

City of Salem Zoning Board of Appeals
Meeting Minutes
March 20, 2019

A meeting of the Salem Zoning Board of Appeals (“Salem ZBA”) was held on Wednesday, March 20, 2019 in the first floor conference room at 98 Washington Street, Salem, Massachusetts at 6:30 pm.

Chair Mike Duffy calls the meeting to order at 6:30 pm.

ROLL CALL

Those present were: Mike Duffy (Chair), Peter A. Copelas, Jimmi Heiserman, Patrick Shea, and Paul Viccica. Also in attendance were: Brennan Corrison - Staff Planner, Tom St. Pierre - Building Commissioner, and Lorelee Stewart - Recording Clerk.

REGULAR AGENDA

Location: **80 Margin Street (Map 25, Lot 632) (R2 Zoning District)**

Applicant: **John Femino**

Project: A continuation of a public hearing for all persons interested in the petition of JOHN FEMINO to appeal two decisions of the Building Commissioner regarding 80 MARGIN STREET, NAPA (Map 25, Lot 632) (R2 Zoning District). Appeal #1: regarding the alleged violations of sign ordinances. Appeal #2: regarding the presence of the direct vent exhaust pipe (commercial high capacity heating exhaust) on the expansion wall allegedly violating the 1997 ZBA decision conditions.

Documents and Exhibitions

- Application date-stamped November 27, 2018 and supporting documentation

Attorney David L’Esperance, representing petitioner John Femino, discusses the petition. He notes that Mr. Femino has had ongoing issues with the owner of the NAPA building. Attorney L’Esperance states that there was a new heating system added to a new part of the NAPA building. Attorney L’Esperance states that one of the problems has been the noise with the exhaust pipe, which goes onto Mr. Femino’s side of the building. He notes that the Health Department has been on site and after NAPA did some work, the pipe still exceeds 10 decibels over the accepted limit.

Chair Duffy states there were two enforcement requests that were sent to the Building Department: one pertaining to an exhaust pipe, and one pertaining to signage. Two enforcement requests were denied by the Building Inspector, and the appeal has brought the petitioner before us tonight. He states that since Attorney L’Esperance started speaking about the vent, they should take that issue up first. Chair Duffy asks Attorney L’Esperance what his position is regarding whether the Building Inspector was incorrect.

Attorney L’Esperance responds that there is supposed to be a two-foot setback, and the wall is set back one and a half feet. He adds that “the noise level is the key thing.” He notes that Mr. Femino’s tenants and several other neighbors are in attendance, and there are three letters they can submit to the Board. Attorney L’Esperance states that Mr. Femino has done extensive research and apparently

the pipe is six inches too long. Attorney L'Esperance states that some neighbors do not understand why the heat could not be exhausted out on the other parking lot. He notes that the opposition's counsel states that the Board of Health was refused entry to come back and measure the sound of the pipe. Attorney L'Esperance says that that is not so; that Mr. Femino wanted them to come on the weekend to measure the ambient noise on a Sunday.

Board member Peter Copelas states to the chair that noise violations are not within the purview of this Board. He adds that they can discuss the setback issue, but it is not the Board's purview to be concerned with noise issue. The Chair states that he tends to agree. The Chair asks if there is more testimony on the vent.

Mr. Femino states that the vent is very unsightly, eight to nine feet high in the backyard facing outward, and it is what he sees. He states that they "used to have a green space out there," but now there is a "wall that the neighbors allowed back in 1997" "out of goodness to Mr. Fitzgerald [the owner of NAPA]." Mr. Femino states that as far as he knows, there was no heating system put in back then, and no heating plan submitted to the Board in 1997; he states that the HVAC plan is supposed to be submitted at the time. He states that as far as he knows, there was no heat in the addition for "all these years." He adds that they do not like the exhaust and his tenants and he are concerned about breathing. Mr. Femino adds that (the vent) is high volume and heats approximately five thousand square feet of fourteen-foot high space.

Chair Duffy asks if there are other questions from Board members. Mr. Copelas states to counsel that the Board has consistently understood vents to not have been considered a structure, and not being a structure therefore would not be subject to the setback violation. He asks Attorney L'Esperance to address this. Attorney L'Esperance states, "obviously we disagree. It is a part of the structure. It was done during construction, much like a chimney or siding or anything else that you'd put on the house as construction so I respectfully think it does fall under your purview." Board member Jimmy Tsitsinos states that he disagrees: it is part of the heating system and has nothing to do with the building.

Mr. Femino states that he submitted to the Board the definition of a structure, anything that is attached to the building, anything that goes down to the ground. He states that he is not sure the Board understood that in 1997, instead of a 10-foot side setback, the Zoning Board allowed a 2-foot setback. He notes that he submitted a measurement that was done with a recent survey that shows that the wall is one and a half feet away from the line; he states that anything that goes on the wall would be in violation automatically. Jimmy Tsitsinos states that the vent is not part of the structure. Attorney L'Esperance disagrees.

Chair Duffy asks for further questions from Board members; seeing none, he moves the discussion to the second appeal, regarding signage.

Attorney L'Esperance says that in a R2 district you are allowed one sign. Attorney L'Esperance states that there are signs in every window at 80 Margin Street. He adds that there is no bond, though there is supposed to be a bond filed with the City Clerk's office if there is that type of sign on the sidewalk. Mr. Femino states that there is confusion about what the sign is. He states that the square footage of the sign is measured by putting a rectangle around the letters; his contention is that the letters on the façade are considered to be square footage. He states that there is about 265 square feet of signage on the building, and the City allows 70 (square feet) per their formulas. He states that

they have submitted their application. He states that the frontage is 70 feet for that building, and according to that multiplier, there should be 70 square feet of sign. He states that if you consider the façade part of the sign, it is close to 600 square feet. He adds that there should only be one sign in a residential area.

Board member Peter Copelas asks Attorney L'Esperance if Mr. Femino is appealing the decision of the Building Inspector regarding that specific sign or the multitude of signs. Attorney L'Esperance responds, "the multitude of signs." He states that there should be only one sign and that they think the measurements were taken incorrectly.

Mr. Copelas notes that there is a six-year time limit in which to question the approval of the sign approved in 1993. Attorney L'Esperance agrees.

Attorney L'Esperance claims that work done in 2014 that was called a repair was not a repair but rather a new sign. He claims that it should have gone through the Planning Department in 2014 and if it had there would have been a public hearing.

