

**City of Salem Zoning Board of Appeals**  
**Meeting Minutes**  
April 1, 2020

A special meeting of the Salem Zoning Board of Appeals (“Salem ZBA”) was held on Wednesday, April 1, 2020 via remote participation at 6:30 pm. Instructions for participation were posted on the City of Salem website.

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

Chair Duffy explains that pursuant to Governor Baker’s March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §18, and the Governor’s March 15, 2020 Order imposing strict limitations on the number of people that may gather in one place, the Zoning Board of Appeals meeting scheduled for Wednesday, April 1<sup>st</sup> at 6:30 pm is being held remotely. Specific information and the general guidelines for remote participation by members of the public and/or parties with a right and/or requirement to attend this meeting is posted on the City of Salem website, at <https://www.salem.com/zoning-board-appeals>.

**ROLL CALL**

Those present (via virtual attendance) were: Mike Duffy (Chair), Peter Copelas, Rosa Ordaz, Carly McClain, Steven Smalley and Paul Viccica. Also in attendance were Brennan Corrison – Staff Planner, Tom St. Pierre – Building Commissioner, and Jonathan Pinto – Recording Clerk. Those absent were: Jimmy Tsitsinos.

Mr. Corrison explains how remote participation will work and how members of the public can comment in the virtual meeting setup.

**REGULAR AGENDA**

- Location: **7 Orange Street (Map 35, Lot 366) (R2 Zoning District)**
- Applicant: **Scott Perry**
- Project: A public hearing for all persons interested in the petition of SCOTT PERRY for a variance per Section 3.2.4 *Accessory Buildings and Structures* of the Salem Zoning Ordinance from minimum setbacks for an accessory building or structure to build a 10’ x 16” one-story garage at 7 ORANGE STREET (Map 35, Lot 366) (R2 Zoning District).

Documents and Exhibitions

- Application date-stamped January 29, 2020 and supporting documentation

Chair Duffy introduces the petition.

Mr. Perry introduces himself and discusses his application. Mr. Perry explains he has an old shed that is falling down and proposes to construct a one-story garage in its place. He describes the existing setbacks and property, which is a four-family home.

Mr. Perry describes the hardships and special conditions related to his requested variance. He notes the lot is small and has been unchanged since the house was constructed in the late 1700’s.

Mr. Perry describes the existing 8' x 6' shed that is seven feet tall, located one foot off the Southern property line and seven feet from main structure. The existing structure is already nonconforming in two ways with respect to setback and proximity to the main structure.

Mr. Perry continues to explain his proposal to construct a garage that is 16' x 10' and 11 feet tall to replace the "dilapidated" shed. Mr. Perry notes the garage would be 1.5 feet from the Eastern and Southern property lines, respectively. He explains certain precautions to ensure the construction will not affect the neighboring Custom House.

Mr. Perry contends that neighbors are fine with the proposal, and that it would allow for better maintenance of the main house, including needed clapboard replacement/repair. The proposal would build an appropriate auxiliary structure, as the current shed is not big enough to store maintenance materials such as side boards.

Mr. Perry explains that due to a sloping lance the garage will be three feet taller than the existing shed, but will not be visible from the street. The proposal would eliminate the nonconformity with respect to main structure proximity and would not create additional nonconformities. Mr. Perry states the materials for the proposed structure would mimic the main structure and maintain period details, noting that old restored windows would face the neighboring Custom House. The structure would be in line with neighborhood characteristics.

Next, Mr. Perry discusses the plot plan and demonstrates photos of the current conditions, the proposed structure, as well as views of and from abutting properties. He notes that to comply with all setback requirements, the proposed structure would need to be in the center of the small property, which would render the yard unusable.

Chair Duffy opens the floor to questions and comments from the Board.

Mr. Copelas states that the conditions discussed by the applicant are for a special permit not a variance and notes other missing elements of the proposal. Mr. Copelas explains that the City Solicitor's guidance on variances reflect three requirements, one of which is the existence of circumstances concerning soil condition, shape or topography, or conditions affecting the structures which especially affect that land but not others in the zoning district. Mr. Copelas maintains that a small lot size does not qualify as a shape exemption. The second requirement is demonstrated hardship, where literal enforcement of the ordinance would cause substantial hardship, financial or otherwise. Mr. Copelas acknowledges enforcement would certainly be an inconvenience, but says he is not convinced that a hardship exists. Mr. Copelas contends that the third requirement, the ability to grant without substantial detriment or derogation to the public good, can be met but that he is having a difficult time with the other two requirements.

Mr. Viccica asks for clarification on the use of the proposed structure, and for the applicant to discuss the limitations on the use of the property that would result from setback requirements.

