



KIMBERLEY DRISCOLL  
MAYOR

CITY OF SALEM, MASSACHUSETTS  
BOARD OF APPEALS

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CITY CLERK  
SALEM, MASS

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May 1, 2019

Decision

City of Salem Board of Appeals

**Petition of ANDREW FRITZ 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 31 GREENWAY ROAD (Map 24, Lot 9) (R1 Zoning District).**

A public hearing on the above Petition was opened on April 17, 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), Jimmi Heiserman, Jimmy Tsitsinos, 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 March 27, 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 31 Greenway Road.
2. Petitioner Andrew Fritz and his mother, property owner Janet T. DuBois, 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 and stepfather. The proposal is to build the accessory living area within a portion of the lower level.
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 and stepfather to remain in the family home."
8. At the April 17, 2019 public hearing, petitioner Andrew Fritz and property owner Janet T. DuBois discussed the petition. Mrs. DuBois noted that this is the house that she grew up in, and that it is getting more difficult to maintain the house, so she is selling the house to her son Andrew and they hope to build the in-law apartment for herself and her husband.

9. Chair Duffy noted that the Board received the identities and birth dates of the family members who live at the property, and the floor plan. The petitioners brought the blueprints for the house (as initially constructed) to the meeting.
10. Building Inspector Steve Cummings noted that, because the petitioner is seeking to add a bedroom into the basement, the building code states that the house must be brought up to full compliance on smoke detectors, so if they do not have hard-wired smoke detectors, they will need them. The petitioner and the property owner stated that they have hard-wired smoke detectors that have been checked by the Fire Inspector.
11. At the 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, makes the following **findings**:

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: There are community needs served by the proposal, including providing older family members with a means of obtaining companionship, security, and services and allowing the petitioner's mother and stepfather to remain in the family home.
2. There are no impacts to traffic flow and safety, including parking and loading, as there will be no change.
3. 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: no impact is anticipated.

On the basis of the above statements of fact and findings, the Salem Board of Appeals voted four (4) in favor (Jimmi Heiserman, Mike Duffy (Chair), Jimmy Tsitsinos, and Paul Viccica) 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 **31 Greenway 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. 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.

  
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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.