

**City of Salem Zoning Board of Appeals**  
**Meeting Minutes**

June 19, 2019

A meeting of the Salem Zoning Board of Appeals (“Salem ZBA”) was held on Wednesday, June 19, 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, Peter A. Copelas, and Jimmi Heiserman. Also in attendance were Brennan Corriston – Staff Planner, Tom St. Pierre – Building Commissioner, and Lorelee Stewart – Recording Clerk.

**REGULAR AGENDA**

Location: **79 Columbus Avenue (Map 44, Lot 57) (R1 Zoning District)**

Applicant: **Eric Cormier**

Project: A public hearing for all persons interested in the petition of ERIC CORMIER for a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* to reconstruct and expand a nonconforming single-family home to a greater height (three stories) at 79 COLUMBUS AVENUE (Map 44, Lot 57) (R1 Zoning District).

Documents and Exhibitions

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

Chair Duffy tells the public that there are only four board members present tonight, and because they do not have a full board, each applicant has the option to continue to the next meeting if they wish.

Peter Copelas states that he will have a hard time going forward on this petition because it has no plot plan. Petitioner Eric Cormier says that he is in the process of having one done now. Peter Copelas feels that the application is incomplete. Chair Duffy suggested that the petition be continued to the next hearing so they could have the plot plan and consider the application. Mr. Cormier asked if the concerns of people in attendance could be heard. Brennan Corriston says that the plot plan requirement is waived for single family houses where the work is expressed to be done on the footprint, but they have requested a plot plan because questions arose. Chair Duffy noted that there is a full agenda and stated that if Mr. Cormier is aware of abutters or neighbors who may have issues with it, he would encourage Mr. Cormier to reach out to them.

**Motion and vote:** Peter A. Copelas moves to continue the public hearing for the petition of Eric Cormier for a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* to the regularly scheduled meeting on July 17, 2019. Paul Viccica seconds the motion. **The vote is four (4) in favor (Peter A. Copelas, Mike Duffy (Chair), Jimmi Heiserman, and Paul Viccica) and none (0) opposed.**

Location: **29 Cushing Street (Map 17, Lot 121) (R1 Zoning District)**  
Applicant: **Susan & John Fraczek**  
Project: A continuation of 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

John Fraczek tells the board he was away on business for the last meeting where his wife stood in for him. He was applying for a special permit to build an unattached garage but he has revised his plans. Now, the proposal is a lateral garage that is attached to the house. By doing this, they added 6 feet in distance to the nearest abutter. Mr. Duffy acknowledges the additional drawings that reflect the changes.

Mr. Copelas tells Mr. Fraczek that he addressed the board's biggest concern which was the zero lot line and it appears you have solved that problem. He is pleased with the changes.

Chair Duffy opens the hearing for public comment. No one speaks in favor of or in opposition to the petition.

Mr. Viccica thanks him for the revisions. He says he was concerned that his old plans could inadvertently affect his neighbor, but that's all been taken care of. He will support this proposal. Mr. Copelas notes that Mr. Fraczek has submitted a Statement of Grounds as part of his application that addresses all of the special permit requirements. Paul Viccica makes a motion. Mr. Corriston adds that the structure is now technically conforming to setbacks, so the only special permit requirement is because this is a nonconforming structure. This is reflected in the motion.

**Motion and Vote:** Mr. Viccica moves to approve 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 **attached** 13' by 24' garage connected to the single-family home (a nonconforming structure) at 29 Cushing Street (Map 17, Lot 121) (R1 Zoning District), subject to the following terms, conditions, and safeguards. Mr. Copelas seconds the motion. **The vote is four (4) in favor (Mike Duffy (Chair), Jimmi Heiserman, Peter A. Copelas, and Paul Viccica) 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. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board.