Mr. Perry clarifies that there is a financial hardship, as he cannot hire someone to maintain the main building and needs to maintain it himself to keep it in proper shape. Mr. Perry goes on to explain that he needs somewhere he can store something longer than an eight-foot board in order to preserve the property. Mr. Perry indicates that all sides of the main building have failings that need

to be addressed, and that the proposed auxiliary building would make it possible to do the work himself. Mr. Perry notes that other abutting properties have structures for maintenance, and that to put the garage in the middle of the yard would render the yard useless and undesirable for renters, particularly those with dogs or kids.

Mr. Copelas states that the financial aspect has been addressed, but notes that the fact that it is similar to others in the neighborhood would be more relevant if requesting a special permit, adding that the bar is higher for a variance approval. Mr. Copelas again references the three requirements for a variance, and states that while he is sympathetic to what the applicant is trying to do, he is not sure if the requirements are met, particularly the first requirement.

Chair Duffy and Mr. St. Pierre discuss minimum space requirements between buildings and clarify that the requirement is ten feet for an accessory structure. Mr. Perry joins the discussion as it moves to potential alternative location options for the structure, and again notes that the only option that complies with all requirements would be to have it in the center of the yard. Mr. Corrison notes that the existing shed is seven feet away from the main building.

Mr. Perry discusses the topographical conditions and notes that the plot slopes. He states that he chose the lowest point/corner of the lot for the proposed structure to minimize the visual height impact. He discusses erosion and drainage issues as support for his proposed location as well. Mr. Perry also mentions the existence of retaining walls on abutting properties.

Mr. Viccica asks Mr. Copelas to reiterate the City Solicitor memo requirements. Mr. Copelas notes that the new information regarding the retaining walls may meet one of the requirements. Mr. Perry explains the retaining walls are located along the Southern and Eastern sides of the property, and he discusses the erosion and drainage conditions in more detail. Mr. Copelas reads from the requirements, and notes to Mr. Viccica that the topography, particularly unusual rock formations or slopes could meet the criteria of the first requirement. Mr. Viccica says he is more concerned with the second requirement regarding a demonstration of hardship. Mr. Viccica asks if all three need to be met, and Chair Duffy responds that they do.

Chair Duffy reminds the Board that a variance can also consider conditions affecting the main structure, and that they have primarily been discussing the lot and land. Mr. Duffy states that the house was built in the 1700's long before zoning, and notes that the plot plan shows a lot that is smaller than what is normally seen in R2 Zoning districts., with a dwelling that takes up a substantial portion. Chair Duffy opines that these could be factors considered in determining if there are special circumstances affecting the structure and land. He acknowledges the difficulties created by complying with all setbacks, and that the outbuilding may not be very functional if located to comply with all requirements. Mr. Perry confirms, adding that space would be needed in the yard to work on the main structure maintenance, and that locating the outbuilding in the middle of the yard would be impractical.

Mr. Viccica comments that if the City Solicitor's guidelines are to be applied so strictly and not recognize that lot size is a factor in being able to maintain a property, then almost no variances would be approved in Salem. Mr. Viccica states he believes it is within the Board's judgement to evaluate this as a hardship, both the inability to locate an accessory structure within the setback requirements and also use the property and maintain it, due to its shape and size. He indicates he is not in favor of a strict interpretation of the guidelines.

Mr. Copelas says he does not disagree necessarily, and that he is open to considering the topographical and other conditions affecting the structure. Mr. Viccica asks for the third requirement to be read again and Mr. Copelas complies. They both agree there is no debate regarding the third requirement.

Mr. Corrison introduces, and Chair Duffy reads, two letters from abutters in support of the proposal. One is from property owner Julia Coffin of 180 Derby Street and one is from Perry O'Conner of 7 Orange Street Apt. 3.

Chair Duffy opens the floor to public comment but there is none.

Chair Duffy notes there has been an interesting discussion on the proposal, and that there are points that speak to special conditions, including the age and size of the building, the size and shape of the lot, and difficulties relating to existing setbacks. He also acknowledges that there is a financial and practical use hardship associated with not having an auxiliary building that can be used for maintenance. Mr. Duffy states that dimensional relief could also be granted without nullifying or substantially derogating from the intent of the district or intent of the zoning ordinance in general. Mr. Viccica agrees with the Chair's findings.

