

City of Salem Zoning Board of Appeals
Meeting Minutes
February 19, 2020

A meeting of the Salem Zoning Board of Appeals (“Salem ZBA”) was held on Wednesday, February 19, 2020 in the first floor conference room at 98 Washington Street, Salem, Massachusetts at 6:30 pm.

Acting Chair Peter Copelas calls the meeting to order at 6:44 pm.

ROLL CALL

Those present were: Peter Copelas (acting Chair), Rosa Ordaz, Jimmy Tsitsinos, and Paul Viccica. Also in attendance were Brennan Corrison – Staff Planner, Steve Cummings – Building Inspector, and Jonathan Pinto – Recording Clerk. Those absent were: Mike Duffy (Chair) and Carly McClain.

REGULAR AGENDA

Location: **6 White Street (Map 41, Lot 285) (B1 Zoning District)**

Applicant: **Sandy J. Martin**

Project: A continuation of a public hearing for all persons interested in the petition of SANDY J. MARTIN for a variance per Section 3.2.4 *Accessory Buildings and Structures* to allow an accessory structure (an enclosure for trash and recycling bins) within the required front yard setback at 6 WHITE STREET (Map 41, Lot 285) (B1 Zoning District).

Documents and Exhibitions

- Application date-stamped October 16, 2019 and supporting documentation

Mr. Copelas introduces and describes the petition.

Motion and Vote: Mr. Viccica moves to continue the petition of Sandy J. Martin for a variance per Section 3.2.4 *Accessory Buildings and Structures* at the property 6 White Street in the B1 Zoning District until the next scheduled meeting of the Zoning Board on March 18, 2020. Mr. Tsitsinos seconds the motion. **The vote is four (4) in favor (Peter Copelas, Rosa Ordaz, Jimmy Tsitsinos, and Paul Viccica) and none (0) opposed. The motion passes.**

Location: **9 Boston Street (Map 25, Lot 39) (B1 and ECOD Zoning Districts)**

Applicant: **Kevin McCafferty**

Project: A continuation public hearing for all persons interested in the petition of KEVIN MCCAFFERTY for variances per Section 4.1.1 *Table of Dimensional Requirements* of the Salem Zoning Ordinance from maximum height of buildings (stories), minimum lot area, minimum lot area per dwelling unit, minimum depth of front yard, and minimum width of side yard and a variance from Section 5.1 *Off-Street Parking* to provide less than the required amount of parking to construct a three-story, three-family dwelling with four parking spots on the vacant lot at 9 BOSTON STREET (Map 25, Lot 39) (B1 and ECOD Zoning Districts).

Documents and Exhibitions

- Application date-stamped September 25, 2019 and supporting documentation

Mr. Copelas introduces and describes the petition.

Motion and Vote: Mr. Viccica moves to continue the petition of KEVIN MCCAFFERTY for variances per Section 4.1.1 *Table of Dimensional Requirements* of the Salem Zoning Ordinance from maximum height of buildings (stories), minimum lot area, minimum lot area per dwelling unit, minimum depth of front yard, and minimum width of side yard and a variance from Section 5.1 *Off-Street Parking* to provide less than the required amount of parking to construct a three-story, three-family dwelling with four parking spots on the vacant lot at 9 BOSTON STREET (Map 25, Lot 39) (B1 and ECOD Zoning Districts) until the next regularly scheduled meeting on March 18, 2020. Mr. Tsitsinos seconds the motion. **The vote is four (4) in favor (Paul Viccica, Jimmy Tsitsinos, Rosa Ordaz, and Peter Copelas) and none (0) opposed. The motion passes.**



Location: **7 Curtis Street (Map 35, Lot 339) (R2 Zoning District)**
 Applicant: **LH Capital Development, LLC**
 Project: **Note: The applicant has requested to continue to the regularly scheduled meeting on March 18, 2020.** A continuation of a public hearing for all persons interested in the petition of LH CAPITAL DEVELOPMENT, LLC for a special permit per Section 3.3.5 *Nonconforming Single- and Two- Family Residential Structures* of the Salem Zoning Ordinance for maximum height of buildings (stories) and minimum front and side yard setbacks to expand an existing nonconforming two-family home by raising the existing attic, changing the roof from gambrel to gable, and adding two dormers; by adding a story above the existing two-story rear addition; and adding egress steps and landings within required front and rear yard setbacks at 7 CURTIS STREET (Map 35, Lot 339) (R2 Zoning District).

Documents and Exhibitions

- Application date-stamped November 22, 2019 and supporting documentation

Mr. Copelas introduces and describes the petition.