Mr. Copelas asks if there is some evidence that the work done in 2014 was not a repair but was a new sign.

Mr. Femino states that he can present pictures. He states that they took letters off and took logos down and "put new stuff up." Mr. Copelas asks whether they were in the same place and of the same size. Attorney L'Esperance states "No." Mr. Femino states "they moved some of the letters" and discusses Section 4-54 of the Code of Ordinances as well as the square footage. Attorney L'Esperance presents a sign permit application file for a property on Highland Avenue.

Attorney L'Esperance states that NAPA Auto Parts did not use the correct form, which would have brought it to Planning Board. Building Commissioner Tom St. Pierre states to the Chair that it does not go to Planning Board, it goes to a staffer in Planning (Department) to review (the application) against the City sign ordinance. He states it does not go before Planning Board. Attorney L'Esperance states that if it is a new sign it goes to the Planning Board. Staff Planner Brennan Corrison and Mr. St. Pierre both state that that is incorrect. Mr. Femino states that a "new sign whether it's altered, repaired, or erected, is supposed to go Planning, and there's a specific form" which he says "was bypassed." Mr. Femino states that they are really appealing what went on in 2014 because the proper process wasn't adhered to, and it wasn't adhered to in 1993 either.

Mr. St. Pierre responds that sign permit applications are reviewed by a staff planner and do not go to Planning Board. Mr. Corrison adds that if there is a proposal for a nonconforming sign, there is a chance that it would be reviewed by the Planning Department and then sent to the Planning Board or the Zoning Board for further review, but for a standard sign permit application, review is by the Planning Department, then it is sent to the Inspectional Services Department.

Mr. St. Pierre states that he believes Mr. Femino was appealing the original NAPA sign (from 1993) when he filed the application and that he has added on since filing. He adds that it had gone well past the six years that the sign was appealable. Mr. St. Pierre states that he explained to Mr. Femino that the sign was free from enforcement under (MGL) 40A. He adds that no one here can represent what did or did not happen in 1993; they found a copy of a building permit, but no one knows that the application did not go to Planning.

Mr. Femino responds that he reviewed all the Planning Board minutes from 1993 and the sign did not go to the Planning Board.

Mr. St. Pierre responds that if the sign needed a dimensional variance, it would not have been before the Planning Board, but would have gone to the Zoning Board of Appeals after a denial by the Building Inspector.

Attorney L'Esperance asks Mr. St. Pierre how many signs are allowed in an R2 district at a business. Mr. St. Pierre responds that he does not know. Upon further questioning, Mr. St. Pierre states that he does not review the sign ordinances, they go to Planning for review, and if they are approved by Planning, he issues the building permit. He adds that he deliberately does not want to know, and that if there is a problem with the number or dimensions of signs, the Planning staff makes him aware and they take enforcement actions based on that.

Attorney L'Esperance states that Mr. Femino has been asking for several months if not longer that the signage be looked at and enforced, and that there is more than one sign there.

Board member Paul Viccica states that they need to clarify what the Board is being asked to do. He states that there are two appeals. There is discussion regarding which permit is being appealed. Mr. Viccica states that (the 2014 permit) seems to be a new piece of the issue. Tom St. Pierre notes that there is a permit from 2014 to repair the sign.

After more discussion, Chair Duffy brings up Attorney George Atkins. George Atkins of 65 Congress Street, representing Joseph Fitzgerald, owner and operator of the NAPA Auto Parts, presents a response to the petitioner's appeal.

Attorney Atkins states that there are four documents that are the most relevant to the issue: the building permit issued by a predecessor of Mr. St. Pierre in 1993 for the erection of a sign; the decisions by Tom St. Pierre regarding both the sign and the structural element of the exhaust; and an opinion from the City Solicitor. Attorney Atkins states that the very last sentence of the City Solicitor's opinion reads, "When, as in the case for the NAPA sign, a permit was issued for the construction of a sign, the six-year statute of limitations applies. In this case, the permit was issued in 1993. As such, the enforcement period ended in 1999." Attorney Atkins notes that that was 20 years ago. Attorney Atkins states that the same is true of the Building Inspector's decision about the structure. (This is discussed in the decision regarding Appeal #2).

Attorney Atkins states that he wanted to add context. He states that this is a matter of abutters disagreeing, and that he thinks the matter is before the Board because of him. Attorney Atkins notes that in fall of 2018, he sent a letter in which he demanded that Mr. Femino remove certain encroachments from the property of Mr. Fitzgerald. As a result of that, a lawsuit was brought by Mr. Femino, and Attorney Atkins and Mr. Fitzgerald are vigorously opposing that lawsuit. Attorney Atkins states that following that particular event, there has been what he considers to be a vendetta against Mr. Fitzgerald, and really verges on harassment. Attorney Atkins states, "It doesn't verge on it, it's harassment. Also that harassment has involved the Building Inspector, the Mayor, the Police Department, City Councilors, you name it." Attorney Atkins presents a demonstrative exhibit of a stack of paper including the emails sent to City Officials about this matter (presumably from Mr. Femino) from September, October, and November of 2019 [2018]. (This stack of paper is several

inches high, but was not submitted for the record.) Attorney Atkins adds that Mr. Fitzgerald is a gentleman who reaches out to his neighbors to solve their problems. Attorney Atkins adds, the real question is whether to support the decisions of the building inspector in denying enforcement in these two areas. Attorney Atkins states that the Board cannot solve their larger problem around these harassment issues, but they would hope the Board would decide to support the building inspector in his decision and the analysis of the City Solicitor of this matter.

Attorney L'Esperance responds that Mr. Femino has been in that house (90 Margin Street) since 1966 and that he would hope a public body does not hold anything against his client for exercising his rights to do research and ascertain public records. Attorney L'Esperance states that he would consider this prejudicial. He notes that Mr. Femino has done his research and has not been an easy client to deal with because he has done so much research. Attorney L'Esperance again claims that in 2014, they put up a new sign, it was not a repair.

Attorney Atkins states that the permit that was issued was for repair, and that his client has told him that is what they did. He adds that they repaired an existing sign, and it is exactly the same as it was before the repair. He states that they had to remove some rot and replace some letters that had blown off, but it is the same sign repaired as was issued in 1993.

Chair Duffy opens the hearing for public comment.