**Motion and Vote:** Mr. Viccica moves to approve the petition of SCOTT PERRY for a variance per Section 3.2.4 *Accessory Buildings and Structures* of the Salem Zoning Ordinance from minimum required setbacks for an accessory building or structure to build a 10' x 16" one-story garage at 7 ORANGE 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. Petitioner shall obtain a building permit prior to beginning any construction.
4. Exterior finishes of the new construction shall be in harmony with the existing structure.
5. Certificate of Occupancy is to be obtained.
6. 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.
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. Copelas seconds the motion. **The vote is five (5) in favor (Peter Copelas, Mike Duffy (Chair), Rosa Ordaz, Paul Viccica, and Carly McClain) and none (0) opposed. The motion passes.**

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Location:       **30 Northey Street (Map 36, Lot 20) (R2 Zoning District)**  
Applicant:       **Flora Tonthat**

**Project:** A public hearing for all persons interested in the petition of FLORA TONTHAT for a special permit per Section 3.3.4 *Variance Required* of the Salem Zoning Ordinance to modify a nonconforming bed & breakfast by adding a one-story covered entry and a one-story box-bay window addition at the same nonconforming distance within a required side yard at 30 NORTHEY STREET (Map 36, Lot 20) (R2 Zoning District).

#### Documents and Exhibitions

- Application date-stamped January 29, 2020 and supporting documentation

Chair Duffy introduces the petition.

Lee Dearborn introduces himself on behalf of the applicant and explains the existing site plan for Ms. Tonthat's bed and breakfast. Mr. Dearborn states the applicant is looking to create an addition that will become a covered entry providing handicap access with a ramp that would extend to the back of the property. Mr. Dearborn further explains the proposal and shows photos of existing conditions. He explains the proposal includes the removal of an existing door and stairwell, to be replaced with a window. Mr. Dearborn shows architectural site plans and discusses them, identifying what will be removed as part of the proposal.

Mr. Dearborn states that the use of the building is nonconforming, and thus requires a special permit. He notes the proposal would allow Ms. Tonthat to continue to live at and operate the bed and breakfast. Mr. Dearborn shares elevation drawings and renderings of the proposed entry and box-bay window. Federal style paneling and detailing will be used, consistent with the existing structure and aesthetic.

Mr. Copelas says he is familiar with the building and that the plans are a nice improvement. Mr. Copelas indicates the Federalist front portion is going to be restored, and notes that the existing second entrance looks out of place, so removing it would be beneficial. He adds that the new entrance would be an attractive upgrade. Mr. Copelas maintains the property is well taken care of and shows pride of ownership.

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

Mason Wells, City of Salem staff, states that he is watching the meeting. Brennan Corrison states that he will make him a cohost.

Mr. Viccica asks if a phone line is open that is separate from the panelists and attendees. Mr. Corrison states he believes they would show up with the attendees. Mr. Wells states that you would see phone callers on the attendee list as a phone number. Mr. Copelas asks if we can mute people calling in on the phone; Mr. Corrison responds in the affirmative.

Mr. Duffy discusses the criteria for the special permit and notes that they are met by the applicant.

**Motion and Vote:** Mr. Copelas moves to approve the petition of FLORA TONTHAT for a special permit per Section 3.3.4 *Variance Required* of the Salem Zoning Ordinance to modify a nonconforming bed & breakfast by adding a one-story covered entry and a one-story box-bay window addition at the same nonconforming distance within a required side yard at 30 NORTHEY 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. A Certificate of Inspection is to be obtained.
8. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board.
9. 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 five (5) in favor (Steven Smalley, Paul Viccica, Rosa Ordaz, Mike Duffy (Chair), and Peter Copelas) and none (0) opposed. The motion passes.**

Location: **138 Bridge Street (Map 35, Lot 43) (R2 and ECOD Zoning Districts)**  
Applicant: **Ricardo Garcia**  
Project: A public hearing for all persons interested in the petition of RICARDO GARCIA for a special permit per Section 3.3.5 *Nonconforming Single- and Two- Family Residential Structures* of the Salem Zoning Ordinance to expand a nonconforming two-family structure by adding a side dormer at 138 BRIDGE STREET (Map 35, Lot 43) (R2 and ECOD Zoning Districts).

#### Documents and Exhibitions

- Application date-stamped January 29, 2020 and supporting documentation

Chair Duffy introduces the petition.

Mr. Garcia introduces himself and explains his proposal to build a side dormer. He explains the existing conditions, and that he would like to have better use of the third floor and build a bathroom for the master bedroom. Mr. Garcia presents exterior drawings of the proposed dormer as well as floor plans. He adds that the proposed dormer would also allow for construction of a closet.

Mr. Viccica asks if the dormer has been built already, and Mr. Garcia indicates it has and that he is attempting to go through the process to make the dormer legal. Mr. Viccica asks if there are windows on abutting neighbors that are affected by the dormer construction, and Mr. Garcia indicates there are not.

Mr. Viccica asks if Mr. St. Pierre inspected the construction, and Mr. Garcia says he has not. Mr. Viccica asks if there is a skylight, and Mr. Garcia confirms, indicating it is about six feet away from the neighboring building. Mr. Viccica asks for Mr. St. Pierre's input with respect to fire rating for

walls when buildings are in close proximity. Mr. St. Pierre says he does not know off hand, but that it would have to be inspected/examined. Mr. Garcia explains the work is finished but that he is open to an inspection if necessary.