Motion and Vote: Mr. Viccica moves to continue the petition of 7 Curtis Street for a special permit per Section 3.3.5 *Nonconforming Single- and Two- Family Residential Structures* of the Salem Zoning Ordinance for maximum height of buildings (stories) and minimum front and side yard setbacks to expand an existing nonconforming two-family home by raising the existing attic, changing the roof from gambrel to gable, and adding two dormers; by adding a story above the existing two-story rear addition; and adding egress steps and landings within required front and rear yard setbacks at 7 CURTIS STREET (Map 35, Lot 339) (R2 Zoning District) until the next regularly scheduled meeting on March 18, 2020. Mr. Tsitsinos seconds the motion. **The vote is four (4) in favor (Rosa Ordaz, Jimmy Tsitsinos, Paul Viccica and Peter Copelas) and none (0) opposed. The motion passes.**



Location: **17 Lovett Street (Map 17, Lot 46) (R2 Zoning District)**

Applicant: **Karen Prater as attorney-in-fact for property owner Arthur Herlihy**

Project: A public hearing for all persons interested in the petition of KAREN PRATER as attorney-in-fact for property owner ARTHUR HERLIHY for a special permit per Section 3.2.8 *Accessory Living Areas* of the Salem Zoning Ordinance to allow an accessory living area within the existing footprint of the single-family home at 17 LOVEITT STREET (Map 17, Lot 46) (R2 Zoning District).

Documents and Exhibitions

- Application date-stamped January 8, 2020 and supporting documentation

Mr. Copelas introduces the petition.

Karen Prater introduces herself and explains that the petition is to create an accessory living area that would constitute an in-law apartment in the basement. Ms. Prater indicates there already exists a finished area, and that the request is to have the zoning to allow it to be a recognized apartment.

Mr. Copelas discusses the requirements for a special permit regarding accessory dwelling units, and asks if Ms. Prater can speak to them for the record. Ms. Prater states she submitted the information in writing but is not prepared to speak to the criteria at the moment.

Ms. Ordaz asks about the entry location. Ms. Prater explains the entrance is at the stairway and demonstrates to the Board on floor plans. Ms. Ordaz notes that Section 3.7 of the ordinance states that “no separate entry to the accessory living area shall be permitted unless from existing entries from within the main dwelling from the back or from the side of the main dwelling”. Ms. Prater confirms the entrance is in the back.

Ms. Ordaz next asks how many parking spaces are available, and Ms. Prater indicates there are three (3) off-street parking spaces, which meets the requirement of 1.5 per unit. Ms. Ordaz asks about the number of utility accounts, and Ms. Prater states there is one electric account for the whole building, and no gas.

Mr. Copelas asks who will be living in the accessory dwelling, as the particular ordinance is specific with regards to who is able to, and what their role is in the family unit. Ms. Prater explains that she, her husband, and five (5) children will live in the main dwelling, and that her oldest son will reside in the apartment with his wife.

Ms. Ordaz contends that the accessory living area ordinance seems to be designed for an elderly person that needs care, as opposed to the ADU ordinance. She reads from the ordinance and asks the petitioner how the proposal fulfills the requirement. Ms. Prater explains that the proposal meets the requirements by way of the economic factor, as her son will be newly married and attempting to save up for a home of their own. Ms. Prater notes the high cost of living and says this would be a way to help them get on their feet and stay in the community.

Mr. Copelas asks if Ms. Prater’s son and his wife will be helping with the care of older residents in the house. Ms. Prater responds that they will not, and that she did not understand the ordinance was specifically for care of the elderly.

Mr. Corrison clarifies that the language in the ordinance states “older homeowners or other family members”.

Ms. Ordaz asks the rest of the Board if they have asked petitioners to define what an economic factor is, and how it would be demonstrated, as the other categories in the ordinance do not seem to fit the instant petition.

Mr. Copelas states that in previous petitions it has been addressed in the grounds presented to the Board, generally as assisting in the day to day activities of an older member. Mr. Copelas says if the petitioner can indicate that is what her son and his wife will be doing, they could go forward. Ms. Prater says she does not wish to lie to the board, and so could not state that in good faith.

Ms. Ordaz indicates the ADU ordinance currently in committee is more flexible in its requirements, and that her interpretation of this ordinance is that it is more about keeping the elderly in their homes. She adds that the ADU ordinance might be more appropriate for young families starting out and needing help. Ms. Prater opines that she thought the economic factor was addressed by her petition and that it would satisfy the requirement for the ordinance.

