



KIMBERLEY DRISCOLL
MAYOR

CITY OF SALEM, MASSACHUSETTS BOARD OF APPEAL

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FILE #
CITY CLERK, SALEM, MASS.

September 30, 2015

Decision

City of Salem Board of Appeals

Petition of CAROL and KEVIN CROOM seeking an Appeal of the Decision of the Building Inspector to allow the use of a two-family dwelling unit as a three-family dwelling unit at the property of 1 MILK STREET (Map 35 Lot 553) (R2 Zoning District).

A public hearing on the above Petition was opened on September 16, 2015 pursuant to M.G.L. Ch. 40A, § 11. and closed on this date with the following Salem Board of Appeals members present: Ms. Curran (Chair), Mr. Copelas, Mr. Watkins, Mr. Tsitsinos and Mr. Viccica.

The Petitioner is seeking an Appeal of the Decision of the Building Inspector that the building at 1 Milk Street is illegally being used as a three-family dwelling unit.

Statements of fact:

1. In the petition date-stamped August 19, 2015, the Petitioner requested an Appeal of the Decision of the Building Inspector to allow the use of a two-family dwelling unit as a three-family dwelling unit.
2. Attorney Seligson presents the petition on behalf of the applicants.
3. The property owners were issued a notice of violation from the Building Inspector dated July 22, 2015, which the property owners were deemed to be operating an illegal three family dwelling unit in an R2 Zoning District.
4. A building permit dated September 14, 1927 states that the building is a two-family dwelling unit.
5. On April 1, 1980, a letter from the Building Inspector to cease construction activity was issued to the property owner of the time.
6. On April 23, 1980 a decision on the petition of David Knight for a special permit to convert an existing two-family dwelling to a three-family dwelling was denied.
7. On August 11, 1983 the property owner at the time were issued a notice of violation from the building inspector for the occupancy of an illegal third dwelling unit.
8. On April 1, 1984, the property owner at the time, Rodger Rotondi, submitted a letter to the Building Inspector with a request to join the 2nd and 3rd floors into a single large apartment.
9. On April 16, 1986, the Assistant Building Inspector issued a notice of violation of the Zoning Ordinance to Mr. Croom, the current property owner, for operating an illegal three family dwelling unit.
10. In 1992, the owners of the property, withdrew a Zoning Board of Appeals petition requesting a special permit to convert an existing two-family house into a three family dwelling unit
11. On November 17, 1993, Mr. Croom provided a letter to the Building Inspector that the tenant of the illegal third dwelling unit would be vacating the unit.

12. On July 8, 1998, the Building Inspector issued a notice of violation for the operation of an illegal three family dwelling unit.
13. On July 20, 1998, Mr. Croom provided a letter to the Building Inspector stating that the current use of the building was used as a two-family dwelling unit.
14. On July 16, 2015 the Building Inspector sent a letter of required inspection to Mr. Croom following a complaint of an illegal third dwelling unit. Following an inspection, a notice of a Zoning Violation was sent to Mr. Croom with a determination that there is an illegal third floor dwelling unit.
15. The use of a three-family dwelling unit is not a grandfathered use.
16. Mr. St. Pierre, Zoning Enforcement Officer/Building Inspector requests that the petitioner submit building plans to be approved by the Building Inspector, pull a building permit and remove the illegal third dwelling unit.
17. The requested relief, if granted, would appeal the opinion of the Zoning Enforcement Officer and allow the Petitioner to continue to occupy a third dwelling unit in an R2 Zoning District.
18. At the public hearing four (4) members of the public spoke in opposition to, the petition and no members of the public spoke in support of 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 records of the City of Salem Building Department, the application narrative, and the Petitioner's presentation and public testimony, makes the following **findings** that the proposed project does not meet the provisions of the City of Salem Zoning Ordinance:

On the basis of the above statements of facts and findings, the Salem Board of Appeals voted none (0) in favor and five (5) opposed (Ms. Curran, Mr. Copelas, Mr. Viccica, Mr. Watkins, Mr. Tsitsinos), to Appeal of the Decision of the Building Inspector to allow the use of a two-family dwelling unit as a three-family dwelling unit at the property of 1 MILK STREET (Map 35 Lot 553) (R2 Zoning District).

THE DECISION OF THE BUILDING INSPECTOR IS UPHELD.


Rebecca Curran, 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.