

City of Salem Zoning Board of Appeals
REVISED Meeting Minutes

May 15, 2019

A meeting of the Salem Zoning Board of Appeals (“Salem ZBA”) was held on Wednesday, May 15, 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), Paul Viccica, Patrick Shea, Peter A. Copelas, Jimmy Tsitsinos, and Jimmi Heiserman. Also in attendance were Brennan Corrison – Staff Planner, Tom St. Pierre – Building Commissioner, and Lorelee Stewart – Recording Clerk.

REGULAR AGENDA

Location: **26 Cross Street (Map 36, Lot 57) (R2 Zoning District)**

Applicant: **Liann DiMare**

Project: 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).

Documents and Exhibitions

- Application date-stamped January 14, 2019 and supporting documentation
- Parking plan submitted by petitioner Liann DiMare

Petitioner Liann DiMare addresses the two outstanding questions from the last Board of Appeals meeting. She submits documentation from the Housing Court that shows that Debra Crosby initiated proceedings in trial court for “The Happy Place at 26 Cross Street to remove an unwanted guest. She also submits a parking plan for the Board and reviews her photos and parking plan.

Chair Duffy asks if Board members have any questions Mr. Copelas states that he was absent from last month’s meeting but listened to the audio recording. He and Mr. Shea have submitted Mullin affidavits.

Chair Duffy opens the hearing for public comment.

Chair Duffy reads an email from Jeff Cohen of 12 Hancock Street which states that he thinks this application should be rejected for the following reasons: neighborhood quality, fairness for Bed and Breakfasts and Inns and a shortage of rental stock in Salem.

Susan Matula of 10 Lemon Street speaks in opposition to the petition. Ms. Matula reviews items from past testimony against the special permit for 26 Cross Street. She points to its past history as a rooming house. She feels that because it operated this way, it was a lodging house and is not eligible. Ms. Matula submits pictures of the parking and describes cars stopping the ability to walk on

sidewalks because the cars are parking on sidewalks. Ms. Matula expresses concern about the impact of short-term renters not being counted in the census and the impact on money for the City.

Motion and Vote (Close Public Hearing): Peter A. Copelas moves to close the public hearing. The motion is seconded by Jimmy Tsitsinos. **The vote is five (5) in favor (Mike Duffy (Chair), Peter A. Copelas, Patrick Shea, Jimmi Heiserman, and Jimmy Tsitsinos) and none (0) opposed.**

Chair Duffy asks the Board for their thoughts. Mr. Viccica states that the Board has accepted this quality of proof of use in the past. The Board then discusses past violations on the property. Mr. Viccica wants to make sure everything is in compliance especially within the last six months. Ms. DiMare responds to the Mr. Viccica confirming that all violations have been fixed and Mr. St. Pierre confirms that all of the violations occurred before Ms. DiMare took over as manager. Chair Duffy raises the special permit criteria. Mr. Viccica clarifies that the board would be approving only one unit, Unit #2, as a non-owner occupied short term rental and that the first floor unit is a long term renter. Ms. DiMare responds in the affirmative adding that the unit applied for is the one made by combining the second and third floor units with a single access; the unit has 4 bedrooms and 2 baths. She adds that this is intended to only be a two-unit building going forward, and that this shows the owner's intention to comply with the rules. Mr. Copelas says that the parking plan with tandem parking would be allowed to go through as a two family house so that part is not detrimental to this use. He brings up Mr. Cohen's points from his email and tells Ms. DiMare that the Board of Appeals could perhaps use the social, economic, and community needs argument against the permit, but Salem has passed an ordinance that says this is an allowable use, so he would defer to the ordinance. He is satisfied that the application has met the standard to be allowed to come to the Board in terms of when the unit was in use. Chair Duffy reviews the standard special permit criteria. Chair Duffy says while there certainly is a community need, social and economic for affordable, available housing in Salem, there is also a need for visitor rentals in the City; he does not know that it is a direct competition between those needs in every application. He feels that this use is not coming to the level of a substantial detriment. He reviews the criteria for a special permit highlighting no change in utility use, no changes to the exterior, traffic will be the same and there is potential positive fiscal impact. Mr. Corriston clarifies that the unit being approved is Unit 2.

Motion and Vote: Mr. Copelas moves to approve 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 (**Unit 2**) in the two-family house at **26 Cross Street**, subject to the following **terms, conditions, and safeguards**. The motion is second by Mr. Tsitsinos. **The vote is 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. A Certificate of Occupancy is to be obtained.
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: 435-443 Highland Avenue (Map 3, Lot 127) (B2 & ECOD Zoning Districts)
Applicant: Life Storage LP
Project: A continuation of a public hearing for all persons interested in the petition of LIFE STORAGE LP for variances from Section 4.1.1 Table of Dimensional Requirements of the Salem Zoning Ordinance for maximum height of buildings to replace the two existing self-storage buildings with a single self-storage building at 435-443 HIGHLAND AVENUE (Map 3, Lot 127) (B2 & ECOD Zoning Districts).

Documents and Exhibitions

- Application date-stamped February 27, 2019 and supporting documentation
- Photos of lights submitted by Dennis Colbert
- December 1987 Decision by the Board of Appeal granting variances for 441-445 Highland Avenue, submitted by Dennis Colbert

Scott Grover, attorney for Life Storage introduces several representatives from the Life Storage group, Eric Sweet, Tim MacVittie and regional manager Kurt Knepshield. He also introduces their civil engineer Carlton Quinn from Alan and Majors.

Life Storage is located at 435 Highland Ave on the north bound side heading into Salem (across from Wal-Mart) in the B2 zoning district and has been here for over 20 years. Built late 1980s built per variances by BOA and the Planning Board. He shows the current two building each with two stories. Life Storage has experienced chronic flooding because they are the low point on Highland and have discontinued renting the first floor. He shows various photos and drawings to the board. He says the geotechnical engineer they retained came out to view the site said that the problems were a failing drainage system and soil conditions. The only solution is to demolish the old structure and raise the grade, then build a single structure with three floors. We scrapped our first plans for a 4 story building with a height of 46 feet after meeting with neighbors through help with Ward Three Councilor Peterson. The impact on neighbors was too great. The new plans submitted to the BOA are now for a building with a height of 34 feet which is a 12 foot reduction. A second neighborhood meeting occurred about the second proposal and a consensus was reached that the second building would significantly reduce the impact to them, but the neighbors here tonight can speak for themselves. Life Storage is asking for minimal relief, only 4 feet in height. The allowed height in B2 is 30 feet and we are proposing 34 feet. One factor I would like the board to consider is the setback. The rear setback is 30 feet and the current buildings are at that now. We are proposing to bring the new buildings back to 37 feet so although it is 4 feet higher it is over 7 feet further away than what can be done by right. Tim will speak about our solar studies which show this proposal will have less impact than if we built a by-right building with a 30 foot setback at a 30 foot height.