Mr. Copelas indicates there may be other options available. He explains that because the house is in the R2 district, the petitioner may want to get outside advice to confirm if she can apply to make it a two-family house, which would eliminate other strictures, but also might put on other restrictions. Another option he notes is to gamble on what the new ADU ordinance will ultimately be. Mr. Copelas acknowledges that the ordinance has failed in the past, but that if it passes it will have fewer restrictions than the ordinance here.

Mr. Viccica confirms the residents will be Ms. Prater’s son and his soon-to-be wife. Mr. Viccica asks if they will be assisting with yard work and home maintenance, and Ms. Prater indicates they will. Mr. Viccica opines that while this is not specifically for the elderly or an au pair, that this fulfills the gist of the requirements and that there is an economic benefit of Ms. Prater having her son live in the unit. Mr. Corrison reads from the ordinance noting other potential criteria (providing companionship, security and service, etc.) and adds that it can be read as broadly as the Board wishes.

Mr. Viccica asks if there is proof of ownership for the property, and Ms. Prater confirms. Mr. Copelas asks for clarity on the deed and ownership. Ms. Prater explains that the house is under her father’s name, who recently passed, but that she has power of attorney.

Mr. Copelas opens the floor to public comment, but there is none.

Ms. Ordaz asks about the square footage of the unit. Mr. Corrison estimates it to be around 524 square feet.

Mr. Copelas says he has no problem reading and interpreting the ordinance broadly. He notes that Ms. Ordaz’s points are accurate, but that he agrees with Mr. Viccica’s opinion that approval would not stray too far from the intent of the ordinance. Mr. Copelas reads through the criteria and states that they have been met by the petitioner.

Motion and Vote: Mr. Viccica moves to approve the petition of KAREN PRATER as attorney-in-fact for property owner ARTHUR HERLIHY for a special permit per Section 3.2.8 *Accessory Living Areas* of the Salem Zoning Ordinance to allow an accessory living area within the existing footprint of the single-family home at 17 LOVETT STREET (Map 17, Lot 46) (R2 Zoning District) subject to the following 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. A certificate of Occupancy is to be obtained.
5. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board.

Mr. Tsitsinos seconds the motion. **The vote is four (4) in favor (Peter Copelas, Rosa Ordaz, Jimmy Tsitsinos, and Paul Viccica,) and none (0) opposed. The motion passes.**

Location: **13 Cambridge Street (Map 25, Lot 566) (R2 Zoning District)**
Applicant: **Michael Sheriff**
Project: A public hearing for all persons interested in the petition of MICHAEL SHERIFF for a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* to expand a nonconforming single-family home by demolishing and replacing an existing rear addition within required side and rear yard setbacks at 13 CAMBRIDGE STREET (Map 25, Lot 566) (R2 Zoning District).

Documents and Exhibitions

- Application date-stamped January 14, 2020 and supporting documentation

Mr. Copelas introduces and describes the petition, noting that a continuance has been requested. Mr. Viccica recuses himself from this matter.

Motion and Vote: Ms. Ordaz moves to continue the petition of MICHAEL SHERIFF for a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* to expand a nonconforming single-family home by demolishing and replacing an existing rear addition within required side and rear yard setbacks at 13 CAMBRIDGE STREET (Map 25, Lot 566) (R2 Zoning District) until the next regularly scheduled meeting on March 18, 2020. Mr. Tsitsinos seconds the motion. **The vote is three (3) in favor (Peter Copelas, Rosa Ordaz, and Jimmy Tsitsinos) and none (0) opposed. The motion passes.**

Location: **230 Highland Avenue (Map 8, Lot 123) (B2, R1, and ECOD Zoning Districts)**
Applicant: **Brianna Sweet (Property Owner: Pep Boys - Manny Moe & Jack)**
Project: A public hearing for all persons interested in the petition of BRIANNA SWEET and property owner PEP BOYS - MANNY MOE & JACK for a special permit per Section 3.3.2 *Nonconforming Uses* of the Salem Zoning Ordinance to change or extend the use at 230

HIGHLAND AVENUE (Map 8, Lot 123) (B2, R1, and ECOD Zoning Districts) by adding another use (motor vehicle rental) to an existing nonconforming use (motor vehicle general and body repair).

Documents and Exhibitions

- Application date-stamped January 21, 2020 and supporting documentation

Mr. Copelas introduces and describes the petition, noting that a continuance has been requested.