Tom Cammarda of 35 Endicott Street and owner of 76 Margin speaks. He states that he has lived here for over 30 years. He says Mr. Fitzgerald is a great neighbor. He states none of his residents at 76 Margin Street have complained about exhaust noise and adds the owner of NAPA is good person to deal with.

Joe Gagnon of 8 Prescott Street a direct abutter states that the exhaust from the vent pipe is marginal. He questions the residential address of the petitioner.

Curtis Sullivan of 6 Prescott Street states that he has no problem with vent. He says, when I close my door I cannot hear the vent.

Graham Morris of 90 Margin Street says the vent noise can be loud on weekends and he is concerned about breathing exhaust.

Mr. Femino responds stating that he lives at 90 Margin Street and disputes testimony given by several neighbors saying that the exhaust is not an issue. He states that some neighbors have complained to him about the noise and exhaust.

Chair Duffy asks whether Mr. Femino was present and occupying and owning the property in 2014, when the sign was repaired. Mr. Femino states that he was, and that he asked if there was a permit and they said there was a permit. Chair Duffy asks, "But there was no appeal filed in 2014, '15, '16, or '17?" Attorney L'Esperance responds, "No." Mr. Femino states that he did not appeal because they told him there was a permit.

Chair Duffy reads from several letters:

- Joe Cultrera states that he supports the goals of minimizing disturbances however it's achievable and believes that there should be the ability to rent the upstairs apartment without having a tenant complain about noise of neighboring businesses during or after hours.
- Sarah Staats of 12 Winthrop Street states she is in favor of the sign being appealed and dislikes the exhaust from the vent pipe.
- Chair Duffy notes that he received another letter but the name is blacked out, so he does not read this letter.
- Marilyn Khoury of 83 Summer Street disagrees with the appeal. She states NAPA is a good neighbor.
- Nancy Perroni of Summer Street says she disagrees with Mr. Femino about the signage and exhaust pipe.
- Marie Munroe 96 Margin says she disagrees with the appeal and has no issue with the exhaust pipe.
- Kevin Wessell of 5 Prescott Street disagrees with Mr. Femino's appeal and has no issue with the sign or the exhaust pipe.
- Jen Wessell of 5 Prescott Street states the same: she disagrees with the appeal and has no issues with the sign or the exhaust pipe.

Brennan Corriston notes that there are two earlier letters from Jennifer and Kevin Wessell. Attorney Atkins asks the Chair if he could clarify the vote. Attorney Atkins states that there are two decisions of the building inspector: one is a denial of enforcement because of the statute of limitations, and the other is a denial of enforcement on the basis that there is no structure involved. So a vote no is a vote to support the building inspector and not allow the appeal to be reopened.

Chair Duffy closes the public hearing. The Board discusses the vent pipe.

Chair Duffy states that there is a timing issue with the vent pipe. He adds that the Building Inspector's opinion, which the Building Inspector states has been consistent, is that the vent pipe itself does not constitute a structure that would come within the ambit of zoning enforcement on the setback issue. Board member Jimmy Tsitsinos states that he agrees with that. Chair Duffy notes that the points about noise and exhaust are not the Board's jurisdiction.

Chair Duffy reviews the procedure for the vote, noting that the motion is made in the affirmative; a vote in the affirmative is in favor of the petitioner to overturn the Building Inspector's decision. A negative vote is not in favor of the petitioner and ultimately would uphold the Building Inspector's decision. Peter Copelas adds that there is a requirement of four votes in the affirmative to overturn the decision of the Building Inspector. Brennan Corriston wants to clarify which members are voting; alternate member Paul Viccica states that he will not be voting.

Motion and Vote (vent pipe): Peter A. Copelas moves to approve the petition of John Femino in his appeal of the Building Commissioner's decision regarding the direct vent exhaust pipe. Jimmy Tsitsinos seconds the motion. **The vote is none (0) in favor and five (5) (Peter A. Copelas, Mike Duffy (Chair), Jimmi Heiserman, Patrick Shea, and Jimmy Tsitsinos) opposed. The motion fails.**

The Board discusses the appeal regarding signage. Chair Duffy states, as he reads the enforcement response that Tom (St. Pierre) wrote, he addressed a sign that was erected pursuant to a building permit issued in 1993. Chair Duffy notes that the Board has the letter from town Counsel providing the statutory reference and the case law with respect to what the enforcement powers are. Chair Duffy adds, “It would appear to me that any issue with respect to that sign and that building permit falls outside of the statute of limitations, and my sense is that that’s correct.”

Peter Copelas states that there has not been adequate evidence presented that the 2014 sign is a new sign. Mr. Copelas adds that the building permit is for the repairs, and the repairs can involve substantial repairs, and there’s been no indication that it was anything other than that; therefore, the decision from 1993 certainly seems to be the guiding decision here.

Chair Duffy adds that while this technically does not become a statute of limitations issue, it concerns him that with respect to the repair of the sign, the work took place in 2014 and it only became an issue in 2018. Chair Duffy adds, while he understands that that would not technically be barred if that had been a new permit, under the circumstances that it was a repair, and if there were certainly the same avenues in 2014, 2015, 2016, and 2017 to raise concerns that would have been perhaps more timely than what the Board is hearing now.

Chair Duffy states that he would take a motion.

Motion and Vote: Peter A. Copelas moves to approve the appeal of the decision of the Building Inspector regarding the alleged violations of sign ordinances. Jimmy Tsitsinos seconds the motion. **The vote is none (0) in favor and five (5) (Jimmy Tsitsinos, Patrick Shea, Jimmi Heiserman, Mike Duffy (Chair), and Peter Copelas) opposed. The motion fails.**

Location: **26 Cross Street**
Applicant: **Liann DiMare**
Project: **The applicant has requested a continuation to the regularly scheduled meeting on April 17, 2019** of a continuation of a public hearing for all persons interested in the petition of LIANN DIMARE for a special permit per Section 15-6 (d) of the Salem Code of Ordinances to allow the continued operation of one non-owner occupied short-term rental unit in the two-family house at 26 CROSS STREET (Map 36, Lot 57) (R2 Zoning District).

Location: **82 Federal Street**
Applicant: **Liann DiMare**
Project: **The applicant has requested a continuation to the regularly scheduled meeting on April 17, 2019** of a continuation of a public hearing for all persons interested in the petition LIANN DIMARE for a special permit per Section 15-6 (d) of the Salem Code of Ordinances to allow the continued operation of one non-owner occupied short-term rental unit in the two-family house at 82 FEDERAL STREET (Map 26, Lot 631) (R2 Zoning District).