Mr. Grover discusses the three elements for a variance special conditions exist that affect this parcel that does not affect other parcels. We are at the low point at highland Ave which creates flooding. The hardship is the second element. The hardship is due to flooding and loss of revenue. They need

new building and to make it economically viable they need three stories. A three story building is the only thing that will work there. Relief can be made without detriment to public good and what we are proposing is less detrimental than what can be built by-right because of setback. Also there is a significant need for storage in this area.

In addition to the zoning relief we will go before the planning board for site plan review and because it is located in an entrance corridor these plans go before the design review board, lastly we go before then conservation commission because we are in a buffer zone of a wetland. What we are asking for is minimal relief of four feet.

Carlton Quinn of Alan Majors and Associates states that he came out to look at the site after the fifth flooding incident. We are land surveyors and engineers. There is a drainage ditch at the front of this property that runs into a wetland. There is a catch basin in front of our property. Across the street is Walmart and everything drains into this one manhole here and eventually goes to wetlands near our property. We put cameras in the drain and found a catastrophic failure with this pipe. It is either due to sediment or a complete closure. We could see less than 10% of the box culvert. The watershed is approximately 48 acres of industrial land that is emptying into one manhole in front of our site. He describes the drainage system and how flooding happens at Wal-Mart as well and that police have to help people in cars through the flooding on Highland Ave at its worst. Our site gets completely flooded. The company told me that August of 2018 was the worst flood they ever had. They lost all property on the first floor. Life Storage talked to DOT who plans to fix or clean out the pipe but we don't know if it has been fixed or repaired. Life storage is not allowed to fix state property so they will fix their property. He describes the building plans; they will be reducing lot coverage and are adding green space to reduce drainage. Under Conservation Commission standards we will put in a new drainage system. We will be doing our part to control the flooding because don't know what is happening at DOT. Mr. Viccica asks what the existing grade is at the property. Mr. Quinn says that the finished floor of the existing building is 111.7. Mr. Viccica asks what the new finished floor is. Mr. Quinn states the building height isn't determined by the finished floor. Mr. Viccica says he cannot determine impact to neighbors if I don't know the height of your grade and the finished floor. Mr. Quinn replies that the elevation will be raised by 1 to 1.5 feet. He adds it will definitely less than two feet. Mr. Viccica says it will be 36 feet to highest point with existing grade. Mr. Quinn adds the building there now is 21.5 and that the height will be 14 feet to the roof.

Duffy does storm water go to same DOT system? Mr. Quinn says they will discharge downstream from DOT. Mr. Viccica asks if the grade drainage go there. We drain into drainage ditch. Mr. Viccica asks the condition of the drainage ditch. Mr. Quinn says the existing site drains properly but when it floods a vortex is created because we are taking all the water. Mr. Viccica asks if Roof drainage and every drop of water will drain there. Mr. Viccica asks if there is any onsite drainage. Mr. Quinn explains that all the water is being captured and brought to this point.

Tim MacVittie comes in front of the board and says that they originally looked at building a four story building but found out that it had too much impact for the abutting neighbors so we reduced the building to a three story structure. We wanted to ensure that the height of our building would provide no greater impact than a building height we could build by right. To be certain of this we conducted solar studies which demonstrate that we achieved this goal. He shows the solar impact drawing to the board. We also did site line studies standing on the residential properties building at 34 feet gives a better sight line. We also took into account neighborhood feedback about noise and

our new building would have fewer exterior drive-up units. There will be less activity with fewer drive-up units. We are focusing on internal storage which is less intensive.
We wanted to our building to have no greater impact than what we can build by-right

Duffy asks what the circles are in his drawings. Mr. MacVittie replies that they are pools Mr. Copelas 4 stories you would have had 912 units and the new building would have 658 units? Mr. Quinn replies that they go more by rentable square footage. 69000, increase of less than
Mr. Viccica asks why they have to build to 34 feet. Mr. Macvittie replies that we need to for economic feasibility but Mr. Sweet will speak to that issue.

Mr. Viccica asks if they are saying that if they had to reduce the building to 30 feet you build closer to the property line. He adds that they can't have another bay because of encroachment. Mr. Quinn replies that they could add more units and reduce green space but we chose not to do that. Mr. Viccica says you make it sound like you are doing everyone a favor by not building closer to the neighbors. He asks is that all landscaping in the back. Mr. MacVittie says there are 26 feet of driveway and 11 feet of green space and the added green space is shaded in green on the plans.

Mr. St. Pierre asks if the person in charge of construction could join Mr. MacVittie. Mr. Sweet comes in front of the board and discusses the hardship and how if they don't get a variance they will remain the lowest point of the 48 acre area. He says the comparison should be between 30 feet versus 34 feet. Two feet of fill is needed to fix hardship. We are losing revenue. 45k a month and by the time we get through all permitting we will lose \$1.2 to 2 million in revenue.

He points out that there has been an elimination of drainage because a catch basin at Wal-Mart was eliminated because of wheelchair ramp. We think of community that is why we had the neighborhood meetings. Two stories won't make this possible. Building has differential settling because of moisture. Mr. Copelas asks if he can just tell the board why you need 34 feet. Mr. Sweet explains how he gets to a height of standard storage is 8feet 4 you can reduce head height but you create a head hitting situation. He lays out all of the factors that add up to the 34 feet. We looked at ways to reduce the height but it will hurt our customers. This community is in need of storage. 8 sq ft per person not serving the community he guesses that they will need 12 ft for this city because it is very. Why is the first floor 11.4 feet? Mr. Sweet answers the height of the office space is higher but doesn't affect the overall height Mr. Copelas says he is drilling down on the details because the bar for a hardship is high. What you are asking is sufficient winter will be so much darker. Elevation difference between us and the abutters is 12 feet and we are lower than they are; there is a massive retaining wall. He looked at a storage facility at 400 Highland Ave and the road elevation is about 5 feet higher. That and another facility down the street will be higher than ours. Moving our building back will have more of a negative impact. Most of our customers are within a three mile ring. Mr. Copelas agrees with him about being rigorous about requirements but I think that their by-right building is not as good as their plans. I think this is a better choice.

Public Hearing opens:

Lisa Peterson, Ward Three City Councillor, says we met with the neighborhood and the team a few times. Councillor Peterson states that the neighborhood came in open-minded, but there were challenges and we appreciated them working with us. Councillor Peterson states that the biggest issue conditions from a previously granted variance for the property. They are not being followed. There have been problems with hours of operation, noise, and lighting for years. We met with the

Life Storage team again to review their second building plans and to try to fix the outstanding issues. She knows the Life Storage worked with DOT and she understood the issue be about drainage on Highland Avenue. Councillor Peterson expresses that the petition is approved, the City is making up for the hardship caused by the state road (MA-107, also known as Highland Avenue), rather than the state making up for the hardship, which gives her pause.