**Location: 38 Cabot Street (Map 33, Lot 173) (R2 Zoning District)**  
**Applicant: Raynaldo Dominguez**  
**Project:** A public hearing for all persons interested in the petition of RAYNALDO DOMINGUEZ for a special permit per Section 3.3.5 *Nonconforming One- and Two-Family Residential Structures* and a variance from Section 4.1.1 *Table of Dimensional Requirements* of the Salem Zoning Ordinance for maximum lot coverage to extend a nonconforming two-family home by building a kitchen addition at the rear of the building at 38 CABOT STREET (Map 33, Lot 173) (R2 Zoning District).

Documents and Exhibitions

- Application date-stamped May 6, 2019 and supporting documentation

Raynaldo Dominguez states he was given permission to build this back in 2014. He did not realize that there was a time limit because he is doing all of the work himself. When he went back to do the kitchen he was told he has to come back to the BOA. He wishes to build a rear addition to the house.

Mr. Copelas asks if the garage is built. Mr. Dominguez answers in the affirmative. Mr. Copelas asks if the addition is any different from what was approved previously. Mr. Dominguez says no.

Mr. Viccica asks if it always had the decks and the stairs, and asks whether the application is exactly the same. Mr. Dominguez says yes, that I plan to do for the kitchen. Mr. Viccica states that he is generally in favor of the scheme, but that while reviewing he noticed that the proposed outdoor stairway increases the nonconformity of the setback on the side of the house and the house next door may be impacted by people coming off of that deck and going down in the setback. He would have liked to have seen the stair, if it is necessary to gain access to the proposed addition, to be placed inboard of your property in some way, not impacting or increasing the nonconformity of that setback. Mr. Dominguez states that he owns that property also. Mr. Viccica states that he may not in the future. Mr. Viccica notes that his purpose in that is that the proposal is increasing that nonconformity in setback, and if it is possible to move the stair, he would be willing to make that a condition of the approval. Mr. Dominguez says he can do that, he can do a spiral staircase. Mr. Viccica states he'll need to submit drawings to the Building Department that reflect that change.

Mr. Copelas notes that there is a high standard for variance requests, and that anything that can be done to mitigate some of the negative aspects of a variance request makes it easier for the Board to approve a petition. Mr. Dominguez tells the Board he was granted approval. Mr. Copelas notes that the granting of a previous decision does not bind the Board to grant it again. Discussion indicates

that moving the stairs inward would help reduce the impact of the change. Mr. Viccica gauges support from the Board for making a special condition which would include revised drawings, showing movement of the stairs inward.

There is clarification that this proposal would still require a variance for maximum lot coverage. Mr. Duffy reminds Mr. Dominguez that the Board has only four members tonight, so there is not much margin for error on this application: if there is something you can do to improve your chances for approval, that is probably wise. Mr. Dominguez asks what will happen next. Mr. Copelas states that the Board can make the decision contingent upon moving the stairs and the approval of the Building Inspector, in which case the plans would still need to be redone (showing the new location of the stairs) but he would not need to come back to the Board; he would only need to go to the Building Inspector.

The public hearing opens and closes with no comments from the public.

Mr. Duffy notes that there was a prior granting of a variance for this. He notes that we have an application that was submitted here, seeking dimensional relief. He notes that there is no opposition from the neighborhood on this issue. He states that with the relocation of the stairway inbound to the property, there is less relief requested or needed to grant the proposal. Mr. Viccica asks the petitioner if the hardship is that currently the petitioner cannot use the existing kitchen because it is in a state of disrepair. Mr. Dominguez responds in the affirmative, stating that they have been there for 26 or 27 years and that [his partner] has been wanting a kitchen forever and that he wanted to do the garage first, and now it's time.

**Motion and Vote:** Mr. Viccica moves to approve the petition of Raynaldo Dominguez for a special permit per Section 3.3.5 *Nonconforming One- and Two-Family Residential Structures* and a variance from Section 4.1.1 *Table of Dimensional Requirements* of the Salem Zoning Ordinance for maximum lot coverage to extend a nonconforming two-family home by building a kitchen addition at the rear of the building at 38 CABOT STREET (Map 33, Lot 173) (R2 Zoning District), subject to the following terms, conditions, and safeguards. Mr. Copelas seconds the motion.