Mr. Viccica points out the difficulties inherent in performing construction prior to obtaining variances, and notes that the applicant may have to open up the walls and roof structures, and that skylight may need to be ultimately removed.

Mr. Copelas expresses his discomfort with approving projects after having already been built, but says that he finds no issue with the proposal overall and that otherwise it would be approved if it had come before the Board prior to actual construction.

Mr. Viccica notes that aesthetically he would have preferred the dormer on the other side of the building and that he still has some concerns about the proximity to the neighboring property. He contends that adherence to safety codes and construction quality are unknown at this time.

Mr. Viccica asks if the property is occupied by Mr. Garcia or a tenant, and he says there is a tenant.

Mr. St. Pierre asks if the expansion added an additional unit to the building, and Mr. Garcia says no, it is still a two-family.

Chair Duffy opens the floor to public comment but there is none.

Chair Duffy reiterates the discomfort with the fact that the dormer is already constructed, but notes it is a small addition that meets the special permit criteria. He goes through the criteria, and states that there will still need to be an inspection.

**Motion and Vote:** Mr. Copelas moves to approve the petition of RICARDO GARCIA for a special permit per Section 3.3.5 *Nonconforming Single- and Two- Family Residential Structures* of the Salem Zoning Ordinance to expand a nonconforming two-family structure by adding a side dormer at 138 BRIDGE 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. A Certificate of Inspection is to be obtained.
8. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board.
9. 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.

And the following special condition:

1. Petitioner shall cooperate with the building inspector by making available all aspects of the construction, including behind walls, light fixtures, and ceiling additions to allow the building commissioner to adequately observe the method and means of construction within thirty (30) days.

Ms. Ordaz seconds the motion. **The vote is five (5) in favor (Rosa Ordaz, Paul Viccica, Mike Duffy (Chair), Carly McClain, and Peter Copelas) and none (0) opposed. The motion passes.**

Location: **138 North Street (Map 27, Lot 272) (R2 and ECOD Zoning Districts)**  
Applicant: **Thomas J. Pelletier**  
Project: A public hearing for all persons interested in the petition of THOMAS J. PELLETIER for a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance to expand a nonconforming two-family home by adding a rear shed dormer at 138 NORTH STREET (Map 27, Lot 540) (R2 Zoning District).

#### Documents and Exhibitions

- Application date-stamped February 18, 2020 and supporting documentation

Chair Duffy introduces the petition.

Mr. Pelletier introduces himself and explains the proposed addition of a shed dormer to the existing two-family home. He notes it is to provide adequate headroom for an existing master bedroom.

Mr. Pelletier presents and describes floor plans showing existing conditions as well as drawings of the proposed conditions. He adds that the neighborhood has several shed dormers, so the proposal is consistent with neighborhood conditions.

Mr. Viccica asks about the rear elevation, and if a chimney will be removed. Mr. Pelletier confirms a chimney associated with three no longer functioning fireplaces will be removed.

Mr. Copelas notes it is a large two-family house, and says he is confused by the existence of four electric meters, indicating there may be three units in the building. Mr. Copelas asks for clarification, noting there is a carriage house, but wants to make sure there are only two units in the main building.

Mr. Pelletier explains the property used to be a three-family home but was reduced to a two-family when a unit was created in the carriage house. Mr. Pelletier says he would be amenable to having an inspection.

Chair Duffy opens the floor to public comment but there is none.

Chair Duffy next discusses the special permit criteria and how the proposal meets them.



**Motion and Vote:** Mr. Copelas moves to approve the petition of THOMAS J. PELLETIER for a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance to expand a nonconforming two-family home by adding a rear shed dormer at 138 NORTH 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. A certificate of Inspection is to be obtained.
8. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board.
9. 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.

And the following special condition to reiterate the condition from the previous approval:

1. The main building at 138 North Street is to remain a two-family house.

Mr. Viccica seconds the motion. **The vote is five (5) in favor (Mike Duffy (Chair), Steven Smalley, Rosa Ordaz, Paul Viccica, and Peter Copelas) and none (0) opposed. The motion passes.**

Location: **101 Leach Street (Map 33, Lot 540) (R2 Zoning District)**

Applicant: **Ziad Nabbout**

Project: A public hearing for all persons interested in the petition of ZIAD NABBOUT for a special permit per Section 3.3.3 *Nonconforming Structures* of the Salem Zoning Ordinance to expand a nonconforming three-family home by expanding an existing dormer horizontally at 101 LEACH STREET (Map 33, Lot 540) (R2 Zoning District).

#### Documents and Exhibitions

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

Chair Duffy introduces the petition.