Gary Gill of 12 Pope St. says this is my neighborhood. I didn't go to the neighborhood meetings but this is area always floods. I'm glad the height is reduced. This proposal is not over the top because Highland Ave is commercial. Life Storage is making a big investment and the board should grant the variance.

Dennis Colbert of 37 Clark Street is here on behalf of the Barnes, Clark, and Wyman Area Neighborhood Association. I'm not against this but I'm not a proponent. He hands out a copy of the statement of conditions to each board member. He shows pictures of lights with no shielding per the order of conditions. He talks about them operating on Sunday which he feels is a violation of conditions. The outside lighting had no shielding and they added shielding which helped the abutters in back but not on the side of their property. He brings up their hours of operations. They are still allowing access to the facility on Sunday. They recently did landscaping but I don't think they will keep it that up once they are approved.

Al Pzsenny of 0 Clark Ave says he did not like the height of the original plan. He says he is in support of this plan but with reservations. He has some mistrust because of the violations to the order of conditions. He asks who will hold them accountable. He is concerned about loss of sunlight in the winter.

Cheryl Luzinski of 2 Clark Ave hands out photos of lighting to the board. She reiterates the concern about the statement of conditions especially the lights. They only took care of the problem last Monday she says and asks if they did this for show for this meeting? She is concerned about the grade being raised leading to a higher building because she has a lot of plantings in her back yard and has put a lot of work into that project. She has mistrust also and says they have had people working on cars in storage units, idling of diesel engines with fumes. She asks who we will contact locally to fix any problems. They used to have a manager on site and he was great but he has been gone for years now. She is uneasy.

Robert Ridge of 6 Clark says the retaining wall is high and Highland Ave is lower. His main issue is Sunday usage. He and his wife have called police it those calls will be in their police log. He says there is a history of lack of care and lots of garbage from the facility use in the past. They landscaped and fixed the lights. He is concerned about maintenance of tree and their property and how the light will affect his pool. He adds the new building will be nicer and not an eyesore. His wife and he are in support but they are concerned about usage on Sunday. He mentions that the neighborhood has no sidewalks. If DOT fixes road by raising it, he wonders how this will affect Life Storage.

Cheryl Luzinski speaks again about the standard of conditions and wanting someone to call.

Dennis Colbert asks if the height can be limited by making a special condition.

Mr. Sweet responds to the issues raised and states that they had to wait six weeks for light shields. We didn't fix the problems as a strategic move for this meeting he adds. We wanted to show good

faith. We landscaped the whole area when we were responsible for only part of it. He adds that DOT is working with us. It is DOT's burden to fix this and we have let them know about the flooding. There is a liability issue for them. We have no grade restrictions from DOT. We will put a catch basin in front of our property and we will help provide relief to the highway. We do not have store operations on Sunday but customers have access to their units. He gives hours of operations and adds that our customers will be checked and evicted if we know of any misuse of the space by customers. He adds they will use a keypad entry in the future. Mr. Duffy asks if the hours of operations are different than the access hours. Mr. Sweet clarifies that access hours are 7am to 7pm. Operations hours are when a manager is there but 9:30am to 6:00pm Monday to Friday and 8:30 to 5:30pm on Saturdays and no manager on Sundays but people can access their units on Sunday. The keypad can allow 24 hour access but we don't have that at this site. Mr. Viccica asks if they will accept a condition stating this. Mr. Grover replies in affirmative. We will make this a beautiful building for \$11 million because we want customer to use our facility. In response to Mr. Ridge's comment about trees stating we will take trees down if we are allowed, at the very least cut them back. Mr. St. Pierre asks how long Life Storage has been there. Mr. Sweet replies we bought the property in 1998 when it was Uncle Bob's Storage. We acquired the property and statement of conditions and it is our job to fix the problems.

Dennis Colbert asks about the hours of operation and standard of conditions which says no operation on Sundays. Mr. Copelas wants to ask the City Solicitor for an opinion. Mr. Grover addresses the standard of conditions should stand Mr. Copelas states that he has a 1989 decision in his packet that references a statement of conditions from 1987. We were provided with a copy of those conditions from a resident. Mr. Copelas asks if the conditions would be redone because there is ambiguity here about the hours. This was discussed thirty years ago he adds. Mr. Grover adds that the decision has to stand because it enabled the use of self storage which is not allowed in the B2 district. In trying to define the hours of operation he thinks the conditions refer to office hours. He adds that the tenants need access to their goods in off hours.

Mr. Viccica wants to limit access with conditions. He says that other parts of the City have restrictions. Mr. Copelas says we may want to clarify those issues here. Mr. Viccica asks what the city's business hours are for Sunday. There is discussion about city versus zoning ordinances regarding hours. The board discusses access hours discussed. Lisa Peterson asks about a use condition for the misuse of units. She says this subject came up a lot in conversations with neighbors. Mr. Sweet assures everyone that the misuses are part of their conditions. They will be strict and will install sophisticated access control and enhanced security. Our cameras will be able to go back thirty days. He adds it's a matter of finding the offenders. Mr. Grover adds that they will be reducing the number of units in back. Al Pzsenny adds that there should be a condition that there be no idling trucks. Mr. Grover says that is acceptable. Dennis Colbert asks how they will handle the Access and Use limitation (AUL.) Mr Sweet replies that we have design standards that we communicate to strongly to contractors and when we start using earth moving equipment will have a washing station etc. to clean trucks. Mr. St Pierre jumps in and says the engineer knows exactly what we are talking about. Mr. Sweet states that there will be a LSP on site doing this and the DEP has to approve everything. Duffy says we have a standard condition that deals with following all state laws that will address this.

Gary Gill of 12 Pope Street speaks again about lighting. The board invites him to attend the planning board by the BOA. Mr. Gill thinks there should be no cars allowed on site if it is bothering neighbors.

Mr. Sweet replies that they will evict people fixing cars. He mentions storage of vehicles and Dennis Colbert responds saying the neighbors were lead to believe there would be no more outdoor storage of vehicles. He adds that they store boats, RVs etc and we were told that would be gone.

The board is confused by the answer which has varied from Life Storage. Mr. Sweet assures them there will be no rented outdoor vehicle storage. Mr. Sweet says that RVs and boats won't fit into a standard space on their lot. Motion and vote: Mr. Viccica motions to close the public hearing. The motion is seconded by Mr. Copelas. The board unanimously votes to close the hearing.