The Board votes separately on the special permit and variance.

The vote on the special permit is four (4) in favor (Mr. Copelas, Mr. Duffy, Mr. Heiserman and Mr. Viccica) and none (0) opposed

The vote on the variance is four (4) in favor (Mr. Viccica, Mr. Heiserman, Mr. Duffy, and Mr. Copelas) 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. 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 petitioner shall modify the plans presented to the Zoning Board of Appeals to relocate the new, proposed stairway outside of the side yard setback and internal to the structure. Such plans must be submitted to and approved by the Building Commissioner before beginning any construction.

**Location: 462 Highland Avenue (Map 3, Lot 2) (B2 & ECOD Zoning Districts)**  
**Applicant: John R. Keilty representing I.N.S.A., Inc.**  
**Project:** Request for a six (6) month extension of Special Condition #3 in the December 3, 2018 Board Decision granting a special permit per Section 6.10.4 to operate a licensed retail marijuana establishment at 462 Highland Avenue. Special Condition #3 required that the applicant be issued a state license within six (6) months of the issuance of this special permit. This special condition stated that “A six (6) month extension can be granted by the Board of Appeals if good cause is shown.”

Documents and Exhibitions

- Extension request dated May 13, 2019 and supporting documentation

Chair Duffy asks if anyone is here to present on this request. No one answers. Chair Duffy reads from Attorney John Keilty’s letter, stating that the grounds are that the buildout is ongoing and that permitting is related to an inspection of the premises. Mr. Keilty is expecting the buildout to be completed by the on before mid-July and is expecting CCC [Cannabis Control Commission] approval shortly thereafter. Chair Duffy notes that the requirement is that the Board find good grounds to grant the extension, and it seems to him that time to complete the buildout is good grounds. Paul Viccica asks if that is sufficient. Brennan Corrison responds in the affirmative, noting that just a finding of good cause is needed.

Attorney John Keilty addresses the Board as they were just about to vote. He notes that his office is in Peabody, MA. He says their buildout is almost completed. The Cannabis Control Commission will not come to inspect them until they are fully built. His expectation is that they will open between August 1st and August 31st

Chair Duffy opens the hearing for public comment; no members of the public speak.

**Motion and Vote:** Mr. Viccica moves to grant a six (6) month extension of Special Condition #3 in the December 3, 2018 Board Decision granting a special permit per Section 6.10.4 to operate a licensed retail marijuana establishment at 462 Highland Avenue to December 3, 2019. Mr. Copelas seconds the motion. The vote is four (4) in favor (Mr. Duffy, Mr. Heiserman, Mr. Copelas, and Mr. Viccica) and none (0) opposed

**Location: 4 Smith Street (Map 36, Lot 13) (R2 Zoning District)**

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 home by adding two dormers to the rear of the building and expanding the front dormer at 4 SMITH STREET (Map 36, Lot 13) (R2 Zoning District).

Documents and Exhibitions

- Application date-stamped May 14, 2019 and supporting documentation

Greg Revill, owner of 2 and 4 Smith Street, speaks. He explains that he lives at 4 Smith Street and has been renting out 2 Smith Street. He notes that he is finally making improvements to where he lives hence the request for the dormers. The rear dormers are both in rear facing bedrooms; the gable ceilings restrict the usefulness of those rooms, so they are requesting to change that. The expansion of the dormers in front is to accommodate a similar situation in the bathroom. He states that in order to make any meaningful improvements to where he lives, these are the exterior changes that he is requesting. The height will not change; there will only be changes to the appearance of the roof line.

Mr. Viccica clarifies that each dormer is 5 feet in width and that all the changes are from the roofline up.

The public hearing opens and closes with no one speaking.

