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Decision

City of Salem Board of Appeals

Petition of MARTIN NORWOOD 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 4 BUENA VISTA AVENUE WEST (Map 9, Lot 97) (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 15, 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 4 Buena Vista Avenue West.
2. Petitioner Martin Norwood 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 first floor 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 create a space for [the petitioner's] aging mother. To provide her with a means of obtaining companionship, security, and services enabling her to remain in a home and neighborhood where she may otherwise be forced to leave."
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 Martin Norwood discussed the petition, reading from the Statement of Grounds submitted with the application. He noted that his mother has some dependency for special housing and mental health requirements; she has recently developed some early signs of Alzheimer's and will require some monitoring and help. He noted that the home was renovated in December 2009 with the idea that he would eventually need a space for his mother, so the first floor was laid out to be used as a separate suite with plumbing and living areas. The only proposed additions are a refrigerator, cooktop, and oven, as well as a door to separate the two spaces and provide privacy. Mr. Norwood noted that the house has four bedrooms and occupancy will be two people, so there is low demand on public services and plenty of off-street parking. The house is located on a dead-end street.
10. No change is proposed to the footprint of the building.
11. At the public hearing, Peter A. Copelas asked whether the accessory living area is proposed to be located on the first floor. Mr. Norwood responded in the affirmative and added that the primary residence is located on the second and third floors. The side stair leads to a back entrance for the primary residence.
12. At the October 16, 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 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.
14. Chair Duffy also discussed general special permit criteria, as noted below.

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 serves social, economic or community needs. This would allow a family to live in Salem that might otherwise have to relocate elsewhere.
2. Traffic flow and safety, including parking and loading: There is ample parking and no significant change is expected to traffic flow and safety.
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: The proposal may have a positive economic and fiscal impact, including on the City tax base.

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 3.2.8 *Accessory Living Areas* of the Salem Zoning Ordinance to construct an accessory living area within the existing footprint of the single-family house at **4 Buena Vista Avenue West**, 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.