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BOARD OF APPEALS

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CITY CLERK
SALEM, MASS

October 30, 2019

Decision

City of Salem Board of Appeals

Petition of ALIMENTI PROPERTIES, LLC for a special permit per Section 3.3.2 *Nonconforming Uses* of the Salem Zoning Ordinance to change from existing nonconforming use (two offices and one personal service business [nail salon]) to another nonconforming use (one office, one personal service business [nail salon], and one residential dwelling unit above first floor personal service and office uses) at 528 LORING AVENUE (Map 21, Lot 9) (B2 and ECOD Zoning Districts).

A public hearing on the above Petition was opened on October 16, 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, Jimmy Tsitsinos, and Paul Viccica.

The petitioner seeks a special permit per Section 3.3.2 *Nonconforming Uses* of the Salem Zoning Ordinance to change from an existing nonconforming use to another nonconforming use.

Statements of Fact:

1. In the petition date-stamped September 11, 2019, the petitioner requested a special permit per Section 3.3.2 *Nonconforming Uses* of the Salem Zoning Ordinance to change from an existing nonconforming use (two offices and one personal service business [nail salon]) to another nonconforming use (one office, one personal service business [nail salon], and one residential dwelling unit above first floor personal service and office uses) at 528 Loring Avenue.
2. Attorney William Quinn, representing petitioner Alimenti Properties, LLC, presented the petition.
3. The property is located in the Business Highway (B2) zoning district and the Entrance Corridor Overlay District.
4. The property contains three units. Two of these units are used as offices; one is used as a personal service business (nail salon). Although "Medical and dental offices" and "Business or professional offices" are allowed uses in the B2 district, the use "Personal service establishment" is allowed by special permit from the Board of Appeals in the B2 district.
5. This property has been used as a personal service establishment and does not appear to have a special permit for such use; as such, the property's use is considered existing nonconforming.
6. The petitioner is allowed to seek relief per Section 3.3.2 *Nonconforming Uses* of the Salem Zoning Ordinance to change from one nonconforming use to another.
7. The petitioner is seeking to change the existing second floor office into a residential dwelling unit.
8. The use "Dwelling unit above first floor retail, personal service, or office use" is not allowed in the B2 district. As noted above, the petitioner is seeking appropriate relief to allow such use.

9. The requested relief, if granted, would allow the petitioner to change the existing second floor office into a residential dwelling unit above first floor personal service and office uses at 528 Loring Avenue. (Overall, this constitutes a change from an existing nonconforming use to another nonconforming use.)
10. At the October 16, 2019 public hearing, Attorney William Quinn discussed the petition. Attorney Quinn noted that this property received a variance in 1988 to add a second story; this was used as an office unit, including by an insurance agency, but the office space has been empty since the agency moved out. This variance was also for parking. Attorney Quinn explained that there are nine parking spaces on-site: four along Loring Avenue and five in the back of the property. Attorney Quinn stated that because the proposed change in use is from a five-employee insurance agency to a single, two-bedroom apartment, the amount of required parking is reduced. He stated that the property owner, Mr. Alimenti, has sought an office tenant for this space for the last year and a half but has not found one. Attorney Quinn said there does not seem to be a market for this type of office in Salem, but that there is a good market for decent housing and apartment housing. Attorney Quinn explained that this property is adjacent to a lot of housing.
11. At the public hearing, Attorney Quinn noted that there will be no exterior changes to the property.
12. At the October 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**:

Special Permit Findings:

The Board finds that the proposed nonconforming use is not substantially more detrimental than the existing nonconforming use to the neighborhood.

1. Social, economic and community needs served by the proposal: This proposal is providing needing housing in the City of Salem.
2. Traffic flow and safety, including parking and loading: The demand for parking at this property will be reduced by the change of use.
3. Adequacy of utilities and other public services: Adequate utilities and public services service the property.
4. Impacts on the natural environment, including drainage: There is no change to the exterior, so no changes in impacts on the natural environment, including drainage, are anticipated.
5. Neighborhood character: There is no exterior change; there will be no change in impact on neighborhood character.
6. Potential fiscal impact, including impact on City tax base and employment: This proposal will change an office space which has not found a tenant into a residential use with a better prospect of being occupied; as such, this change is likely to have a positive fiscal impact.

On the basis of the above statements of fact and findings, the Salem Board of Appeals voted five (5) in favor (Peter Copelas, Mike Duffy (Chair), Jimmi Heiserman, Jimmy Tsitsinos, and Paul Viccica) and none (0) opposed to grant the requested special permit per Section 3.3.2 *Nonconforming Uses* of the Salem Zoning Ordinance to change from existing nonconforming use (two offices and one personal service business [nail

salon)) to another nonconforming use (one office, one personal service business [nail salon], and one residential dwelling unit above first floor personal service and office uses) at **528 Loring 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. 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.
8. All construction shall be done per the plans and dimensions submitted to and approved by this Board. No change, extension, material corrections, additions, substitutions, alterations, and/or modification to an approval by this Board shall be permitted without the approval of this Board, unless such change has been deemed a minor field change by the Building Commissioner in consultation with the Chair of the Board of Appeals.

 /BJC

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.