Mr. Nabbout introduces himself and explains his proposal to expand an existing dormer, with the purpose of making better use of kitchen space. He notes there will be no change in the overall building structure. Mr. Nabbout presents photos of existing conditions and demonstrates photos of the interior.

Mr. Copelas asks for clarification on the dormer location, and Mr. Nabbout states it will be in the back.

Mr. Nabbout next shows the Board pictures of neighboring homes that have similar constructions.

Chair Duffy opens the floor to public comment, but there is none.  
Chair Duffy discusses how the proposal meets the special permit criteria, noting that the proposed changes are minor in nature. Mr. Viccica states he would like it to be clear that the petitioner has amended the drawings that were initially submitted to the Board so that the dormer is only expanding on the North, or water side of the building, and not as shown in the drawing.

**Motion and Vote:** Mr. Viccica moves to approve the petition of ZIAD NABBOUT for a special permit per Section 3.3.3 *Nonconforming Structures* of the Salem Zoning Ordinance to expand a nonconforming three-family home by expanding an existing dormer horizontally at 101 LEACH 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. The 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, as amended. 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. McClain seconds the motion. **The vote is five (5) in favor (Carly McClain, Paul Viccica, Rosa Ordaz, Mike Duffy (Chair), and Peter Copelas) and none (0) opposed. The motion passes.**



Location: **374 Essex Street (Map 25, Lot 208) (R2 Zoning District)**

Applicant: **James Sullivan & Emma Hamilton**

Project: A public hearing for all persons interested in the petition of JAMES SULLIVAN & EMMA HAMILTON for a special permit per Section 3.1 *Principal Uses* and 10 *Definitions* of the Salem Zoning Ordinance to renovate an existing historic carriage house to add a one-family dwelling unit on the second floor at the two-family house at 374 Essex STREET (Map 25, Lot 208) (R2 Zoning District).

Documents and Exhibitions

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

Chair Duffy introduces the petition.

Attorney Bill Quinn introduces himself and explains the proposal. Attorney Quinn notes it is the house on upper Essex Street right after the Salem Public Library. The building and carriage house have existed since at least 1874 in the current location, and Attorney Quinn presents assessors maps from that year.

Attorney Quinn explains the carriage house has always been used for storage of vehicles and that the second floor is unfinished storage. Attorney Quinn states the applicant lives in a two-story home at the front of the site, and that properties on both sides have already renovated their carriage houses. Attorney Quinn contends the proposal will allow preservation of the property's historic carriage house.

Attorney Quinn states the design has already been heard and approved by the Salem Historic Commission, and explains why the proposal is appropriate. Attorney Quinn also presents maps and property documentation.

Attorney Quinn indicates there are five parking spaces on the site based on survey plan and that three will be within the carriage house and two are behind the building. He discusses the grounds for a special permit and how proposal meets the criteria.

Architect Dan Ricciarelli introduces himself and discusses the property details of the carriage house and the proposed changes. He notes the second floor is currently in bad shape and that it will be renovated and restored to a functioning unit. The garage doors will be replaced with carriage house style doors and the windows will be glazed. Mr. Ricciarelli discusses construction materials that will be used and presents floor plans showing existing and proposed conditions that will result from the complete renovation.

Chair Duffy opens the floor to public comment but there is none.

Chair Duffy discusses how the proposal meets the special permit criteria, and notes that there are no concerns regarding the project.

**Motion and Vote:** Mr. Copelas moves to approve the petition of JAMES SULLIVAN & EMMA HAMILTON for a special permit per Section 3.1 *Principal Uses* and 10 *Definitions* of the Salem Zoning Ordinance to renovate an existing historic carriage house to add a one-family dwelling unit on the second floor at the two-family house at 374 ESSEX 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. The 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 for the new unit and display said numbering 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.
10. 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. Viccica seconds the motion. **The vote is five (5) in favor (Peter Copelas, Mike Duffy (Chair), Rosa Ordaz, Paul Viccica, and Steven Smalley) and none (0) opposed. The motion passes.**

Location: **57 Endicott Street (Map 25, Lot 518) (R2 Zoning District)**  
Applicant: **Len Karan**  
Project: A public hearing for all persons interested in the petition of LEN KARAN for a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance to expand a nonconforming two-family home by adding a second story deck with required rear and side yard setbacks at 57 ENDICOTT STREET (Map 25, Lot 518) (R2 Zoning District)

#### Documents and Exhibitions

- Application date-stamped February 26, 2020 and supporting documentation

Chair Duffy introduces the petition.

Len Karan introduces himself. Mr. Karan explains the relief sought and the proposal to renovate the existing two-family into two high-end condos. He also states there will be a deck added to the second floor.