Motion and Vote: Mr. Viccica moves to continue the petition of BRIANNA SWITT and property owner PEP BOYS for a special permit per Section 3.3.2 *Nonconforming Uses* of the Salem Zoning Ordinance to change or extend the use at 230 HIGHLAND AVENUE until the next regularly scheduled meeting on March 18, 2020. Mr. Tsitsinos seconds the motion. **The vote is four (4) in favor (Paul Viccica, Rosa Ordaz, Jimmy Tsitsinos, and Peter Copelas) and none (0) opposed. The motion passes.**

Location: **61 Bridge Street (Map 36, Lot 300) (B4 and ECOD Zoning Districts)**

Applicant: **61 Bridge Street LLC**

Project: A public hearing for all persons interested in the petition of 61 BRIDGE STREET LLC for a special permit per Section 3.3.2 *Nonconforming Uses* and a special permit per Section 3.3.3 *Nonconforming Structures* of the Salem Zoning Ordinance to convert one existing commercial unit in a mixed-use building into two residential units at 61 BRIDGE STREET (Map 36, Lot 300) (B4 and ECOD Zoning Districts).

Documents and Exhibitions

- Application date-stamped January 23, 2020 and supporting documentation

Mr. Copelas introduces the petition.

Robert Polansky introduces himself, noting he owns a property management company in Salem, and is a principle of JLP Construction Company. Mr. Polansky explains that he was hired by Mr. Bellini, the owner of 61 Bridge Street, after he had a fire in July. Mr. Polansky explains that during renovations and getting partial permits, Mr. Bellini told him he had difficulty renting the first floor of the building and that the space was not properly optimized, being a commercial unit in a mixed-use building. Mr. Polansky states Mr. Bellini would like to convert the commercial unit into two residential units.

Mr. Bellini discusses the changes he would like to make to the property, and that it makes sense to do all the work at once while finishing repairs to the second floor from the fire damage.

Mr. Polansky indicates the renovations will not only enhance the property, but also be better for the neighborhood and reduce traffic flow. He adds that there are eight (8) parking spaces (four tandem spots front to back).

Mr. Copelas notes that there are only four (4) legal parking spaces, as tandem spaces do not count.

Mr. Polansky continues, stating that there will be consistent use of the building, and that the property will be maintained better as two residential units, thus being better for the neighborhood.

Mr. Copelas asks for a description of the units being created. Mr. Polansky and Mr. Bellini clarify that the first floor is 2,800 square feet, and that it will be divided into a 1,200 square foot and a 1,600 square foot unit. The larger unit has three (3) bedrooms and the smaller would have two (2). Mr. Polansky adds that everything will be brand new, and there will be sprinklers throughout and a state of the art fire alarm system.

Mr. Viccica asks if the work is all internal or if there is external work being done as well. Mr. Polansky indicates that a new roof was put in along with new vinyl siding, and that new windows will go in soon. Mr. Viccica asks if the replacements will be in-kind, and Mr. Polansky confirms they will.

Mr. Viccica next asks about the building plan, and Mr. Polansky notes that currently there are two (2) units on the top floor and one commercial unit on the first floor, that is being proposed to be converted to two (2) additional units for a total of four (4). Mr. Viccica confirms that there are only four (4) parking spaces, but that six (6) are required for four (4) units. Mr. Viccica asks if they have had a surveyor come by to see if six (6) parking spots could fit in a way that does not require tandem parking. Mr. Polansky states they have not. Mr. Viccica and Mr. Polansky discuss additional parking options, and Mr. Viccica asks Mr. Polansky to provide a plot plan that might allow for two additional cars, pending a survey.

Mr. Copelas indicates the inadequate parking plan as designed is of concern, and that if that portion were off the table it would make it easier to consider allowing the two residential units. Mr. Polansky confirms that he would need six (6) parking spaces, and Mr. Copelas confirms that 1.5 spaces are required per unit, and that spaces cannot be tandem.

Mr. Tsitsinos asks where the trash and recycling barrels would go. Mr. Copelas states that should also be part of the plot plan. Mr. Polansky indicates he will include that.

Mr. Viccica says he is concerned about the survey and compares it to the property lines displayed on Google Maps. Mr. Polansky and Mr. Bellini look over the map and clarify the plot shape. Mr. Viccica indicates his concern is that the plot plan does not address multiple issues. He notes the petitioner would need to return to request a variance if six (6) parking spaces cannot be accommodated, and that the plot plan will need to show space for eight (8) rubbish barrels. Mr. Viccica maintains that not enough information has been provided for the Board to make a decision and he suggests continuing the petition

Mr. Copelas states the Board will likely give the petitioner an opportunity to update the petition and opens the floor to public comment.