Peter A. Copelas asks Chair Duffy if they should ask if there is anyone here for applications “C” and “D” (26 Cross Street and 82 Federal Street). Chair Duffy announces that the applicant for those two agenda items – 26 Cross Street and 82 Federal Street – has asked for a continuance to the next meeting. He asks for a motion to continue the public hearings for Liann DiMare’s two applications to the next regularly scheduled meeting on April 17, 2019.

Motion and Vote: Peter A. Copelas moves to continue the two public hearings for 26 Cross Street and 82 Federal Street to the next regularly scheduled meeting on April 17, 2019. The motion is seconded by Jimmy Tsitsinos. **The vote is five (5) in favor (Mike Duffy (Chair), Jimmi Heiserman, Patrick Shea, Jimmy Tsitsinos, and Peter A. Copelas) and none (0) opposed.**

Location: **15 Salem Street (Map 34, Lot 321) (R3 Zoning District)**
Applicant: **Juan Figueroa**
Project: A continuation of a public hearing for all persons interested in the petition of JUAN FIGUEROA for a special permit per Section 3.3.3 *Nonconforming Structures* and variances per Section 4.1.1 *Table of Dimensional Requirements of the Salem Zoning Ordinance* for minimum lot area and minimum lot area per dwelling unit to allow the use of the existing third story as a third unit in the two-family home at 15 SALEM STREET (Map 34, Lot 321) (R3 Zoning District).

Documents and Exhibitions

- Application date-stamped January 10, 2019 and supporting documentation

Petitioner Juan Figueroa and his daughter, Yandi Figueroa, have returned with additional information. They explain to the Board that their hardship is that they are being taxed as a three-family house. The property is in the R3 zoning district and they should be allowed zoning relief. Mr. St. states that he has visited the property and confirms that the third floor unit has been there for a long time. The Board reviews the application packet and agrees that relief can be granted for a structure which has a financial hardship.

The Board had previously asks for a plot plan or a site visit and a reason for hardship and have received both.

Chair Duffy opens the hearing for public comment; there is none.

Motion and Vote (Special Permit): Peter A. Copelas moves to approve the petition of Juan Figueroa for a special permit per Section 3.3.3 *Nonconforming Structures* to allow the use of the existing third story as a third unit in the two-family home at **15 Salem Street**, subject to the following terms, conditions, and safeguards. Jimmy Tsitsinos seconds the motion. **The vote is unanimous with five (5) in favor (Mike Duffy (Chair), Jimmi Heiserman, Patrick Shea, Peter A. Copelas, and Jimmy Tsitsinos) and none (0) opposed.**

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. A Certificate of Occupancy is to be obtained.
4. A Certificate of Inspection 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.

Motion and Vote (Variances): Peter A. Copelas moves to approve the petition of Juan Figueroa for variances per Section 4.1.1 *Table of Dimensional Requirements* of the Salem Zoning Ordinance for minimum lot area and minimum lot area per dwelling unit to allow the use of the existing third story as a third unit in the two-family home at 15 SALEM STREET (Map 34, Lot 321) (R3 Zoning District), subject to the following terms, conditions, and safeguards. Jimmy Tsitsinos seconds the motion. **The vote is unanimous with five (5) in favor (Mike Duffy (Chair), Patrick Shea, Jimmy Tsitsinos, Jimmi Heiserman, and Peter A. Copelas) and none (0) opposed.**

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. A Certificate of Occupancy is to be obtained.
4. A Certificate of Inspection 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.

Location: **42 March Street (Map 36, Lot 218) (R2 Zoning District)**
Applicant: **Susan Trocki Hallam**
Project: A public hearing for all persons interested in the petition of SUSAN TROCKI HALLAM for a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance to alter an existing nonconforming structure by adding a 9' by 12' deck, requiring relief from maximum lot coverage, to the existing two-family home at 42 MARCH STREET (Map 36, Lot 218) (R2 Zoning District).

Documents and Exhibitions

- Application date-stamped January 31, 2019 and supporting documentation

Petitioner Susan Trocki Hallam speaks about investments she has made in what she states will be a historic home soon. She submits to the Board three letters from neighbors in support of her petition, from Gregory A. Grant (40 March Street), Mary K. Mendell (38 March Street), and William H. and Karen L. Parsons (41 March Street).

The Board reviews the drawing of the deck she wants to build. Peter Copelas asks if there is an existing deck. The petitioner responds that there is a 39" by six foot deck. Mr. Copelas asks if the existing deck will stay. The petitioner states that the new deck will replace the current deck.

Chair Duffy opens the hearing for public comment.

Gary Gill of 12 Pope Street asks about the square footage of the yard and asks about what is proposed. The Board shows the plot plan to Gary Gill; the petitioner explains the proposal.

Tom St. Pierre clarifies for the Board that the relief being requested for this project is small.

Chair Duffy states that the deck is close to the center of the yard and is not affecting any side or front setbacks, and will still leave about nine (9) feet to the rear yard. The petitioner notes that the deck will be a maximum of 9' by 12'.

Chair Duffy states that minimum relief is being requested for this dimensional issue and that this is a relatively modest proposal. He reviews the special permit criteria.

Motion and Vote: Jimmy Tsitsinos moves to grant a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance to alter an existing nonconforming structure by adding a 9' by 12' deck, requiring relief from maximum lot coverage, to the existing two-family home at 42 MARCH STREET (Map 36, Lot 218) (R2 Zoning District), subject to the following terms, conditions, and safeguards. Peter A. Copelas seconds the motion.

The vote is unanimous with five (5) in favor (Peter A. Copelas, Patrick Shea, Mike Duffy (Chair), Jimmi Heiserman, and Jimmy Tsitsinos) and none (0) opposed.

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 Inspection 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.

Location: **24 Hawthorne Boulevard (Map 35, Lot 270) (B5 Zoning District)**

Applicant: **Brian Burns**

Project: A public hearing for all persons interested in the petition of BRIAN BURNS for a special permit per Section 15-6 (d) of the Salem Code of Ordinances to allow the continued operation of five non-owner occupied short-term rental units in the ten-unit apartment building at 24 HAWTHORNE BOULEVARD (Map 35, Lot 270) (B5 Zoning District).