Mr. Karan explains the benefit of adding a deck, and notes that the setback issues zoning infringements are minor. He notes the side setback (not the driveway side) should be 10 feet but his proposal is 9.6 feet, and that the rear setback should be 30 feet and the proposal seeks 26.9 feet. [Mr. Karan inadvertently reversed these numbers when speaking.] Mr. Karan adds that the deck will not block any light or be detrimental to neighbors, but will instead add to the vibrancy of the neighborhood and encourage socialization. Mr. Karan also notes that the deck will still leave a full 45 foot backyard for both units to use.

Mr. Karan presents drawings and diagrams of the existing and proposed conditions. He explains the construction materials and the design specifics of the proposal.

Mr. Copelas asks if the units are side by side or stacked vertically, and Mr. Karan states they vertically stacked. Mr. Copelas asks if the deck will be exclusive to the second floor unit, and Mr. Karan says that is correct, and that the first floor will have a patio area.

Chair Duffy opens the floor to public comment but there is none.

Chair Duffy next discusses how the proposal meets the special permit criteria, and points out that the applicant provided a statement of grounds addressing all criteria. He states that while the porch slightly infringes on the side yard setback, it infringes less than the building itself does; the porch infringes relatively minimally on the rear yard setback.

**Motion and Vote:** Mr. Viccica moves to approve the petition of LEN KARAN for a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance to expand a nonconforming two-family home by adding a second story deck with required rear and side yard setbacks at 57 ENDICOTT 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. The 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.
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 five (5) in favor (Paul Viccica, Mike Duffy (Chair), Rosa Ordaz, Carly McClain, and Peter Copelas) and none (0) opposed. The motion passes.**

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Location:	<b>15 Highland Street (Map 17, Lot 152) (R1 Zoning District)</b>
Applicant:	<b>Scott &amp; Heather Murray</b>
Project:	A public hearing for all persons interested in the petition of SCOTT & HEATHER MURRAY for a special permit per Section 3.3.5 <i>Nonconforming Single- and Two-Family Residential Structures</i> of the Salem Zoning Ordinance to expand a nonconforming single-family home by adding a rear first and second story addition within the required side yard setback at 15 HIGHLAND STREET (Map 17, Lot 152) (R1 Zoning District).

#### Documents and Exhibitions

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

Chair Duffy introduces the petition.

Veronica Hobson representing the applicants, Mr. and Mrs. Murray, introduces herself and explains the proposal to construct an addition along the right rear of the home. She notes the existing structure exceeds the front setback by ten feet and the right side setback by eight feet and sits on a

lot with less than required area in an R1 district. Ms. Hobson indicates the proposed addition would exceed the right side setback by the same eight feet.

Mr. Corrison notes that the petitioner submitted an updated survey that corrected a minor issue.

Ms. Hobson walks through the plot plans and survey, and shows floor plans that demonstrate existing and proposed conditions. She explains the proposal would modify a half bath and add a laundry closet on the first floor and a master bathroom on the second floor. The proposal would add 33 of square feet on the first floor and 69 square feet on the second floor to the existing building.

Ms. Hobson continues to discuss the proposal and walks through elevation drawings. She also presents photos to demonstrate existing conditions from various angles and the proximity of neighboring buildings. Ms. Hobson contends the addition will disappear behind trees most of the year.

Chair Duffy opens the floor to public comment.

Mary Knight of 5 East Collins Street states she is in favor of the proposal. There is no additional public comment.

Chair Duffy discusses how the proposal meets the special permit criteria, and notes that the proposed changes are relatively minor and straightforward.

**Motion and Vote:** Mr. Viccica moves to approve the petition of SCOTT & HEATHER MURRAY for a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance to expand a nonconforming single-family home by adding a rear first and second story addition within the required side yard setback at 15 HIGHLAND 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. The 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 five (5) in favor (Paul Viccica, Peter Copelas, Rosa Ordaz, Steven Smalley, and Mike Duffy (Chair)) and none (0) opposed. The motion passes.**

**Location:** 9-11 Dodge Street, 217-219 Washington Street, and 231-251 Washington Street (Map 34, Lots 404, 405, 406) (B5 Zoning District)

**Applicant:** Dodge Area LLC

**Project:** A public hearing for all persons interested in the petition of DODGE AREA LLC for a variance per Section 4-51 *On-premises signs in nonresidential districts* of the Salem Zoning Ordinance to allow a 2'4" side by 16" tall blade sign at the Hampton Inn Hotel at 9-11 DODGE STREET, 217-219 WASHINGTON STREET, and 231-251 WASHINGTON STREET (Map 34, Lots 404, 405, 406) (B5 Zoning District).

#### Documents and Exhibitions

- Application date-stamped March 10, 2020 and supporting documentation

Chair Duffy introduces the petition. Mr. Corrison clarifies that the advertisement notes 16 inches, but that it should be a height of 16 feet for the proposed blade sign. Mr. Corrison also notes the statutory reference should be the Salem Code of Ordinances, not the Salem Zoning Ordinance.