Summary of the issues is made by Mr. Duffy. He states that the presentation has been made that there is a site (-specific) condition. He adds that the drainage issue sounds like a pretty significant problem, which presents a hardship for the use. He thinks there is sufficient legal basis to grant the variance for those reasons, and he believes that the Board has the ability to condition that around some of the other issues that have been raised by the community.

Mr. Copelas wants to review the conditions before making a motion. One of the special conditions is to restrict hours of office operations to Monday through Friday 9:30 am to 6 pm, Saturday 8:30 am to 5 pm and Sunday no hours of office operation. Access to storage units will be permitted 7 days a week from 7 am to 7 pm. He adds that there will be no outdoor storage and we will include by reference all of the conditions from the 1987 Standard of Conditions except we will add "except as modified by this decision." He reviews the long list of existing conditions. In response to one of the conditions which states that there will be no egress on Clark St., Life Storage replies they would like to leave that up to the Salem Fire Department. Mr. Copelas adds that there will be no idling of trucks or heavy equipment. Mr. Viccica brings up that the owner/renter agreement has to be followed. Mr. Quinn clarifies a point about the grade, based on measurements from the storm they measured, he thinks an elevation of 114 feet based on the datum used would work. Mr. St. Pierre and Mr. Viccica agree; Mr. St. Pierre clarifies, "per the drawings submitted to the ZBA." Chair Duffy states that the Board could grant the variance and it would not be to the derogation of the intent of the zoning bylaw.

Motion and Vote: Peter Copelas moves to approve the petition of Life Storage LP for variances from Section 4.1.1 *Table of Dimensional Requirements* of the Salem Zoning Ordinance for maximum height of buildings to replace the two existing self-storage buildings with a single self-storage building at 435-443 Highland Avenue (Map 3, Lot 127) (B2 & ECOD Zoning Districts), subject to the following **terms, conditions, and safeguards**. The motion is seconded by Jimmy Tsitsinos. **The vote is five (5) in favor (Mr. Duffy, Mr. Copelas, Mr. Shea and Mr. Heiserman and Mr. 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. Hours of operation for the on-site office shall be limited to 9:30 AM to 6:00 PM Monday through Friday and 8:30 AM to 5:30 PM Saturday. The office shall not operate on Sundays.
2. Access by customers shall be limited to 7:00 AM to 7:00 PM, seven days a week.
3. No idling of trucks is allowed on site.
4. There is to be no outside storage on the premises.
5. All of the conditions of the December 10, 1987 decision of the Board of Appeals regarding this property are incorporated except as modified by this decision.
6. The first floor finished grade is to be no greater than 114 feet per the drawings submitted to the Board of Appeals.
7. The agreement between the tenant and the property owner is to be strictly adhered to and to be available to the public.

Location: **30 ½ Dearborn Street (Map 27, Lot 441) (R2 Zoning District)**

Applicant: **Dearborn LLC**

Project: A public hearing for all persons interested in the petition of DEARBORN LLC for a special permit per Section 3.1.2 Special Permit: Zoning Board of Appeals of the Salem Zoning Ordinance to convert a historic carriage house into a dwelling unit at 30 1/2 DEABORN STREET (Map 27, Lot 441) (R2 Zoning District).

Documents and Exhibitions

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

John Day from LDA Architects says we want to convert a pre-1897 carriage house into an accessory dwelling unit in the rear of the property. It is currently a pre-existing, non-conforming condition. We will not expand the footprint or the height of the building. It is a story and a half. It is currently used as a garage with interior stair and second floor. We will add dormers and change its use. He shows details about setbacks on his plot plans.

Mr. Day presents photos of the current condition. One of the issues is its foundation which exists on a cracked slab. The owners want to reuse and restore the property using historic materials and character but with modern systems, insulation, and amenities, which will all be on the inside of the building. There will be a new stoop at the entrance. He describes plans to add windows, doors and dormers using materials that will fit into the neighborhood. The unit is roughly 750 square feet. He shows interior details to the board from plans. He adds there will be no need for a curb cut or more parking. The owners will use this in the summer so it won't be a short term rental. The owners will use a new hook up to sewer but power will go through their property. They have also engaged their neighbors about their wishes.

Mr. Copelas confirms that the dormers are an addition and the overhang at the front door is the only changes to exterior. Mr. Day says that is correct and adds that the roofline will remain the same

as the intention is to have it look like a carriage house. Mr. Copelas asks him to explain the crawl space. Mr. Day says they plan to raise the house and secure it. Then they will pour concrete and put house back onto that at the same elevation.

Mr. Duffy reads a letter from Patti Kelleher which describes the historic features of the carriage house and says this would be consistent with the city carriage house ordinance. He adds that they have emails from Brian Dawson from 30 Dearborn Street and Agnes and Michael Jacob of 26 Southwick Street in favor. Also an email in support from Deb Lojko of 32 Dearborn Street who thinks this will have a positive impact on the neighborhood.

Public Hearing opens:

Gary Gill of 12 Pope Street thinks it is a good idea to save the Carriage house but he thinks it could be an Airbnb.

Mr. Copelas asks if Mr. Day will accept a special condition for this. Someone from the room asks about short term rental. There is discussion of the definition of a short term rental from the board. Arthur Sharpe of 29 Orchard Street wants to applaud the architects and asks if they could save the 100 year old maple tree. He is concerned about short term rental also because it is a quiet neighborhood.

Mr. Day states that they intend to maintain the tree.

Anne Sterling of 29 Orchard Street thanks the owners for the outreach to neighbors. She is in favor.

Gary Gill asks if the crawl space is big enough for a six feet clearance. Mr. Day replies that the height will be only four feet. Could it be a finished basement? Mr. Day replies that it can't be a finished basement.

Mr. Duffy reads the statement of grounds, noting that the new foundation will make the structure stable. Traffic will be the same and water, and sewage will be brought in but utilities won't be a burden. The rear will be better landscaped and renovations will allow the carriage house to fit into the neighborhood better.

Motion and Vote: Mr. Copelas moves to accept the petition of Dearborn LLC for a special permit per Section 3.1.2 *Special Permit: Zoning Board of Appeals* of the Salem Zoning Ordinance to convert a historic carriage house into a dwelling unit at 30 1/2 Dearborn Street (Map 27, Lot 441) (R2 Zoning District), subject to the following **terms, conditions, and safeguards**. The motion is seconded by Mr. Shea. **The vote is five (5) in favor (Jimmi Heiserman, Mike Duffy (Chair), 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 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.