Eileen Wright of 7 Cromwell Street introduces herself and notes that she abuts the property in question. Ms. Bright indicates that her concerns were the same ones raised by the Board, namely with respect to parking. She notes it is a narrow and dead-end street that will cause difficulties for neighbors if there is not sufficient parking. Ms. Bright adds that aside from the parking concern, it would be better to have apartments, which Salem needs, rather than a commercial unit, noting that the owner has historically had difficulty finding commercial tenants.

Amy McKeehan of 6 Cromwell Street introduces herself and states that she is a direct abutter as well. Ms. McKeehan states she is excited by the prospect of two additional rental units in Salem and adds that Mr. Bellini has been fair to his residents. Ms. McKeehan echoes the concerns of Ms. Wright and the Board regarding parking and hopes the petitioner can resolve that issue.

Mr. Copelas states he will entertain a motion to continue the petition.

Motion and Vote: Mr. Viccica moves to continue the petition of 61 BRIDGE STREET LLC for a special permit per Section 3.3.2 *Nonconforming Uses* and a special permit per Section 3.3.3 *Nonconforming Structures* of the Salem Zoning Ordinance to convert one existing commercial unit in a mixed-use building into two residential units at 61 BRIDGE STREET to the next regularly scheduled meeting on March 18, 2020 meeting. Ms. Ordaz seconds the motion. **The vote is four (4) in favor (Peter Copelas, Rosa Ordaz, Jimmy Tsitsinos, and Paul Viccica) and none (0) opposed. The motion passes.**

Location: **82-84 Congress Street (Map 34, Lot 218) (R3 Zoning District)**
Applicant: **Grindle Properties, LLC (Property Owner: Pequot Filling Station, Inc.)**
Project: A public hearing for all persons interested in the petition of GRINDLE PROPERTIES, LLC and property owner PEQUOT FILLING STATION, INC. for a special permit per Section 3.3.2 *Nonconforming Uses* of the Salem Zoning Ordinance to change from one nonconforming use (motor vehicle service and repair) to another nonconforming use (office, storage, warehousing and repair of equipment) at 82-84 CONGRESS STREET (Map 34, Lot 218) (R3 Zoning District).

Documents and Exhibitions

- Application date-stamped January 24, 2020 and supporting documentation

Mr. Copelas introduces the petition.

Kristin Kolick of Correnti & Darling LLP at 63 Federal Street in Salem introduces herself as attorney representing the petitioner, Grindle Properties LLC. Ms. Kolick indicates she is joined by co-council Joseph Correnti and Jeff Hooper, manager of Grindle Properties and president of Salem Laundry Inc.

Ms. Kolick explains that the property is located on Congress Street on the corner of Congress and Dow Street, and that it is currently known as the Pequot filling station and has been since the 1940's, with use dating back to 1947. Ms. Kolick indicates the property was initially used as a filling station, but since then it has been used for motor vehicle service and repair (oil changes, engine work, etc.). She notes the property is zoned R3 so there is currently no residential use, and that the proposal is to keep the property for commercial use.

Ms. Kolick maintains the Salem Laundry Company is interested in the property as a base of operations. The company owns several laundromats in the area, and this property would be used as space for offices, supply storage, and equipment repair. Ms. Kolick adds that they are a fourth generation Salem business, and that this would be one Salem business replacing another Salem business. Ms. Kolick notes the Salem Laundry Company formerly had its base of operations in the

City of Salem Zoning Board of Appeals
February 19, 2020 Meeting Minutes

space that is currently Kokeshi restaurant. Since then, the company has been seeking a space that would work well for them and is currently renting space in Lynn but would like to come back to Salem. Ms. Kolick contends that the spaces desired are already built, and that there may be reduced traffic and a reduction in the number of parked cars, as well as quieter operations than what exist there currently. Ms. Kolick states there will be no change to utilities, and that there would just be general maintenance and rehabilitation

Ms. Kolick goes on to explain that the mixed-use character of the neighborhood is well suited to the proposed type of business, listing mixed use abutters such as restaurants, markets, residential units, and parking lots. She adds there will be no impact to the natural environment, and that the exterior will be maintained and rehabbed. Ms. Kolick states the economic or fiscal impact would be positive by keeping jobs in Salem.

Mr. Viccica asks about the hours of operation, and Ms. Kolick states it would be seven days a week. Mr. Hooper says there will not be set hours, and that weekend use will be minimal. Mr. Viccica asks if it will be a 24-hour service, and Mr. Hooper states it will not. Mr. Viccica asks about deliveries, and Mr. Hooper indicates they would be during the day, and primarily during the week with only occasional instances on weekends. Mr. Hooper reiterates that this will not be for public access for a laundry facility, but main offices and storage, and that most operations and deliveries would occur between the hours of 7:00 AM and 5:00 PM. Mr. Viccica asks about the number of employees, and Mr. Hooper indicates there will be two (2).