Thomas Alexander introduces himself as attorney for the Dodge Area LLC and explains the proposal. He also introduces Ken McClure from the DeNunzio Group as a representative of the owners.

Attorney Alexander explains the project is large and will be a new Hampton Inn with 113 hotel rooms and a 90,000 square foot interior to provide for parking for 211 motor vehicles, along with 11,000 square feet of commercial space.

Attorney Alexander continues to describe the project in the downtown area. He explains the particular variance is for a blade sign that will be 2'4" by 16' high, and that the design standard calls for a 24 square foot area (proposal is approximately 37.33 square feet).

Attorney Alexander explains that he worked collaboratively with the Design Review Board ("DRB") and Salem Redevelopment Authority ("SRA") to come up with the proposed design, and contends it is appropriate for the building scale, location, and use, despite being slightly larger than what ordinances normally allow.

Attorney Alexander presents a sign off from staff and notes that the planning officer has offered his approval. He goes through drawings that demonstrate the proposed signage as well as color renderings. Attorney Alexander maintains that drawings show the sign in relation to the overall building is not that large. He adds the construction is on time and on budget, likely to be completed in June and for a July opening. Attorney Alexander argues the standard has been met, noting practical difficulties relating to visibility since the building is at a low elevation and large. He adds it is important that patrons are able to clearly see the sign.

Mr. McClure adds that the SRA and DRB saw renderings of the sign and that they were in favor of them. He notes they started with an even larger sign and ultimately came down to a proposal that worked for the SRA and DRB. Mr. McClure also notes the applicant moved away from the Hampton Inn brand which they have only done in one other instance in Portland Oregon. The branding change was in order to have something that spoke more to the city of Salem.

Mr. Viccica asks if the sign is illuminated, and Mr. McClure says it is halo lit. Mr. Viccica asks clarifying questions about the renderings, and specifically to explain the proposed hardship. Mr. Viccica says he is familiar with a Hampton Inn in Savannah (GA) that is not a blade sign or illuminated, noting he has seen others that have been modified or departed from the traditional branding, indicating he has not heard a hardship that he could support.

Mr. McClure notes the script was requested by the DRB (block lettering). Mr. Viccica says he understands that, but that the hardship needs to be rearticulated.

Attorney Alexander says the awning will not be visible up Washington or Canal Street and says the blade sign will allow people in motor vehicles to better find the hotel as they are driving down major streets. Mr. Viccica says people are more often finding locations not by visual cues but through GPS, phones, and maps.

Mr. Corriston clarifies the language in the Code of Ordinances.

Mr. Copelas says the Board is not as familiar with the requirements of the Salem Ordinance as with the Zoning Ordinance, but that the request is for a sign that is 50 percent larger than what the ordinance calls for, which seems a rather large departure from the intent of the ordinance. Mr. Copelas says he respects the consideration of the SRA, but is still concerned and agrees with Mr. Viccica's statement that visual cues are not as important as they used to be 10 or 20 years ago.

Attorney Alexander says it is a large building, larger than anything else in the area, but that the regulations are one size fits all. He states that at the end of day people are still looking for confirmation of where they are, and that it is important for people to get to their destination safely.

Ms. McClain says the size of the sign might be a positive safety consideration, and notes she is not the type of person to use Google Maps. She notes an uptick in accidents and erratic driving during high tourist months and opines that if the sign can mitigate some of that it could be a good idea.

Ms. Ordaz agrees with the concerns presented by Mr. Viccica and Mr. Copelas, but asks for clarification on the sign visibility, and Mr. McClure provides more information.

Mr. Viccica goes back to the example of a Hampton Inn in Savannah, noting that it is similarly large and has smaller signage that would likely meet Salem Code. He asks why that works in Savannah but would not here. Mr. Viccica states he still has not heard a compelling argument.

Mr. Copelas states it would be helpful to have street scape renderings from various directions, coming from all streets to be able to visualize the proposed signage better. He says it was not clear from materials submitted what it will look like. Mr. McClure indicates those were not included due to the SRA and DRB recommendation. He goes through some additional photos that have renderings of the proposed signage and goes on to explain why he believes the signage is appropriate given the views from various directions.

Mr. Viccica asks about three of the eight proposed signs on the building, specifically those identified as numbers six, seven, and eight. Mr. McClure explains number eight is residential entry, and six and seven are retail signs that fit within the ordinance in terms of signage.



Mr. Corriston clarifies that the allowed size of signage is often proportional to building size, and will vary depending on district and location, but that with blade or right angle signs, there is a 24 square foot maximum across the board.