Special Condition:

1. The unit shall not be used for short-term rentals as defined in the Salem Code of Ordinances.

Location: **29 Cushing Street (Map 17, Lot 121) (R1 Zoning District)**

Applicant: **Susan & John Fraczek**

Project: A public hearing for all persons interested in the petition of SUSAN & JOHN FRACZEK for a special permit per Section 3.3.5 Nonconforming Single- and Two-Family Residential Structures of the Salem Zoning Ordinance to build an unattached 13' by 24' garage, nonconforming to setbacks, next to the single-family home (a nonconforming structure) at 29 CUSHING STREET (Map 17, Lot 121) (R1 Zoning District).

Documents and Exhibitions

- Application date-stamped April 11, 2019 and supporting documentation

Mr. Shea recuses himself because he is Susan Fraczek's neighbor. Susan Fraczek speaks and says her husband was supposed to be here but had to travel and couldn't come. Mr. Duffy reviews her application including drawings with the board. He asks if the garage is within 5 feet of side yard. She says yes. He asks what is there currently. She replies that there is a portable car port there now.

Mr. Viccica notes that it is only 3 feet from the property line and asked if there were other options. She says no but he offers a suggestion about moving the garage back. She is not sure about the designs and layout. The Board asks about a fence they see on her property from the drawings. She says the fence is hers. Mr. Viccica suggests that moving the garage off of the zero lot line will be better for the neighbor. He adds the soffit will hang over the lot line. Mr. Viccica explains to applicant how it will affect neighbors. She asks the Board for advice and Mr. Copelas says we try to avoid redesigning for you. He suggested moving to the garage to the left. Ms. Fraczek wants to know how far over she should move it. Mr. Duffy suggests she asks for a continuance. She agrees.

Motion and Vote: Mr. Copelas moves to continue the hearing on the petition of Susan and John Fraczek for a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance to build an unattached 13' by 24' garage, nonconforming to setbacks, next to the single-family home (a nonconforming structure) at 29 Cushing Street (Map 17, Lot 121) (R1 Zoning District) to June 19, 2019. Motion is seconded by Mr. Tsitsinos. **The vote is five (5) (Mr. Duffy, Mr. Copelas, Mr. Viccica, Mr. Heiserman, and Mr. Tsitsinos) in favor and none (0) opposed.**

Location: **14 Piedmont Street (Map 33, Lot 237) (R2 Zoning District)**
Applicant: **Maria Y. Baez-Espinal**
Project: A public hearing for all persons interested in the petition of MARIA Y. BAEZ-ESPINAL for a special permit per Section 3.2.5 Swimming Pools of the Salem Zoning Ordinance to provide less than six feet of setback between an above ground pool and the side property line at 14 PIEDMONT STREET (Map 33, Lot 237) (R2 Zoning District).

Documents and Exhibitions

- Application date-stamped April 23, 2019 and supporting documentation

Maria Baez Espinal wants to obtain a permit to allow her pool to be less than 6feet from the property line. She has a permit for the pool but needs one for the pool being less than six feet it is 3 feet from her neighbor's property line. She has permission from one neighbor but she think a different neighbor generated a complaint making this permit necessary. She brought the neighbor who abuts with her. Mr. Viccica asks about her permit and the process. Mr. St Pierre says she submitted drawings and the pool was farther away from the location/line she indicated by more than 3 feet. Mr. Viccica says it's problematic that you didn't put it where you said you would and that you're coming after the fact. Ms. Espinal says she was not aware that a special permit was needed. She thought she only needed verbal consent. She submitted drawings to get the permit but she ended up putting it a bit closer to the fence. She apologizes for the error. Mr. Viccica states that is better to just treat this as a special permit application and evaluate on the six criteria for that. The public hearing opens.

Katherine Scott of 18 Piedmont Street says she is the one Ms. Espinal is referring to when she says someone generated a complaint. She didn't generate a complaint but had concerns about construction of a pavilion right on my property line. That structure has been altered and is farther away from her property line. She adds the rules call for a fenced in space for the pool and a large portion of the fence falls on her property, which she has left alone.

Deborah Croxon-Trammell of 10 Piedmont Street speaks. She is the abutter on the other side and says the pool is a non-issue for her. She says she sees this happening everywhere in Salem with pools and thinks the rules (regarding setbacks) should be made clearer. Mr. Corriston confirms for the record that he received her letter.

Chair Duffy discusses the special permit criteria. He notes that this is a minimal, dimensional issue, and that it seems to be consistent with social, economic and community needs of Salem to allow these types of uses to exist on the property. There is no issue with respect to traffic flow and safety or utilities and public services; there is no major change for impact on the natural environment, including drainage. He states that this is consistent with neighborhood character in many neighborhoods for these amenities. If there is any change in potential fiscal impact, it would be slightly to the better. He re-states that this is a minimal dimensional issue, and there will not be any substantial derogation or detrimental impact that comes from granting this relief.

Paul Viccica asks about the pavilion. Ms. Espinal states that it is not a pavilion; it is a wooden floor under a gazebo. She shows a picture. Mr. St. Pierre states that the issue was resolved. Ms. Scott states that the pavilion seems to be there all year round.

Motion and Vote: Mr. Copelas moves to approve the petition of Maria Y. Baez-Espinal for a special permit per Section 3.2.5 *Swimming Pools* of the Salem Zoning Ordinance to provide less than six feet of setback between an above ground pool and the side property line at 14 Piedmont Street (Map 33, Lot 237) (R2 Zoning District), subject to the following **terms, conditions, and safeguards**. The motion is seconded by Mr. Tsitsinos. **The vote is five (5) in favor (Patrick Shea, Jimmi Heiserman, Mike Duffy (Chair), 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. A Certificate of Inspection is to be obtained.
3. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board.

Location: **398 Essex Street (Map 25, Lot 96) (R2 Zoning District)**
Applicant: **Katherine Casiglia**
Project: A public hearing for all persons interested in the petition of KATHERINE CASIGLIA 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 mixed-use building at 398 ESSEX STREET (Map 25, Lot 96) (R2 Zoning District).

Documents and Exhibitions

- Application date-stamped April 24, 2019 and supporting documentation

Katie Casiglia wants to continue to use her property in a mixed use historic building in an R2 district as a short term rental and needs a special permit. They were occupying the apartment and working in the dental office. As her family grew bigger they bought a house within a three block radius from this property. They left the unit vacant and decided to fix it up for rentals and family. This will help her maintain her property and she states she hopes this property will be her retirement house someday.

Chair Duffy notes that the petitioner has provided print-outs of Airbnb reservations. Katie Casiglia notes that this was from before the short term rental ordinance was passed. It is one unit with 4 bedrooms and has off-street parking for 2-3 cars and has on-street parking nearby.

Katie Casiglia submits a letter of support from Betsy and Dan Ricciarelli of 397 Essex Street who are in favor. Chair Duffy states, in summary, that these abutters “appreciate you as neighbors and eagerly support your endeavor.”