Mr. Tsitsinos asks if there is outdoor storage, and Mr. Hooper indicates there is not.

Mr. Copelas asks if there are underground storage tanks on the property and Mr. Hooper says there are not. Mr. Copelas next asks about the large lot size with respect to the needs for the building, and if there will be ancillary uses for the additional parking spaces. Mr. Hooper states there is nothing proposed or planned at this time.

Mr. Viccica asks if an approval by the Board would vacate the prior 2018 ZBA approval for a different project, which was for 12 unit housing. Mr. Copelas and Mr. Corrison note the prior approval would be valid until August 2020. Ms. Kolick indicates the special permits would be expiring. Mr. Corrison clarifies that the approval was for variances for parking related matters, and that some components have expired. Ms. Kolick states that variances lapse after one year if rights are not exercised.

Ms. Ordaz asks about why the 12 unit development never happened. Ms. Kolick says she is not aware, as the current applicant and petitioner is new to the site. Mr. Copelas clarifies that this applicant and petition is unrelated.

Mr. Copelas opens the floor to public comment, but there is none.

Ms. Kolick says she would like to address any lingering concerns or questions the Board may have. Mr. Copelas states the use would be less intense than the prior use, and that he does not see any major issues with the proposal.

Mr. Viccica returns to the topic of the 2018 decision, and asks to clarify that it would not carry forward. Mr. Copelas confirms that the prior decision would be expired and void.

Motion and Vote: Mr. Viccica moves to approve the petition of GRINDLE PROPERTIES, LLC and property owner PEQUOT FILLING STATION, INC. for a special permit per Section 3.3.2 *Nonconforming Uses* of the Salem Zoning Ordinance to change from one nonconforming use (motor vehicle service and repair) to another nonconforming use (office, storage, warehousing and repair of equipment) at 82-84 CONGRESS STREET subject to the following standard conditions:

1. Petitioner shall comply with all city and state statutes, ordinances, codes, and regulations.
2. All requirements of the Salem Fire Department relative to smoke and fire safety shall be strictly adhered to.
3. Exterior finishes of the new construction shall be in harmony with the existing structure.
4. A certificate of Occupancy is to be obtained.
5. A certificate of Inspection 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.
7. All construction shall be done per the plans and dimension submitted to and approved by this Board. No change, extension, material corrections, additions, substitutions, alterations, and/or modifications to an approval by this Board shall be permitted without the approval of this Board, unless such change has been deemed a minor field change by the Building Commissioner in consultation with the Chair of the Board of Appeals.

Mr. Tsitsinos seconds the motion. **The vote is four (4) in favor (Rosa Ordaz, Jimmy Tsitsinos, Paul Viccica, and Peter Copelas) and none (0) opposed. The motion passes.**



Location: **4 Woodside Street (Map 17, Lot 204) (R2 Zoning District)**

Applicant: **North Ventures, Inc.**

Project: A public hearing for all persons interested in the petition of NORTH VENTURES, INC. for a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance to alter and enlarge the nonconforming two-family home at 4 WOODSIDE STREET (Map 17, Lot 204) (R2 Zoning District) by adding a second story.

Documents and Exhibitions

- Application date-stamped January 27, 2020 and supporting documentation

Mr. Copelas introduces the petition.

Attorney Bill Quinn of Tinti, Quinn, Grover & Frey introduces himself. Attorney Quinn states the petition is by North Ventures, owned by Mr. Potter who owns the property at 4 Woodside Street. Attorney Quinn describes the property as unusual because it is a small, single-story building on a lot with two (2) first floor adjacent apartments that each have one bedroom. He explains the property is surrounded on both sides by three-story multifamily buildings and 2.5 story single family homes. Attorney Quinn states the property is in an R2 zone and has four (4) existing parking spaces adjacent to the street on the front of the building.

Attorney Quinn states that the proposal is not to add any new dwelling units but will enlarge the building by adding a second story to add an additional bedroom to each of the two existing units to make them more family friendly.

Attorney Quinn expounds that the proposal falls under special permit Section 3.3.5, the expansion and enlargement of a one or two-family house, noting this is a two-family house that will remain as such, but with a new second story. Attorney Quinn states there are no proposed changes to the footprint, and he presents building/site plans with existing conditions and demonstrating parking. He adds that the second story will project a bit on one side, so it increases the non-conformity with respect to setback by a couple of feet.