Documents and Exhibitions

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

Petitioner Brian Burns discusses the five short-term rental units. He states that he does well with the location. He states that the units bring revenue to the City and that his guests have a lighter impact on the neighborhood. Mr. Burns explains that there are ten units in his building, five of which are short-term rentals. He says his units are very small efficiency units which lend themselves to use as short-term rentals. Mr. Burns states that the units used as short-term rentals are Units #1, 4, 8, 9, and 10.

Peter Copelas asks about prior use as a short-term rental. Mr. Burns replies that the units have been used as short-term rentals and cites evidence of this in his application.

Chair Duffy asks the petitioner to describe the units. The petitioner notes that they are studio or one-bedroom apartments, each with its own kitchenette and one bathroom and shower stall. The petitioner describes the units as little efficiency studio apartments.

There is discussion about which cutoff date applies to the application deadline. Mr. Corrison reads a memo from the City Solicitor clarifying the date being used as a cutoff to apply for a special permit. In part, this memo reads, "To read all of the sections of the ordinance sections together and avoid any conflict between the provision calling for an April 15, 2019 implementation date and the '60 days of passage' language in Section 15-6 d., a reasonable interpretation would be to allow any eligible owners to file a petition requesting a special permit no later than 60 days after the implementation date – on or before June 15, 2019."

Chair Duffy opens the hearing for public comment.

Gary Gill of 12 Pope Street states that he is in favor of Airbnb but thinks this is more like a small hotel.

Bruce Greer, a tenant of Mr. Burns', states that he is in favor of the petition.

Mitch Kyle, a twelve-year resident in Mr. Burns' building, speaks highly of Mr. Burns.

Leland Hussy states that Salem is a destination spot. This location is great and he is in favor.

Chair Duffy reads from two letters in opposition to the petition. He reads from a letter from Flora Tonthat of 30 Northey Street: She is against the proposal. Mr. Burns has more rooms than she does in her bed and breakfast. The City demands more from bed and breakfast owners than owners of short-term rentals such as regulations to comply with parking and fire and she wants an even playing field. She states that she has added opposition to 24 Hawthorne Boulevard's five units.

Chair Duffy reads from a letter from Jeff Cohen of 12 Hancock Street: He is against the special permit because bed and breakfasts have stronger requirements they must comply with, often for the very same type of accommodation. This site has inadequate parking and there is a housing crisis in Salem. Short-term rentals make that worse.

Mr. Burns notes that there were letters of support included with his application. Chair Duffy states that there was one letter from Melissa Gibson and another from Jennifer Sampson, both very much in favor of the application.

Gary Gill asks for clarification about when this many units becomes a hotel. Mr. Copelas explains that the ordinance gave no number and recaps the ordinance. He adds that Mr. Burns' units seem to fit the ordinance.

Mr. St. Pierre tells Mr. Burns to follow up with him because there may code issues.

Peter Copelas review the special permit criteria, reading from the petitioner's Statement of Grounds.

Motion and Vote: Peter A. Copelas moves to approve a special permit for a special permit per Section 15-6 (d) of the Salem Code of Ordinances to allow the continued operation of five non-owner occupied short-term rental units (Units #1, 4, 8, 9, and 10) in the ten-unit apartment building at 24 HAWTHORNE BOULEVARD (Map 35, Lot 270) (B5 Zoning District), subject to the following terms, conditions, and safeguards. The motion is seconded by Peter A. Copelas. **The vote is unanimous with five (5) in favor (Jimmy Tsitsinos, Jimmi Heiserman, Patrick Shea, Mike Duffy (Chair), and Peter A. Copelas) and none (0) opposed.**

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. A Certificate of Occupancy is to be obtained.
4. A Certificate of Inspection 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.

Location: **25 Calabrese Street (Map 25, Lot 400) (R1 Zoning District)**

Applicant: **Doug Little**

Project: A public hearing for all persons interested in the petition of DOUG LITTLE for a special permit per Section 3.3.5 Nonconforming Single- and Two-Family Residential Structures of the Salem Zoning Ordinance to extend an existing nonconforming structure by adding a second story to the existing single-family home at 25 CALABRESE STREET (Map 25, Lot 400) (R1 Zoning District).

Documents and Exhibitions

- Application date-stamped January 31, 2019 and supporting documentation

Architect David Stuhlsatz, representing petitioner Doug Little (who is not present), presents plans and elevations and discusses the proposal. Mr. Stuhlsatz notes that they will be replacing siding, roofing, and probably all of the windows.

Chair Duffy what the maximum height of the project is. Mr. Stuhlsatz states that the height will be 27 feet to the ridgeline.

Paul Viccica asks about the current layout on the first floor. Mr. Stuhlsatz explains that the house currently has three small bedrooms; the new layout will have three bedrooms on the second floor with a bathroom and probably a laundry room, and the first floor will have a kitchen, living room,

larger dining area, and what is legitimately considered a fourth bedroom but could be used in another capacity. The basement is currently unfinished and there are no plans to finish the basement. Mr. Stuhlsatz notes that he will add a small roof over the front entry, but it will be conforming to the front yard setback.

Chair Duffy opens the hearing for public comment.

One member of the public asks about the square footage of the yard and asks about what is proposed. The Board shows the plot plan to this member of the public and Mr. Stuhlsatz explains the proposal.

Tom St. Pierre states that before 2009, when the regulations were re-codified, this would have been allowed without a special permit.

Chair Duffy discusses the special permit criteria.

Motion and Vote: Jimmy Tsitsinos moves to grant a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance to extend an existing nonconforming structure by adding a second story to the existing single-family home at 25 CALABRESE STREET (Map 25, Lot 400) (R1 Zoning District), subject to the following terms, conditions, and safeguards. Peter A. Copelas seconds the motion. **The vote is unanimous with five (5) (Peter A. Copelas, Mike Duffy (Chair), Jimmi Heiserman, Patrick Shea, and Jimmy Tsitsinos) in favor and none (0) opposed.**

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. A Certificate of Inspection is to be obtained.
8. Petitioner shall obtain street numbering from the City of Salem Assessor's Office and shall display said number so as to be visible from the street.
9. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board.

Location: **414 Lafayette Street (Map 32, Lot 169) (R1 Zoning District)**
Applicant: **Matthew Keane**

Project: A public hearing for all persons interested in the petition of MATTHEW KEANE to amend the special permit granted by the Zoning Board on January 3, 2018, in order to allow enclosure of rear egress; to allow a full, unfinished basement instead of a 4 foot crawl space; and to remove the special requirement of a 6 foot wooden fence from the special permit, for the two-family home at 414 LAFAYETTE STREET (Map 32, Lot 169) (R1 Zoning District).