Public hearing opens and Gary Gill of 12 Pope St. asks whether this is a historic building; Ms. Casiglia answers in the affirmative.

Ms. Casiglia notes that the long-term housing crisis resonates with her and that they have contemplated renting long-term, but patient records are kept at the property. There is security on the first floor but they have a better sense of who is coming and going from short-term rentals than they would with long-term. She adds that there is no medication kept on site other than Ibuprofen, but she is concerned about access to patient records and confidentiality.

Mr. Duffy states that the Board has evidence to support the active use of the property (proof of operation). Mr. Duffy reads from the Statement of Grounds submitted by the applicant. He notes that there will be no change to the building. It is an ongoing, continuing use so there is no negative impact on traffic flow and safety. There is parking in the back. There will be no change in utilities, public services, or impact on the natural environment, including drainage. This is a historic building that has been well-maintained and is in keeping with the historic character of the neighborhood. We have recognized the positive fiscal impact of having short-term rental availability in the city. This does serve a social, economic and community need that has been identified and memorialized in the existence of the ordinance.

Motion and Vote: Mr. Copelas moves to approve the petition of Katherine Casiglia 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 mixed-use building at 398 Essex Street, **Unit 2** (Map 25, Lot 96) (R2 Zoning District), subject to the following **terms, conditions, and safeguards**. The motion is seconded by Mr. Tsitsinos. **The vote is five (5) in favor (Jimmy Tsitsinos, Patrick Shea, Jimmi Heiserman, Mike Duffy (Chair), and Peter A. Copelas) and none (0) opposed.**

Standard Conditions:

1. Petitioner shall comply with all city and state statues, 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. A Certificate of Occupancy is to be obtained.
5. A Certificate of Inspection is to be obtained.
6. Petitioner is to obtain approval of any City Board or Commission having jurisdiction including, but not limited to, the Planning Board.

Location: **15 Becket Street (Map 41, Lot 129) (R2 Zoning District)**

Applicant: **Harry's House LLC**

Project: A public hearing for all persons interested in the petition of HARRY'S HOUSE LLC to amend the special permit and variance granted by the Zoning Board of Appeals on December 3, 2018, to reference revised construction plans which remove the proposed cantilevered addition and re-design the dormers and related roof construction, for the existing nonconforming structure at 15 BECKET STREET (Map 41, Lot 129) (R2 Zoning District). No new or increased nonconformities are created by these revised plans. The proposed use remains three-

family with parking per the previously submitted site plan.

Documents and Exhibitions

- Application date-stamped April 24, 2019 and supporting documentation

Attorney William Quinn and Architect Steve Livermore present their plans. Attorney Quinn states that they have an amended set of building plans that they would like to incorporate into a decision granted in December. The originals gave us permission to expand a nonconforming structure and gave us a variance on a third story because the walls were in excess of the 2.5 feet requirement. When construction got underway she realized there were problems like the overhang encroaching on neighbors and blocking sunlight. Becket Street has undergone big improvements he says and when Ms. Barton bought this property it was dilapidated. It was a 4 unit building and the decision you made granted her permission to make it a 3 unit building. She made a drive way and parking for those units. Nothing will change any of that but the amended plans will improve things. The overhangs were cut back because the abutting property was very close. The building is square now because the overhang is gone. Also the changes to dormers and roof will give more floor space for the third floor unit. Attorney Quinn states that the changes do not increase nonconformities, they in fact reduce nonconformities; and that the revisions make the property more in character with the neighborhood. He states that the parking and footprint will not change. The proposal reduces the encroachment on the side of 11-13 Becket Street, and after a recent design change, removes overhangs which were extending into the setback between 15 and 17 Becket Street.

Mr. Livermore describes the changes the removal of a section of the building and says the new ridge height is 32.9 feet, where the original was around 31 feet. He explains changes to the plans. On the side near 18 Becket Street they incorporated various different plate heights. We will still have the same number of units; there will be 3 with a varied size between 835 square feet and 1400 square feet.

Mr. Quinn says that the Haydens, the owners of 17 Becket Street, had been at the meeting and were happy with the plans, but have since left. He adds that he knows there was a letter in opposition from another neighbor. Attorney Quinn states that the property owner (of 15 Becket Street, Joy Barton) had tried to communicate with Mr. Chalupowski (the other property owner, who lives off-site) regarding removing part of the chain-link fence between their properties, but she could not get in touch with him. Attorney Quinn explains that the reason for removing part of the fence was to make it easier to create a curb cut. He states that the owner is willing and expects to repair the fence and to repair any damage to anything along the fence. Chair Duffy asks who owns the fence. Attorney Quinn states that the same character of fence goes all the way around their property, so the property owner (Ms. Barton) believed it was hers, but the neighbor (Mr. Chalupowski) claims that it belongs to him. He states that it will be replaced at Ms. Barton's expense. The letter of opposition came with an invoice for the fence.

Mr. Viccica asks what the use of the third floor will be. Mr. Livermore says it will be bedrooms.

Mr. Viccica asks where the windows will be. Windows aren't installed and the windows aren't on the drawing. Mr. Livermore shows where the windows will be. Mr. Viccica wants to know if each bedroom will have a legal size window. Mr. Livermore says they will. Mr. Quinn adds that all drainage will be on my client's property.

Mr. Duffy states he has the letter and invoice was from Chester Chalupowski in opposition Mr. Corrison adds that he had sent the email from Mr. Chalupowski to the Board but forgot to send the attached letter; the letter is included in the Board members' packets tonight.

Mr. St. Pierre says the letter makes reference to Mr. Chalupowski having won an appeal of a wrongful decision of the Salem Building Department regarding a building code case. Mr. St. Pierre notes that this was not a zoning case, it was a building code appeals matter. Chair Duffy adds that this is a letter expressing general opposition to granting any relief, not particular to the amendment.

Chair Duffy opens the public hearing.

Gary Gill of 12 Pope Street says I know Ms. Barton. He feels there is a lot in the plans that are confusing. Mr. Gill mentions that he heard of the fence issue while knocking on doors for his City Councillor candidacy he learned of the issue. He thinks the whole fence should be replaced to be consistent. He wants more information because he is confused by the plans.

Mr. Quinn summarizes that there is a reduction in nonconformities. Mr. Duffy says to the Board that we already made our findings in December but the changes are substantial enough to be back before us tonight. Mr. Copelas adds that the changes lessen the reasons for our original decision.

