



KIMBERLEY DRISCOLL  
MAYOR

# CITY OF SALEM, MASSACHUSETTS BOARD OF APPEAL

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FILE #  
CITY CLERK, SALEM, MASS.

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July 3, 2012

## Decision

City of Salem Zoning Board of Appeals

**Petition of PAUL J. PINTO and JOHN F. CASEY III requesting a Special Permit for a bed and breakfast use on the property located at 314 ESSEX STREET, Salem, MA (R-2 Zoning District).**

A public hearing on the above Petition was opened on June 20, 2012 pursuant to Mass General Law Ch. 40A, § 11. The hearing was closed on June 20, 2012 with the following Zoning Board of Appeals members present: Rebecca Curran (Chair), Annie Harris, Jamie Metsch, Michael Duffy, and Jimmy Tsitsinos.

Petitioner seeks a Special Permit pursuant to Sections 3.1 and 9.4 of the City of Salem Zoning Ordinances.

### **Statements of fact:**

1. In a petition date-stamped May 30, 2012, petitioners requested a Special Permit to allow a bed and breakfast use on the property located at 314 Essex Street.
2. The building on 314 Essex Street is currently used for a law office.
3. Petitioners state in their May 30, 2012 petition that they intend to reside in the building and make up to three guest rooms available.
4. At the hearing on June 20, 2012, several residents spoke in support of the petition, with one citing the local need for a bed and breakfast, and others stating their preference for a residential/bed and breakfast use over the current use as a law office.
5. Also at the hearing, some residents opposed the petition, expressing concerns that the new use would be more intense than the current one, and fearing that allowing a bed and breakfast use could lead to other nonconforming uses on the property and in the neighborhood.

6. At the hearing, residents both in support of the petition and opposed to it spoke about the importance of ensuring the property not be used as a long-term rooming house.

The Board of Appeal, after careful consideration of the evidence presented at the public hearing, and after thorough review of the plans and petition submitted, makes the following **findings**:

1. Desirable relief may be granted without detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the zoning ordinance, since the proposed use is less intense than the current use as a law office and more consistent with a residential neighborhood; there is a great demand in Salem for tourist accommodations; off-street parking requirements are met; the change would make a currently nonconforming property conform to the use regulations of the Salem Zoning Ordinance; and the proposed bed and breakfast would have positive impacts on the local economy.
2. Based on the above, the Board of Appeal determines that any adverse effects of the proposed use will not outweigh its beneficial impacts to the City or the neighborhood.
3. In permitting such change, the Board of Appeals requires certain appropriate conditions and safeguards as noted below.

On the basis of the above findings of fact and all evidence presented at the public hearing including, but not limited to, the Plans, Documents and testimony, the Zoning Board of Appeals voted five (5) in favor (Curran, Duffy, Metsch, Harris, and Tsitsinos) and none (0) opposed, to grant the requested Special Permit. A Special Permit under Sections 3.1 and 9.4 is granted to allow for the proposed use of a bed and breakfast on the property located at 314 Essex Street.

The Board of Appeals voted to grant petitioner's request for a Special Permit subject to the following **terms, conditions, and safeguards**:

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. Exterior finishes of the new construction shall be in harmony with the existing structure.
6. A Certificate of Occupancy is to be obtained.
7. A Certificate of Inspection is to be obtained.
8. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board.
9. Unless this Decision expressly provides otherwise, any zoning relief granted does not empower or authorize the Petitioner to demolish or reconstruct the structure(s) located on the subject property to an extent of more than fifty percent (50%) of its floor area or more than fifty percent (50%) of its replacement cost at the time of destruction. If the structure is demolished by any means to an extent of more than fifty percent (50%) of its replacement cost or more than fifty percent (50%) of its floor area at the time of destruction, it shall not be reconstructed except in conformity with the provisions of the Ordinance.
10. Guests may stay no longer than twenty-one (21) consecutive days.



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Michael Duffy, Member  
Salem 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.