Documents and Exhibitions

- Application date-stamped January 29, 2019 and supporting documentation

Petitioner Matthew Keane explains his requests and the situation. He notes that he had all but one neighbor in support during the process. He shows his plans to the board and discusses the 24' by 24' garage. He discusses the issue with the fence. There is a 6 ft wooden fence at 416 Lafayette. He says neighbors at 416 Lafayette don't want a fence so he will put in 6 ft arborvitae instead. He describes plans to the Board. He says he wanted open egress but this was not feasible. He also had to have a foundation put in.

Chair Duffy asks about the rear egress. Mr. Keane explains that between the existing house and the addition, the area was an indentation where the original deck and stairs (to access the second floor) were. It was originally proposed to use half the space for stairs, and the other half for a bulkhead to access the basement. Starting construction revealed that they would not be able to access the basement as planned. Now, Mr. Keane states that he could still proceed with the stairs outside the house and weatherize the stairs, but he thinks it will look better to have an enclosed egress and it would not negatively affect anyone.

Peter Copelas asks about the current status of the project. Mr. Keane explains that the addition is framed and is enclosed and waterproofed with zipped plywood. Mr. Copelas asks if he has dug the basement. Mr. Keane states that the basement has been dug but he has not put a floor down. Mr. Keane states that the basement is just an enclosed space now.

Paul Viccica asks Mr. Keane about the fence. Mr. Keane states that he had paid in August to remove an old metal fence between 414 and 416 Lafayette Street. Mr. Keane states that the neighbors at 416 Lafayette Street claimed ownership and called the Inspectional Services Department. The metal fence was not removed. Mr. Keane states that he did not think putting a fence next to the metal fence, as well as a cedar, six-foot-high fence that is being built by the neighbors at 416 Lafayette Street, made sense. Mr. Keane states that he is flexible; he'd like to have the metal fence removed and do something.

There is discussion between the Board and Mr. Keane regarding the fence and the right-of-way. Paul Viccica notes that the arborvitae are proposed to be located 2 feet from the right of way. Mr. Viccica states that Mr. Keane can put his own fence parallel to the neighbor's fence assuming there is enough room. Mr. Viccica notes that planting arborvitae would be four to six feet in diameter by the time they mature, meaning the right-of-way would be reduced in width.

Mr. Viccica states that reducing the right-of-way would be an issue. Mr. Copelas states that unless you move the right-of-way, the mature arborvitae will impede the right-of-way.

The Board urges Mr. Keane to choose what he plans to do about the fence. Mr. Keane states that he will build the fence. Tom St. Pierre asks to clarify that the fence would be built in compliance with the original decision. Mr. Keane responds that he will just put the fence up next to the metal one.

Chair Duffy opens the hearing for public comment.

Gary Gill of 12 Pope Street says it's too bad you can't come to agreement and suggests Mr. Keane take his neighbors out to dinner.

Phil Moran of Lafayette Street states that Mr. Keane took what was a neighborhood blight. He expresses his support of him improving the property.

Besty Merry of 413 Lafayette speaks in favor of solving this issue. She states that it has been like the Hatfields and McCoys in the neighborhood and it has to stop.

Kristin Lewis of 416 Lafayette Street notes that the right-of-way goes over the curb where the driveway meets the road and stated that Mr. Keane tried to remove the fence without consulting them, and that the fence has been damaged; she stated that she prefers that Mr. Keane build the fence. Kristin Lewis also states that she would like clarification on the driveway and on the basement or crawl space under the garage, which she did not see any drawings for.

Fabio Bardini of 416 Lafayette Street states that Mr. Keane did not meet all the special conditions of the special permit before being issued the building permit. He states that the driveway and parking should be on the plot plan. He questions the process for Mr. Keane seeking permission to build the full basement after receiving the special permit. He notes damage to their fence and discusses curb cuts. Chair Duffy states that Mr. Keane has stated that he will build the fence. Fabio Bardini also states that he would like to confirm that this will still be a garage with strictly storage room above as per the January 3, 2018 decision. He speaks in opposition to the basement under the garage and rear egress and the enclosure of the rear egress.

Carol Moran speaks in favor of Mr. Keane's petition. She says the neighborhood was very involved in the planning of this project.

Kristin Lewis speaks again about neighbors disagreeing.

Gary Gill of 12 Pope Street urges the neighbors to work it out.

Mr. Keane says he spoke to inspectors about the right of way. The Board wants to know which plan he submitted because some are marked and one isn't. They want to know if the easement is recorded. Mr. St. Pierre says that everything in the plan looks good except at the end of driveway, there is a curb cut issue. The plot plan will need to be redrawn and resubmitted. The Board asks Mr. Keane if he would modify his plans. Mr. St. Pierre states that the options are either to remove that petition and have the petitioner apply for a curb cut, or for Mr. Keane to have a surveyor re-draw the right-of-way on the plan to reflect the curb cut and record that plan. Mr. Copelas states that it will be Mr. Keane's responsibility to do so.

Peter Copelas states that one of the public comments asked about the second floor of the garage. Mr. Copelas notes that the special conditions require that the second floor be used as storage only

and that the roof not be used as a roof deck and that there be no railings; anything more is an enforcement issue.

Chair Duffy stated that they have taken care of the fence issue; what the Board is left with is modification of the rear egress and the change for the basement. Board member Jimmy Tsitsinos stated that he thinks it is a good idea to enclose the egress.

Mr. Keane states that the code says you have to go four feet down for the basement. He states that he dug deeper or cast deeper walls, and it would be a significant process to utilize the basement at this point.

Mr. Copelas suggests amending the petitioner's request to remove the fence request and take a vote on the request to modify the previous decision based on the two remaining issues (the rear egress and the full basement). Mr. Viccica adds that there should be a special condition that Mr. Keane update the plot plan.

Motion and Vote: Peter A. Copelas moves to approve the petition of Matthew Keane to amend the special permit granted by the Zoning Board of Appeals on January 3, 2018 to allow the enclosure of the rear egress and to allow a full, unfinished basement instead of a four-foot crawl space for the two-family home at 414 LAFAYETTE STREET (Map 32, Lot 169) (R1 Zoning District), subject to the following terms, conditions, and safeguards. Jimmy Tsitsinos seconds the motion. **The vote is unanimous with five (5) in favor (Jimmi Heiserman, Mike Duffy (Chair), Peter A. Copelas, Patrick Shea, and Jimmy Tsitsinos) and none (0) opposed.**

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. 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.