Motion and Vote: Mr. Copelas moves to approve the petition of Harry's House LLC to amend the special permit and variance granted by the Zoning Board of Appeals on December 3, 2018, to reference revised construction plans which remove the proposed cantilevered addition and re-design the dormers and related roof construction, for the existing nonconforming structure at 15 Becket Street (Map 41, Lot 129) (R2 Zoning District), subject to the following **terms, conditions, and safeguards**. The motion is seconded by Mr. Tsitsinos. **The vote is 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.

Location: **81 Highland Avenue (Map 24, Lot 1); 108 Jefferson Avenue (Map 24, Lot 88); Old Road (Map 24, Lot 19); 1 Dove Avenue (Map 24, Lots 216 & 218); 79 Highland Avenue (Map 14, Lot 129); 55 Highland Avenue (Map 24, Lot 220); 57 Highland Avenue (Map 24, Lot 2); and 24 Old Road (Map 24, Lot 221) (R1 Zoning District)**

Applicant: **North Shore Medical Center, Inc.**

Project: A public hearing for all persons interested in the petition of NORTH SHORE MEDICAL CENTER, INC. for variances from Sections 4-50 and 4-51 of the Salem Code of Ordinances for height of signs to allow four new building signs at the North Shore Medical Center hospital campus at 81 HIGHLAND AVENUE (Map 24, Lot 1); 108 Jefferson Avenue (Map 24, Lot 88); Old Road (Map 24, Lot 19); 1 Dove Avenue (Map 24, Lots 216 & 218); 79 Highland Avenue (Map 14, Lot 129); 55 Highland Avenue (Map 24, Lot 220); 57 Highland Avenue (Map 24, Lot 2); and 24 Old Road (Map 24, Lot 221) (R1 Zoning District). Three of the signs are on the Dove Avenue side of the campus; one is on the Highland Avenue side.

Documents and Exhibitions

- Application date-stamped April 24, 2019 and supporting documentation

Attorney Joseph Correnti introduces Mary Jo Gagnon, Senior Vice President of operations from North Shore Medical Center and her team. Attorney Correnti says this application for a variance is for four signs for the new NSMC campus opening in October from the City Ordinance, not the Zoning Ordinance. He clarifies that this is not zoning relief. We've been here in the past for the new NSMC emergency center but this time we are here because the former Shaughnessy Rehabilitation Center will now be the Epstein Center for Behavioral Health. Our signs meet the size requirements of the sign ordinance but our placement in height exceeds the height requirements of the ordinance.

He explains the standards and language for signs in the Salem's sign ordinance: 25 feet high above the sidewalk or to the top of the sill of the first level of windows above the ground level. He states that the standard for the variance is that the Board find that they have "practical difficulties" with sign placement. He will demonstrate practical difficulties of putting the signs at less than 25 feet. He shows drawings of the campus with one sign on the Highland Ave side and three signs off of Jefferson on Dove Avenue with the new construction.

Mary Jo Gagnon speaks about the signs and their placement and how we want the emergency room to be visible. One sign is for the Epstein Center for Behavioral Health (following a donation) and we also would like to put a NSMC emblem here [gesturing]. She notes that the emergency room is moving from the Highland Avenue side to the Dove Avenue side. She notes that it is important that people can easily locate the emergency room, which is why the signs are proposed to be located as such. These signs won't be visible to Jefferson Ave or neighbors. They will be lit at night. They describe how each sign needs a variance because it is either above 25 feet from the sidewalk or above the first floor window sill. The fourth sign is on the Highland Avenue side, where they would like to place their emblem and North Shore Medical Center to clearly show that this is one of the main entrances. She notes that people have complained that it looks like a factory. This one is above the first floor window sill. Mr. Correnti reminds everyone that this is all in an R1 district.

Peter Copelas asks if they are going before any other City board for these issues, or if this (the ZBA) is the jurisdiction. Attorney Correnti states that there are no other boards with jurisdiction and notes that the Planning Board approved the project a few months ago and reviewed and weighed in on the proposed signage, with the exception of the Epstein Center lettering.

Mr. Copelas wants clarifications about the variances and the different standard Correnti mentioned earlier. Mr. Correnti confirms that this variance is the standard only for signs and that it is section 4-44 in the city ordinances. It is entitled variances and he reads the first sentence “The board of appeals may vary the sections of this article in specific cases which appear to it not to have been contemplated by this article and when its enforcement would involve practical difficulties or unnecessary hardship if, in each instance, desirable relief may be granted without substantially derogating from the intent and purpose of this article.” This is the standard for sign variances.

Mr. St. Pierre explains to everyone why this comes before BOA and it is because of that language. We usually hear the cases and don’t delve into the hardship much – it is just because of this language that it comes to this Board and there is nowhere else to go. Mr. Correnti notes that it is not typical. Chair Duffy notes that it is not pursuant to 40A. Mr. Correnti states that the signs would not be visible, and it is not good to have your emergency sign not visible.

The public hearing opens:

Gary Gill of 12 Pope Street says it’s a beautiful improvement and asks if there will there be more signs at the hospital.

Mr. Correnti replies that there will be more and if they trigger a variance, we will be back. He mentions that the NSMC has a whole wayfinding plan with signs to help with navigation.

Mr. Gill asks if the Epstein Center sign can be made symmetrical. Ms. Gagnon says that it is centered on the building; Mr. Correnti adds that one piece of the building protrudes.

The public hearing closes.

Chair Duffy states that for a hospital, which requires clear signage for patients seeking services – including emergency services – complying with the signage standards of the Residential One-Family (R1) zoning district presents practical difficulties.

Motion and Vote: Mr. Copelas moves to approve the petition of North Shore Medical Center, Inc. for variances from Sections 4-50 and 4-51 of the Salem Code of Ordinances for height of signs to allow four new building signs at the North Shore Medical Center hospital campus at 81 Highland Avenue (Map 24, Lot 1); 108 Jefferson Avenue (Map 24, Lot 88); Old Road (Map 24, Lot 19); 1 Dove Avenue (Map 24, Lots 216 & 218); 79 Highland Avenue (Map 14, Lot 129); 55 Highland Avenue (Map 24, Lot 220); 57 Highland Avenue (Map 24, Lot 2); and 24 Old Road (Map 24, Lot 221) (R1 Zoning District), subject to the following **terms, conditions, and safeguards**. The motion is seconded by Mr. Tsitsinos. **The vote is 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 is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board.

Location: 9-11 Franklin Street (Map 26, Lot 375) (B1 and R2 Zoning Districts)
Applicant: Gerren, LLC
Project: A public hearing for all persons interested in the petition of GERREN, LLC for a special permit per Section 3.3.2 Nonconforming Uses of the Salem Zoning Ordinance to change a nonconforming use (commercial and warehouse) to another nonconforming use (service industry, warehousing, light industrial, business and professional offices) that is no more detrimental to the neighborhood and a special permit per Section 3.3.3 Nonconforming Structures to reconstruct and enlarge a nonconforming structure at 9-11 FRANKLIN STREET (Map 26, Lot 375) (B1 and R2 Zoning Districts).