Attorney Quinn speaks to the community benefit of having additional family-friendly housing, and addresses other criteria with respect to the special permit, noting that there are four (4) parking spaces which is more than necessary for the two units.

Mr. Copelas agrees that the building appears undersized compared to abutters but notes that this petition does not seem to include the documents demonstrating the elevation and streetscapes, only architectural drawings. Mr. Viccica confirms there is a requirement for petitions to demonstrate the elevation with respect to two abutting properties.

Mr. Corriston clarifies that the requirement noted by Commissioners Copelas and Viccica is only when seeking relief for height, but that such relief is not being sought here. Attorney Quinn adds that the building will only be approximately 24 or 25 feet high, slightly shorter than one neighboring building and slightly higher than another.

Mr. Viccica points out that the four (4) parking spaces would have cars over the curb a bit and asks if a 40 foot curb cut is being sought. Attorney Quinn explains the petitioner is not seeking any parking relief, and that the parking has functioned as is for decades with the parking situation grandfathered. There is a brief discussion about the potential for making a curb cut for aesthetic purposes. Mr. Copelas indicates the Board would have more to say on the matter if the proposal was to expand the number of units, but as it is staying a two-unit property he is less concerned. Mr. Viccica discusses the current condition and asks if there may be potential to consider another way to park the vehicles so that there is less of a presence on Woodside Street with respect to the rears of four (4) cars. Attorney Quinn says he understands the Board's concerns.

Mr. Copelas opens to the floor to public comment.

Mike LaPointe of 6 Woodside Street introduces himself as the property owner next door. Mr. LaPointe indicates he is fine with the proposal and that his only concern was the trees. Mr. LaPointe says he has been cutting the trees for years as they have been causing damage to his property. Attorney Quinn says his client has agreed to work with neighbors to remove trees that are a nuisance. Mr. Copelas adds that to the extent the trees go over property lines, there are laws that address those circumstances.

Motion and Vote: Mr. Viccica moves to approve the petition of NORTH VENTURES INC for a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance to alter and enlarge the nonconforming two-family home at 4 WOODSIDE STREET subject to the following 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. Exterior finishes of the new construction shall be in harmony with the existing structure.
6. A certificate of Occupancy 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.
8. All construction shall be done per the plans and dimension submitted to and approved by this Board. No change, extension, material corrections, additions, substitutions, alterations, and/or modifications to an approval by this Board shall be permitted without the approval of this Board, unless such change has been deemed a minor field change by the Building Commissioner in consultation with the Chair of the Board of Appeals.

Mr. Tsitsinos seconds the motion. **The vote is four (4) in favor (Paul Viccica, Jimmy Tsitsinos, Rosa Ordaz, and Peter Copelas) and none (0) opposed. The motion passes.**

Location: **1-3 Lussier Street (Map 32, Lot 185) (R2 Zoning District)**
Applicant: **Matthew Palumbo and Rosemarie Durning**
Project: A public hearing for all persons interested in the petition of MATTHEW PALUMBO AND ROSEMARIE DURNING for a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance to alter and enlarge the nonconforming two-family home at 1-3 LUSSIER STREET (Map 32, Lot 185) (R2 Zoning District) by adding a third-floor dormer.

Documents and Exhibitions

- Application date-stamped January 28, 2020 and supporting documentation

Mr. Copelas introduces the petition.

Attorney Bill Quinn introduces himself again, noting he is accompanied by project architect John Seger. Attorney Quinn indicates this proposal is to enlarge an existing two-family home by adding a dormer to the third level with no change in footprint. He explains the dormer will be built such that it extends a couple of feet farther toward the sideline on the right hand side of the property.

Mr. Seger introduces himself and presents plans showing the streetscape and neighborhood context of the existing property. Mr. Seger discusses the neighborhood characteristics, noting nearby homes are mostly 2.5 story, two-family homes with various types of dormers (gable, shed, etc.) throughout. He explains the dormer proposal is partially for symmetry, as one side already has a gable dormer, and he demonstrates the setbacks and site plan.

Mr. Seger states the property is currently 2.5 stories, and the dormer will make the property a three-story building. Mr. Seger presents diagrams of existing and proposed conditions, noting no changes are proposed to the front façade. He discusses details of the two units, as well as the existing gable dormer and the newly proposed dormer. Mr. Copelas asks if the dormers will be in place of two current skylights, and Mr. Seger confirms.

Mr. Seger notes they will be matching the existing vinyl seeding, and he goes on to demonstrate existing and proposed floor plans. The addition of the dormer will help create two proper bedrooms upstairs in the townhouse unit and allow for remodeling of an existing bathroom.