Mr. Duffy reviews the special permit criteria and says it will be a big improvement to the neighborhood. He says there is no traffic impact or anticipated drainage problems. There will be no change to the neighborhood character. He adds there will be a positive fiscal impact for the city.

**Motion and Vote:** Mr. Heiserman 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 home by adding two dormers to the rear of the building and expanding the front dormer at 4 Smith Street, subject to the following terms, conditions, and safeguards. Mr. Viccica seconds the motion. The vote is four (4) in favor (Mr. Copelas, Mr. Duffy, Mr. Heiserman and Mr. Viccica) 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. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board.

**Location:** 20 Southwick Street (Map 27, Lot 446) (R2 Zoning District)  
**Applicant:** Christopher LeBlanc  
**Project:** A public hearing for all persons interested in the petition of CHRISTOPHER LEBLANC 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 second story to the existing structure at 20 SOUTHWICK STREET (Map 27, Lot 446) (R2 Zoning District).

Documents and Exhibitions

- Application date-stamped May 15, 2019 and supporting documentation

Mr. LeBlanc says that he has lived at this location for nearly 18 years and wants to add a second floor with bedrooms and a couple of bathrooms and renovate the kitchen. Mr. Duffy asks what the new height of the building will be. Mr. LeBlanc says it will be 21.5 feet and it will conform to the neighborhood: this house is the only ranch in the neighborhood, and all the other houses are Colonials. He notes that the house had a second level that burned down in 1980; they are trying to bring it back to its original state and get a little more room, as their kids are growing up.

Mr. Viccica notes that they are not expanding the existing footprint and they do not have a plot plan; he notes that we understand that single-family residents are exempt from that. He states that the Board likes to see plot plans, but Mr. LeBlanc is not adding to the footprint. He thinks that there is a difference between this application and others that have come before that might be adding or subtracting pieces.

The hearing is opened for public comment; no members of the public speak in favor or in opposition.

Mr. Duffy summarizes that the height will be within requirements for feet and stories and all work will be within the footprint. He reviews the Statement of Grounds, which speaks to the criteria for special permit. The Statement notes the rising costs of education and the petitioner seeking to expand the living room area to account for the family, including two kids. The Statement notes that there will be no impact to traffic flow; no changes to land itself; no impact on natural environment, including drainage. Chair Duffy states that we've heard from the applicant tonight and it is also stated in the Statement of Grounds that this addition will be in character with the neighborhood and consistent with surrounding homes. Chair Duffy adds that it certainly will be a positive impact on the economic, tax, and potential fiscal impact on the City. Chair Duffy adds that adequacy of utilities should not be an issue for this application. Mr. St. Pierre adds that Mr. LeBlanc is among our top-tier contractors.

**Motion and Vote:** Mr. Viccica moves to approve the petition of Christopher LeBlanc 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 second story to the existing structure at **20 Southwick Street**, subject to the following terms, conditions, and safeguards. Mr. Copelas seconds the motion. The vote is four (4) in favor (Mr. Duffy (Chair), Mr. Heiserman, Mr. Viccica, and Mr. Copelas) 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. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board.

**Location: 22 Bertuccio Avenue (Map 24, Lot 110) (R1 Zoning District)**  
**Applicant: Clifford Goodman**  
**Project:** A public hearing for all persons interested in the petition of CLIFFORD GOODMAN for a special permit per Section 3.2.8 *Accessory Living Areas* of the Salem Zoning Ordinance to construct an accessory living area within the existing footprint of the single-family house at 22 BERTUCCIO AVENUE (Map 24, Lot 110) (R1 Zoning District).

Documents and Exhibitions

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

Cliff Goodman of 22 Bertuccio Avenue addresses the board stating that he is applying for a special permit to allow an accessory dwelling unit or (ADU.) He states that his mother needs a place to live with a walk in shower and his house has an ADU that can accommodate her needs without any construction needed. He adds that he hopes his application is approved tonight because it is his mom's birthday. Mr. Duffy reviews the packet and says that the applicant has submitted a statement of grounds and drawings of the ADU. All he needs to do to prep the unit is give it a fresh coat of paint.

