



KIMBERLEY DRISCOLL  
MAYOR

# CITY OF SALEM, MASSACHUSETTS BOARD OF APPEAL

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CITY CLERK  
SALEM, MASS

2018 DEC -3 AM 9:56

December 3, 2018

## Decision

### City of Salem Board of Appeals

**Petition of CHARLES & GRACE ABONGNELAH to appeal a decision of the Building Commissioner for 6 LEMON STREET (Map 36, Lot 66) (R2 and BPD Zoning Districts).**

A public hearing on the above Petition was opened on November 19, 2018 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), Peter A. Copelas, Jim Hacker, Patrick Shea, and Paul Viccica.

The Petitioner seeks to appeal a decision of the Building Commissioner. As noted in a letter from Local Building Inspector Stephen Cummings dated October 22, 2018, the Building Department determined that petitioners' home, which had been operating as a two-family home, is a single family home. Petitioners are appealing this determination.

#### Statements of fact:

1. In the petition date-stamped October 30, 2018, the Petitioner requested an appeal of the Decision of the Building Inspector.
2. Petitioners Charles and Grace Abongnelah presented the petition.
3. The property is located in the R2 and BPD zoning districts.
4. The property had been operating as a two-family home. In a letter from Local Building Inspector Stephen Cummings dated October 22, 2018, the Inspector determined that petitioners' home is a single-family home, and notified the petitioners that they must cease and desist using it as a two family home immediately upon receipt of the letter.
5. The requested relief, if granted, would overturn the decision of the Building Inspector that the property is a single-family home.
6. At the November 19, 2018 public hearing, Chair Mike Duffy read a letter from Mr. Cummings dated November 16, 2018, in which the Building Inspector listed his findings for 6 Lemon Street. These findings included:

"There is no separation from the first floor to the second floor any persons are able To walk freely through out house as it is set up as a single family three story home Without going through a common hall ."

"Electricity , Heat , hot water, and gas are all metered with one meter as in any single Home."

"All bedrooms on the second and third floor are individually locked with a key lock."

"The owner told me the previous owner went to the ZBA and turned the use into a Two family but could not produce any documentation."

“In my opinion the house is not set up as a two family or being used as one, and bedrooms Are being rented individually more in kind of a rooming house.”

7. At the public hearing, no members of the public spoke in favor or in opposition to the petition. Chair Mike Duffy noted that a letter was submitted by an abutter in opposition to the appeal, and that the letter stated that the appeal should not be granted. The petitioners had also submitted a letter to the Board with additional information after their initial petition was submitted.
8. Board member Peter Copelas noted that there is a procedural problem: the request is to overturn the decision of the Building Inspector, not to grant a permit for the two-family residential use. Mr. Copelas noted that the petitioners “might have some options in terms of making it a proper two-family,” but that such a petition was not currently before the Board.
9. The Board of Appeals, the Building Commissioner, and the petitioners discussed the procedural issue. The Building Commissioner noted that petitioners should have applied for a special permit, and noted that they can apply for next month’s meeting with a petition requesting the appropriate relief.
10. Board member Jim Hacker suggested that the Board give the petitioner the opportunity to withdraw without prejudice. The Building Commissioner and the Board discussed and further explained the options available to the petitioner – to withdraw the existing petition (and come back with a new petition next month), or to ask for a vote on the existing petition (which would still allow the opportunity to come back next month with a new petition for a special permit).
11. The petitioner requested to withdraw the application without prejudice.

On the basis of the above statements of fact, the Salem Board of Appeals voted five (5) in favor (Mike Duffy (Chair), Patrick Shea, Peter Copelas, Jim Hacker, Paul Viccica) and none (0) opposed to allow the petitioner to withdraw the application without prejudice.

THE PETITION IS WITHDRAWN WITHOUT PREJUDICE.

  
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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.*