Mr. Tsitsinos asks for copy of the floor plan, and Mr. Copelas asks Attorney Quinn to address the special permit criteria. Attorney Quinn explains how the project meets the necessary criteria.

Mr. Tsitsinos asks if they will be adding a kitchen, and Mr. Seger says they are actually removing one, and that the end goal is creating two (2) bedrooms.

Mr. Copelas opens the floor to public comment but there is none.

Motion and Vote: Mr. Viccica moves to approve the petition of MATTHEW PALUMBO AND ROSEMARIE DURNING for a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance to alter and enlarge the nonconforming two-family home at 1-3 LUSSIER STREET (Map 32, Lot 185) (R2 Zoning District) by adding a third-floor dormer subject to the following 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. Exterior finishes of the new construction shall be in harmony with the existing structure.
6. A certificate of Occupancy 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.
8. All construction shall be done per the plans and dimension submitted to and approved by this Board. No change, extension, material corrections, additions, substitutions, alterations, and/or modifications to an approval by this Board shall be permitted without the approval of this Board, unless such change has been deemed a minor field change by the Building Commissioner in consultation with the Chair of the Board of Appeals.

Ms. Ordaz seconds the motion. **The vote is four (4) in favor (Peter Copelas, Rosa Ordaz, Jimmy Tsitsinos, and Paul Viccica,) and none (0) opposed. The motion passes.**

MEETING MINUTES

July 17, 2019

Acting Chair Copelas explains the Board has the July 17, 2019 meeting minutes to approve. Mr. Copelas asks Board members to review the minutes and notes he is fine with them.

Motion and Vote: Mr. Tsitsinos moves to approve the July 17, 2019 meeting minutes. Ms. Ordaz seconds the motion. **The vote is all in favor, the motion passes.**

OLD/NEW BUSINESS

Location: **38 Jefferson Avenue (Map 25, Lot 388) (B4 and R1 Zoning Districts)**
Applicant: **Witch City Gardens**
Description: A request for a six (6) month extension of Special Condition #3 in the August 1, 2018 Board Decision granting a special permit per Sections 6.10.4 and 6.10.9 to operate a licensed retail marijuana establishment and marijuana cultivation facility at 38 Jefferson Avenue. Special Condition #3 required that the applicant be issued a state license within six (6) months of the issuance of this special permit. This special condition stated that “A six (6) month extension can be granted by the Board of Appeals if good cause is shown.” Special Condition #3 was previously extended to August 1, 2019 and then to February 1, 2020 by the Board of Appeals.

Mr. Copelas introduces the item and notes that it is not a public hearing, and therefore the Board will not seek public comment but will act on the issue.

Tim Haigh of 38 Rear Ocean Avenue and Witch City Gardens introduces himself and explains that he is still in the application process with the state Cannabis Control Commission. Mr. Haigh notes they have been involved in several RFI’s and anticipate receiving a provisional license within the next ninety (90) days. Mr. Haigh says he hopes a six (6) month extension will therefore be sufficient.

Mr. Corriston explains that the Board can act on the issue and that the required finding is that good cause is shown.

Mr. Copelas states that the petitioner has shown good cause to go forward with granting a six (6) month extension.

Motion and Vote: Mr. Viccica moves to approve the request for a six (6) month extension of Special Condition #3 granting a special permit per Sections 6.10.4 and 6.10.9 to operate a licensed retail marijuana establishment and marijuana cultivation facility at 38 Jefferson Avenue. Ms. Ordaz seconds the motion. **The vote is four (4) in favor (Peter Copelas, Rosa Ordaz, Jimmy Tsitsinos Paul Viccica) and none (0) opposed. The motion passes**

Continuances & Additional Meeting:

Mr. Corriston notes that due to a number of continuances, it may make sense to have a special meeting on April 1, 2020 for the Board to address additional topics. Several Commissioners note they may not be able to attend the scheduled March meeting, but that they are fine with an additional meeting April 1st. There is a brief discussion about having five (5) commissioners and two (2) alternates by the time of the March meeting.

ADJOURNMENT

Motion and Vote: Mr. Viccica moves to adjourn the meeting and Mr. Tsitsinos seconds the motion. **The vote is four (4) in favor and none (0) opposed. The Motion passes.**

The meeting ends at 8:26 PM.

For actions where the decisions have not been fully written into these minutes, copies of the Decisions have been posted separately by address or project at:

<https://www.salem.com/zoning-board-appeals/pages/zoning-board-appeals-decisions-2020>

Respectfully submitted,
Brennan Corriston, Staff Planner