Mr. Copelas asks Mr. Goodman how he is changing the house to accommodate an ADU. Mr. Goodman replies that he doesn't have to change anything because his house was built with and ADU with a kitchen and bathroom but it has never been used in that way. No one has lived down there and rent is expensive. Mr. Goodman states that he believes that things happen for a reason because he has what his mother needs. He notes that his sister lives in the neighborhood and everyone in the neighborhood knows his mom. Mr. Viccica reviews drawings and says you will have to meet the egress requirements to get the City Certificate of Fitness. Mr. Goodman says his unit was already granted a Certificate of Fitness.

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

Mr. Duffy reviews the application, Mr. Goodman's drawings and the criteria for the special permit. Paul Viccica asks about the record title. Mr. Duffy notes that there is a quitclaim deed in the



application; he asks who Mary Goodman is; Mr. Goodman responds, “My wife.” Chair Duffy discusses special permit criteria. In terms of community needs served by the proposal, the special permit meets the needs, namely it provides family members the opportunity to have companionship, security, and services and assimilate into the family home. There should not be any change to traffic flow and safety. Utilities are adequate and functioning. No change is proposed to the exterior of the property, which is already in keeping with neighborhood character. No change in impact to the natural environment is anticipated. If there is any economic and fiscal impact, it is positive. Paul Viccica adds that this email states the dates of birth and names of [the people who will live at the property], fulfilling that requirement.

**Motion and Vote:** Mr. Viccica moves to approve the petition of Clifford Goodman for a special permit per Section 3.2.8 *Accessory Living Areas* of the Salem Zoning Ordinance to construct an accessory living area within the existing footprint of the single-family house at 22 Bertuccio Avenue, subject to the following terms, conditions, and safeguards. Mr. Copelas seconds the motion. The vote is four (4) in favor (Mr. Copelas, Mr. Viccica, Mr. Duffy, and Mr. Heiserman) 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. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board.

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**Location:** 253 Loring Avenue (Map 31, Lot 142) (R1 & ECOD Zoning Districts)  
**Applicant:** Felipe Sena  
**Project:** A public hearing for all persons interested in the petition of FELIPE SENA 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 building a roof over a portion of the existing deck at 253 LORING AVENUE (Map 31, Lot 142) (R1 & ECOD Zoning Districts).

Documents and Exhibitions

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

Cesar Rosales, the representative for his father-in-law, Felipe Sena (petitioner), says that this is his father-in-law’s property. He says that this will be a simple construction; they want to expand a deck that is already there by adding a roof. He says they want to build it because in the summer it is too hot on the deck. He adds that they have a good relationship with the neighbors and he doesn’t think there will be any problem. This will just be a roof covering the deck.

Mr. Viccica asks if the deck will be enclosed and asks if there will be any walls. Mr. Rosales says no, it will just be a roof cover.

Mr. St. Pierre asks how much further along (in construction) he is than what the (submitted) picture shows, as he has some concerns. Mr. Rosales says they have stopped, there are just the posts [which are shown in the picture]. Mr. Copelas asks if the deck is new. Mr. Rosales says no, the deck is already there and was there when they bought the house.

Mr. Viccica explains that without drawings of the structural systems, it will be hard to determine whether these - what appear to be 4x4s or 6x6s [posts] - are sufficiently braced, will conform to snow loads and things that will happen over time. Although there is a condition to get a building permit, Mr. St. Pierre is going to require some more drawings. Mr. St. Pierre adds that from what he sees there, he will be concerned with wind uplift and other problems. He states that when Mr. Rosales comes in for a building permit, he should make sure to talk with us, don't just drop off the paperwork. Mr. Viccica says just to be clear, it's no more than this. Mr. Rosales says no, we've stopped.