Mr. Viccica asks about practical difficulties associated with putting a sign on the Washington Street side of the building. Mr. McClure explains the issues and why other proposals would require variances or be impractical, and that the proposal seemed like the best option.

Mr. Copelas says he still has concerns because he has trouble envisioning the proposal based on what has been presented and the limits of technology and having a remote meeting. He acknowledges the difficulties for everyone, but notes that variances have a higher bar that needs to be met than special permits and maintains he is having difficulty getting there with current presentation.

Mr. Viccica says he also has concerns because the code is clearly intended to prevent a cacophony of signage that allows super branding and illumination. He notes that, with all respect to the DRB and SRA, their requirements are not the same as the Boards, and that a hardship must be demonstrated. Mr. Viccica Goes back to the example of Savannah and says he does not think there is no alternative available that fits within the zoning ordinance. He acknowledges that the hotel would likely love a big illuminated sign for branding, but that the ordinance does not allow it. Mr. Viccica contends that no business in the neighborhood have a large illuminated blade sign and that people find buildings just fine. Mr. McClure states that trees would make visibility difficult, and that hotels are for tourists who might not be as familiar with Salem.

Mr. Viccica asks about the other hotels in Salem that do not have large blade signs, noting that people find them readily from all over the world. Mr. Viccica indicates what he has heard is that it would be great to have a Hampton sign that everyone can see, but that he does not see a real hardship or practical difficulty.

Mr. McClure says he will get more information on the Savannah location. He says they have worked with everyone so far so asks the Board to not throw out the idea just yet. Mr. McClure says he will provide better renderings in the future as well, and asks to continue the petition.

Ms. Ordaz asks about other options, such as a non-illuminated sign in a glass window. Mr. McClure explains they looked at non-illuminated signs but found that the real issue was that the sign would be on the downhill side of a building, and that it is more about location than illumination. He says he will go back and check to confirm what the issues are.

Chair Duffy brings up the Salem Hotel, and states that the signage is not visible from anywhere. Mr. McClure says the Salem Hotel situation is different because they do not have parking, and Hampton will be interested in getting people in cars to see and recognize the building. He states that clientele will be coming directly by car, so he thinks the signage proposal is reflective of that.

Mr. Viccica asks how people will know that the entrance is on Dodge Street. Mr. McClure explains how parking will become evident with signage, but Mr. Viccica is not persuaded.

Mr. Copelas states that the applicant disadvantaged themselves with how they designed the building with respect to the location of the residential portion, which would appear to be a better location for signage. He adds that poor design should not be a reason for a variance. Mr. Copelas indicates he is open to continuing the petition while the petitioner fine tunes the presentation and addresses some of the various concerns raised.

Attorney Alexander states he would be comfortable with a continuance to bring back information on Savannah, other signage in the city, and more details regarding hardships and what the sign would look like from various directions.

Chair Duffy opens the floor to public comment, but there is none.

Mr. Corriston notes that May 20<sup>th</sup> is next regularly scheduled meeting this would be able to be advertised for, and that the April 15<sup>th</sup> agenda is full, but also recognizes the importance of timeliness for Hampton Inn. Attorney Alexander suggests they could be available for April 15<sup>th</sup> but could be bumped to May if the meeting runs too late. Mr. Viccica says he is not inclined to do that and make people potentially stay late only to continue the petition once again. Mr. McClure clarifies that signage takes approximately eight weeks, and that they may have to open without a sign if the petition is continued to May. Mr. Copelas states that if the company plans to be in town for 20 or 30 years, being open for a few weeks without a sign should not be a major concern in the bigger scheme of things.

**Motion and Vote:** Mr. Copelas moves to continue the petition of Dodge LLC until the next regularly scheduled meeting on May 20, 2020. Ms. Ordaz seconds the motion. **The vote is five (5) in favor (Peter Copelas, Mike Duffy (Chair), Rosa Ordaz, Paul Viccica and Carly McClain) and none (0) opposed. The motion passes.**

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## MEETING MINUTES

September 18, 2019  
October 16, 2019  
December 18, 2019  
January 15, 2020  
February 19, 2020

Mr. Corriston says minutes are a bit behind but that they will be available and up to date at the April 15<sup>th</sup> meeting.

Mr. Copelas suggests prioritizing the 2019 minutes and have them ready for the next available meeting.

There is a brief additional discussion regarding minutes.

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## OLD/NEW BUSINESS

None

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## ADJOURNMENT

**Motion and Vote:** Mr. Copelas moves to adjourn the meeting Ms. Ordaz seconds the motion. **The vote is five (5) in favor (Mike Duffy (Chair), Peter Copelas, Paul Viccica, Rosa Ordaz, and Carly McClain) and none (0) opposed. The motion passes.**

**The meeting ends at 10:05 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 Corrison, Staff Planner