Special Conditions:

1. The petitioner shall have a surveyor re-draw the easement that was recorded in Book 32645 Page 182 to reflect the end of the driveway lining up with the existing curb cut. The petitioner shall re-record this easement.

Location: **181 Marlborough Road (Map 10, Lot 16) (R1 Zoning District)**
Applicant: **William Craig**

Project: A public hearing for all persons interested in the petition of WILLIAM CRAIG for a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance to extend the existing nonconforming two-family home and exceed maximum height of buildings (stories) by demolishing the existing second story, replacing the second story, and adding a third story at 181 MARLBOROUGH ROAD (Map 10, Lot 16) (R1 Zoning District).

Documents and Exhibitions

- Application date-stamped January 30, 2019 and supporting documentation

Petitioner William Craig speaks about his proposal saying we want to expand and redesign our home. Architect Eric Jacobson says the second floor doesn't have a lot of headroom as he explains how they will build up. He says that the third floor attic will be a master bed and bath for 50% of space. Egress will be maintained. All siding will be the same and we will replace windows.

Mr. Jacobson takes questions from the board. The Board asks if the property has 2 units. Mr. Jacobson responds in the affirmative.

Chair Duffy opens the hearing for public comment.

Chair Duffy reads an email, brought by the petitioner, from Toni and Gus Macione of 185 of Marlborough Road in support of the project, which stated that they cannot make the meeting but that they wish the applicant the best of luck; to inform the Board that they are in full support of the project and they are happy the applicant has chosen to invest in this home.

There is discussion among Gary Gill of 12 Pope Street, the petitioner, and the designer about curb appeal. Paul Viccica notes that all comments should go through the Chair.

Mr. St Pierre asks what year the house was built. Mr. Jacobson responds "1931," but noted that could be off by a year.

Chair Duffy reviews the criteria for a special permit.

Motion and Vote: Peter A. Copelas moves to approve the petition of William Craig for a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance to extend the existing nonconforming two-family home and exceed maximum height of buildings (stories) by demolishing the existing second story, replacing the second story, and adding a third story at 181 MARLBOROUGH ROAD (Map 10, Lot 16) (R1 Zoning District), subject to the following terms, conditions, and safeguards. Jimmy Tsitsinos seconds the motion. **The vote is unanimous with five (5) in favor (Mike Duffy (Chair), Peter A. Copelas, Jimmi Heiserman, Jimmy Tsitsinos, and Patrick Shea) and none (0) opposed.**

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. 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.

Location: **9 Parallel Street (Map 23, Lot 141) (R2 Zoning District)**

Applicant: **Christopher Kinnon**

Project: A public hearing for all persons interested in the petition of Christopher Kinnon for a special permit per of 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance to extend the existing nonconforming structure by adding an attached 18' by 18' garage (with a room over it) along the existing nonconforming front yard setback which would create a new nonconformity in side yard setback at the single family home at 9 PARALLEL STREET (Map 23, Lot 141)(R2 Zoning District).

Documents and Exhibitions

- Application date-stamped February 2, 2019 and supporting documentation

The petitioner Christopher Kinnon discusses the proposal. Mr. Kinnon notes that he has appeared before the Conservation Commission. He describes the addition as a one-car garage. He notes that the existing side entrance to the house would be removed. Mr. Kinnon adds that the plans submitted with the petition show the roofline going above the existing house; this was an architectural error, and the roofline of the addition will align with the roofline of the existing house. He states that the siding and roofing of the addition will match with the existing building.

Chair Duffy asks what will go in the space over the garage. Mr. Kinnon explains that it will be an enclosed room, not a kitchen or a bathroom.

Chair Duffy opens the hearing for public comment; there is none.

Chair Duffy asks about the side of the house where the addition is proposed. The petitioner explained that the area is currently a concrete patio and a driveway.

Chair Duffy reviews the special permit criteria.

Motion and Vote: Jimmy Tsitsinos moves to approve the petition of Christopher Kinnon for a special permit per of 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance to extend the existing nonconforming structure by adding an attached 18' by 18' garage (with a room over it) along the existing nonconforming front yard setback which would create a new nonconformity in side yard setback at the single family home at 9 PARALLEL STREET (Map 23, Lot 141)(R2 Zoning District), subject to the following terms, conditions and

safeguards. Patrick Shea seconds the motion. **The vote is unanimous with five (5) in favor (Jimmi Heiserman, Peter A. Copelas, Mike Duffy (Chair), Patrick Shea, and Jimmy Tsitsinos) and none (0) opposed.**

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. A Certificate of Inspection is to be obtained.
8. Petitioner shall obtain street numbering from the City of Salem Assessor's Office and shall display said number so as to be visible from the street.
9. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board.

Location: **38 Jefferson Avenue (Map 25, Lot 388) (B4 and R1 Zoning Districts)**

Applicant: **Witch City Gardens**

Project: 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 (separately for both the retail marijuana facility and the marijuana cultivation facility) required that the applicant be issued a state license within six (6) months of the issuance of this special permit. This special condition states that "A six (6) month extension can be granted by the Board of Appeals if good cause is shown."

Documents and Exhibitions

- Extension request dated February 1, 2019 and supporting documentation

Chair Duffy states that he does not have any questions. He notes that the Board did have that condition in the special permit. Brennan Corrison states that the only requirement is that the Board makes a finding that there is "good cause" for the extension. Chair Duffy asks the petitioner if it is a Host Community Agreement that is holding things up at this point. Tim Haigh of Witch City Gardens states that the Host Community Agreement was executed at the end of December, so the application is currently before the CCC (Cannabis Control Commission). Chair Duffy states that he does not think there is any issue; he would be happy to take a motion.