Documents and Exhibitions

- Application date-stamped April 24, 2019 and supporting documentation

Attorney Quinn speaks on behalf of Gerren Inc. his client. Mr. Quinn says that Franklin Street has had been a longstanding commercial area. Almost two year ago one of the building on the site burned down and he shows which building burned down. We want to take a non conforming structure with sideline dimension and enlarge it by special permit. We want to make different use of it. His client's building and business was transmission/automotive and they had a lot of old vehicles on the property with noise and odors. When a building burns down or is destroyed, the owner by right under zoning law has 2 years to reconstruct to the same area, bulk and height as before. His client can rebuild another automotive building but that is not his preference. He points to plans and says there is plenty of parking and traffic will be the same. The rest of the site will be kept in improved but natural condition. We have a landscaping plan also; this will go to planning board for further approval because it's exceeding the 10,000 square feet of commercial space. He will have to go back to his old transmission shop if he doesn't get approval.

We have Servpro who provides disaster cleaning; they are in this building here, but want to move them into this building.

Scott Cameron, civil engineer, explains more and refers to the site plan. We surveyed the property. You can see the boundary survey and the former footprint. We want to improve property and we have a mix of zones, B1 R2 and B5 in front of the street. There is a zoning line that splits the property. We want to contain everything on the property; with everything now in the front facing with buffers on sides and back. Foot print of existing building moved here so that everything is toward the front. We put green space in an 80 ft buffer on one side and 30 feet buffer on the other. You can get around all sides of the building. We are in full compliance of each zoning district and used the most restrictive requirement of each zoning district. As opposed to the existing building which had right on the property line. He discusses what features will be brought to planning board; storm water management and parking plan. We estimated it will require 57 parking spaces and will have 7 garage bay doors;

Peter Pickman, architect speaks and reviews the plan there is no egress out of the back except for emergencies. We will have air conditioners in setbacks. Servpro has a distinct structure and logo with tinted glass garage door. The building will be steel frame with insulated metal panel with three feet of

stone veneer. The doors out back are strictly pedestrian. Mr. Quinn says we will have a building that is code compliant with fire sprinklers replacing an old building that was a nuisance.

Is Servpro in operation 24 hours? Mr. Viccica asks the square footage of the new building and is told it is 14501 square feet while the old building was is approximately 6000square feet. Mr. St Pierre asks what other tenants or uses will be there? Mr. Quinn replies service industry, warehousing, light industrial or business or professional offices.

The public hearing opens: Kathy ? abuts the property. She wants to know what the parking is for and complains about Servpro operating 24 hours and bringing back hazardous waste. They were fined and cited she says. She says she wants something done about people parking on the street. She adds that she thinks this is too much. She approaches to look at drawings and asks questions. Mr. Quinn tells her it is designed to build a buffer for neighbors

Mr. Viccica wants clarification of hours of operations. How does a call for a 2am service go? There is discussion about a call center with no high intensity work at night. They will answer a call and go home. Mr. Quinn says there have been complaints about the transmission use going back for years but nothing about Servpro. Mr. St Pierre The dumpster issue was resolved. Mr. Copelas want the address for the new building. Mr. Quinn says it is 9-11.

Gary Gill states this is a beautiful improvement. He adds he is aware of parking problems. Mr. Duffy states that we got emails from two people and asks if she wants to speak? She adds she is concerned about access to back lot and concerned about Servpro and the dumpsters. She asks about dimensions and is shown the plans.

Mr. Quinn promises that her concerns will be addressed at the planning board.

Arthur Sargent City Councilor At Large says it's a good opportunity to fix this property because I have gotten a lot of complaints about this is past. He asks if the board can you condition hours of operation. He adds that no doors should be open for air with air conditions. The building itself makes the best buffer zone. I want a condition that there will be no deliveries out back. No side or rear door access will ever be allowed. Emergency access only with no smoking out back with doors marked and possibly an alarm company. He asks that there be no future restaurant use. He adds that this plan has some good things I have wanted. He adds that everything will be away from neighborhood.

Mr. Goldberg says he would like to check with Servpro about the hours conditions.

Mr. Copelas says Servpro will have to access trucks at some point and we don't want to restrict that with a condition.

Mr. Tsitinos agrees. Kathy asks about ladders being loaded onto trucks. Dorothy Hamelin asks about dumpster operations. The Board notes that the ladders should be loaded onto trucks inside the building, and that the dumpster will be handled by the planning board.

Gary Gill cautions about traffic being one way in and one way out keep it in mind.

Mr. Duffy and Mr. Corriston mention the letter received from Judy French that brought up concerns about dumpsters and the Ideal transmission building.

The public hearing closes.

Mr. Duffy reviews the criteria that the applicant must meet. Mr. Copelas adds there should be no ongoing business operations per city ordinance. They can come and get a truck but not work there. He adds a condition that there is no commercial access to rear of building. Mr. St. Pierre adds that the buffer zone will be maintained and not used commercially. Mr. Goldberg mentions that the martial arts studio is open until 10pm Mr. St Pierre says they can go to city council to extend the hours in the ordinance.

Motion and Vote: Mr. Copelas moves to approve the petition of Gerren, LLC for a special permit per Section 3.3.2 *Nonconforming Uses* of the Salem Zoning Ordinance to change a nonconforming use (commercial and warehouse) to another nonconforming use (service industry, warehousing, light industrial, business and professional offices) that is no more detrimental to the neighborhood and a special permit per Section 3.3.3 *Nonconforming Structures* to reconstruct and enlarge a nonconforming structure at 9-11 Franklin Street (Map 26, Lot 375) (B1 and R2 Zoning Districts), subject to the following **terms, conditions, and safeguards**. Mr. Tsitsinos seconds the motion. **The vote is 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.

Special Conditions:

1. There shall be no commercial access to the rear of the building. Access to the rear of the building shall be for emergency egress only.
2. Ongoing business operations are per the existing City ordinance.
3. The buffer zone shall be maintained as presented in the Board of Appeals hearing. There shall be no commercial use of the buffer zone.

MEETING MINUTES

1. February 20, 2019
2. March 20, 2019

Mr. Corrison states that minutes are not ready tonight but he will have several months' worth next month.

OLD/NEW BUSINESS

1. 2019 ZBA Application Package
2. Fee Discussion

The 2019 ZBA Application Package and fee discussion were tabled.

ADJOURNMENT

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

The meeting ends at 10:50 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-2019>

Respectfully submitted,
Brennan Corrison, Staff Planner