At the June 19, 2019 public hearing, no (0) members of the public spoke in favor of or in opposition to the petition.
13. Chair Duffy discussed the special permit criteria specific to accessory living area regulations. He stated that the Board has received identification of the people who live in the house, and that the Board heard discussion of the family relationships and the purposes served by permitting this use. He added that there is a drawing (which may not be to scale). Chair Duffy added that there is a copy of a quitclaim deed to the property included with the application. Chair Duffy discussed general special permit criteria.

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, makes the following **findings** that the proposed project meets the provisions of the city of Salem Zoning Ordinance:

Findings for Special Permit

The purpose, procedure and requirements of Section 3.2.8 *Accessory Living Areas* of the Salem Zoning Ordinance have been fulfilled. This use will not be substantially more detrimental than the existing use to the neighborhood.


1. Social, economic and community needs served by the proposal: This proposal provides family members with a means of obtaining companionship, security, and services and allowing the petitioner's mother to assimilate into the family home.
2. There are no impacts to traffic flow and safety, including parking and loading, as there will be no change.
3. Existing utilities and other public services are adequate.
4. There are no negative impacts to the neighborhood character as there are no changes to the exterior.
5. There are no negative impacts to the natural environment, including drainage, as there are no changes to the exterior.
6. Potential economic and fiscal impact, including impact on City services, tax base, and employment: If the proposal has any economic and fiscal impact, it will be positive.

On the basis of the above statements of fact and findings, the Salem Board of Appeals voted four (4) in favor (Peter A. Copelas, Paul Viccica, Mike Duffy (Chair), and Jimmi Heiserman) and none (0) opposed to grant the requested 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 **22 Bertuccio Avenue**, 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 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. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board.


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.