Motion and Vote: Peter A. Copelas moves to approve the request of Witch City Gardens 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 (Map 25, Lot 388) (B4 and R1 Zoning

Districts), subject to all of the conditions from the previous approval. The motion is seconded by Patrick Shea. **The vote is unanimous with five (5) in favor (Peter A. Copelas, Mike Duffy (Chair), Jimmi Heiserman, Patrick Shea, and Jimmy Tsitsinos) and none (0) opposed.**

Location: 297 Highland Avenue (Map 8, Lot 130) (B2 and ECOD Zoning Districts)
Applicant: Atlantic Medicinal Partners, Inc.
Project: Request for a six (6) month extension of special conditions #2 and #3 in the June 20, 2018 Board Decision granting a special permit per Section 6.10.4 to operate a licensed retail marijuana establishment at 297 Highland Avenue. Special Condition #2 required that a community host agreement be executed with the City within six (6) months of issuance of the special permit. Special Condition #3 required that the applicant be issued a state license within six (6) months of the issuance of this special permit. Both special conditions states that “A six (6) month extension can be granted by the Board of Appeals if good cause is shown.”

Documents and Exhibitions

- Extension request dated February 6, 2019 and supporting documentation

Chair Duffy states that there is a letter from counsel. He asks attorney Jesse Alderman if this is the same issue as the previous petition – a time lag on the Host Community Agreement and now before the CCC. Attorney Alderman says that is correct.

Motion and Vote: Peter A. Copelas moves to approve the request of Atlantic Medicinal Partners, Inc. for a six (6) month extension of special conditions #2 and #3 in the June 20, 2018 Board Decision granting a special permit per Section 6.10.4 to operate a licensed retail marijuana establishment at 297 HIGHLAND AVENUE (Map 8, Lot 130) (B2 and ECOD Zoning Districts), subject to the conditions of the previous special permit approval. The motion is seconded by Patrick Shea. **The vote is unanimous with five (5) in favor (Jimmy Tsitsinos, Patrick Shea, Jimmi Heiserman, Mike Duffy (Chair), and Peter A. Copelas) and none (0) opposed.**

Location: 3 Dodge Street (Map 34, Lot 401) (B5 Zoning District)
Applicant: CTDW LLC
Project: Request for a six (6) month extension of special condition #3 in the August 29, 2018 Board Decision granting a special permit per Sections 6.10.4 and 9.4 to operate a licensed retail marijuana establishment at 3 Dodge Street. 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 states that “A six (6) month extension can be granted by the Board of Appeals if good cause is shown.”

Documents and Exhibitions

- Extension request dated February 15, 2019 and supporting documentation

Thomas Alexander, the attorney for CTDW, asks for an extension. He explains that they received their HCA in December and filed with the Cannabis Control Commission. They are waiting for the Cannabis Control Commission to approve their application.

Motion and Vote: Peter A. Copelas moves to approve the request of CTDW LLC for a six (6) month extension of special condition #3 in the August 29, 2018 Board Decision granting a special permit per Sections 6.10.4 and 9.4 to operate a licensed retail marijuana establishment at 3 DODGE STREET (Map 34, Lot 401) (B5 Zoning District), subject to the conditions from the previous special permit from August 29, 2018. The motion is seconded by Jimmy Tsitsinos. **The vote is unanimous with five (5) in favor (Peter A. Copelas, Mike Duffy (Chair), Jimmi Heiserman, Patrick Shea, and Jimmy Tsitsinos) and none (0) opposed.**

Location: **37 Roslyn Street (Map 33, Lot 139) (B4 Zoning District)**

Applicant: **Chris Hinchey**

Project: A public hearing for all persons interested in the petition of CHRIS HINCHEY for a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance to construct third story dormers at the existing two-story nonconforming two-family home at 37 ROSLYN STREET (Map 33, Lot 139) (B4 Zoning District).

Petitioner Chris Hinchey speaks about the petition. He wants to build two dormers. He notes that other houses in the neighborhood have similar shed dormers. He reviews the criteria for a special permit. Mr. Hinchey states that he wants to improve the space so he can make it more spacious and comfortable for a renter. Mr. Hinchey says providing a nicer rental unit will have a positive social impact. His plans will not affect parking since he has had someone living there before. He adds that utilities will be the same: there was no heating system when he bought the house, and when he installed a heating system, he accounted for the third floor. Mr. Hinchey states that there will be gutters so the drainage should not be affected. He states that there will be tax benefits for Salem.

Chair Duffy opens the hearing for public comment.

Zac Brown of 37 Roslyn Street, first floor states that he is in favor because Mr. Hinchey is a good landlord who takes care of his property.

Mr. St. Pierre notes that this proposal will not add any dwelling units; this is just an expansion of the second floor unit into the third floor as a master bedroom with a bathroom.

Motion and Vote: Peter A. Copelas moves to approve the petition of CHRIS HINCHEY for a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance to construct third story dormers at the existing two-story nonconforming two-family home at 37 ROSLYN STREET (Map 33, Lot 139) (B4 Zoning District), subject to the following terms, conditions, and safeguards. Jimmy Tsitsinos seconds the motion. **The vote is unanimous with five (5) in favor (Peter A. Copelas, Mike Duffy (Chair), Jimmi Heiserman, Patrick Shea, and Jimmy Tsitsinos) and none (0) opposed.**

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. 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.

MEETING MINUTES

Chair Duffy asks if there is anything to add with the minutes. Brennan Corriston notes that everyone should have the latest version of the minutes. There are no comments.

Motion and Vote: Peter A. Copelas makes a motion to approve the meeting minutes from January 16, 2019. The motion is seconded by Jimmy Tsitsinos. **The vote is unanimous with five (5) (Mr. Copelas, Mr. Duffy, Mr. Heiserman, Mr. Tsitsinos and Mr. Shea) in favor and none (0) opposed.**

OLD/NEW BUSINESS

2019 ZBA Application Package and Fee Schedule

The Chair suggests that these discussions should be tabled.

Motion and Vote: Motion is made by Mr. Copelas to table the discussion about the application package and fee schedule to the next meeting. The motion is seconded by Mr. Shea. **The vote is unanimous with five (5) (Mr. Copelas, Mr. Duffy, Mr. Heiserman, Mr. Tsitsinos and Mr. Shea) in favor and none (0) opposed.**

ADJOURNMENT

Motion and Vote: Jimmy Tsitsinos moves to adjourn the meeting. Patrick Shea seconds the motion. **The vote is unanimous with five (5) in favor (Peter A. Copelas, Mike Duffy (Chair), Jimmi Heiserman, Jimmy Tsitsinos, and Patrick Shea) and none (0) opposed.**

The meeting ends at 9:30 pm.

City of Salem Zoning Board of Appeals
March 20, 2019 Meeting Minutes

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-2019>

Respectfully submitted,
Brennan Corrison, Staff Planner