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CITY OF SALEM, MASSACHUSETTS BOARD OF APPEALS

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October 16, 2019

Decision

City of Salem Board of Appeals

2019 OCT 16 PM 3: 21
CITY CLERK
SALEM, MASS

Petition of LAURIEANNE EMERY 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 1 WOODLANDS ROAD (Map 6, Lot 21) (R1 Zoning District).

A public hearing on the above Petition was opened on October 2, 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 3.2.8 *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 August 23, 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 1 Woodlands Road.
2. Petitioner Laurieanne Emery 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 currently unfinished basement to be built out and 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 [the petitioner's] mother with the means to obtain companionship, security, and services and provide a safe living space without stairs."
8. 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.
9. At the October 2, 2019 public hearing, petitioner Laurieanne Emery and Brett Emery discussed the petition. Ms. Emery noted that her mother cannot do a lot of stairs, so this space would allow her

mother to live with her and not have to use stairs. Ms. Emery spoke to the general special permit criteria, explaining that there is a two-car garage and a driveway so there will be no impact on on-street parking, and that all the work would be done within the home, so there would be no neighborhood impact. Ms. Emery stated that there would be no extra cars.

10. At the October 16, 2019 public hearing, no (0) members of the public spoke in favor of or in opposition to the petition.
11. Chair Duffy noted that a Statement of Grounds was submitted with the application. He discussed the special permit criteria specific to accessory living area regulations. He noted that the Board received a Statement of Grounds explaining the factual basis for granting the special permit; names and birth dates of the current and proposed applicants; a floor plan; and a quitclaim deed showing 100% title ownership. The application was signed by Mr. Norwood, who is the full owner of the property.
12. Chair Duffy also discussed general special permit criteria, as noted below.
13. Building Commissioner / Zoning Enforcement Officer noted that the street name may change; planner Brennan Corrison noted that this is why the map and lot number are included as well.

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 accessory living area would fulfill the community needs set forth in Section 3.2.8 of the Salem Zoning Ordinance; it would provide the petitioner's mother with the means to obtain companionship, security and services and provide a safe living space without stairs.
2. Traffic flow and safety, including parking and loading: Traffic and parking will not change. There is a two-car garage and a driveway for parking.
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 is likely to be positive.

On the basis of the above statements of fact and findings, the Salem Board of Appeals voted five (5) in favor (Jimmy Tsitsinos, Jimmi Heiserman, Paul Viccica, Peter Copelas, and Mike Duffy (Chair)) 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 **1 Woodlands Road**, 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.