A member of the public asks if there is an opportunity for a neighbor to comment. Mr. Copelas says there will be, we will get to that.

Mr. Copelas asks if Mr. St. Pierre is OK with the Board making it contingent upon more formal plans being submitted to him. Mr. St. Pierre responds in the affirmative.

Chair Duffy opens the hearing for public comment.

Brooke Morrissey is here on behalf of Gary Pierce, owner of the house next door (251 Loring Avenue), who is out of town. She states that Mr. Pierce's question is about the poles and the height of the roof. Mr. St. Pierre invites Ms. Morrissey to come up and look at the picture. Mr. St. Pierre notes that [approval] is per the drawings submitted to date, which show a nine foot high roof, so that would preclude him from building it on top of those poles. She confers with Mr. St. Pierre and asks if we will have a roof on top of the poles. Mr. St. Pierre explains it will be a pitched roof at nine feet high. Ms. Morrissey explains that the concern of the neighbor was that the roof would be "up there."

Mr. Copelas asks if we have the height listed somewhere. Mr. Duffy responds that it is stated in the application - it refers to it as a nine-foot height. Mr. Viccica states that he assumes the height is to the eave. Mr. Copelas agrees, stating it would not be to the peak. Mr. St. Pierre agrees that it is to the eave line.

No other members of the public comment.

Mr. Duffy notes that there is a Statement of Grounds submitted with the application that speaks to the special permit criteria and describes the dimensions of the roof to be twelve (12) feet wide, 15.8 feet long, and 9 feet in height, which we just described would be 9 feet at the eave line.

Mr. Viccica wants to provide parameters for the height. Mr. Rosales notes that they will pitch both sides. He doesn't know yet what the height will be because it has to be the right pitch to control the water [runoff] on both sides. Mr. Viccica asks about the dimensions again. Mr. St Pierre says 12 feet

wide by 15.8 feet long by 9 feet tall is what they are claiming. Mr. St. Pierre explains that the Board is concerned about is that a very steep roof goes up much higher than a shallow pitched roof. Mr. Heiserman asks the Mr. Rosales if he knows how tall the center will be. Mr. Rosales says he does not know exactly.

Mr. Viccica says at nine foot to the roof eave and a 10 in 12 pitch maximum is a 14 feet height to the top of the roof. He adds that he thinks they will have to put in a condition that says the top of the roof can be no taller than 14 feet. He says that he is very close to being compelled to send the petitioner back for a continuance.

Mr. St. Pierre says to Mr. Rosales that if he went with a five-inch pitch and went six feet, that would be about thirty (30) inches higher in the center, and the Board is trying to nail down something so it is not a high structure. He asks Mr. Rosales petitioner if he would be able to live with a twelve (12) foot height overall. Mr. Rosales responds in the affirmative. He explains that the Board is trying to capture a solid number that he can hang his hat on when he looks at it.

Mr. Copelas asks Mr. St. Pierre if that height is enough; Mr. St. Pierre responds in the affirmative.

Mr. Corrison asks Mr. Rosales if it would be ok with him to do that condition. Mr. Rosales responds in the affirmative.

Mr. Copelas asks if the height is from the ground or from the deck. Mr. Viccica says it would have to be from the current elevation of the deck.

Mr. Duffy reads from the statement of grounds for a special permit:

- Social and economic values of the community: The addition will improve the living space for the owner, resulting in improvements to the visual and functional character of the dwelling.
- The proposed addition will not change any of the parking, loading, or traffic issues affecting the neighborhood.
- The proposed addition will have no additional burden on utilities or public services.
- The proposed addition will not change the drainage characteristics of the property. Mr. Duffy asks Mr. Rosales if he is proposing to put gutters on the roof of this and control the runoff. Mr. Rosales responds in the affirmative.
- The proposed addition will not be inconsistent with the character of the neighborhood.

**Motion and Vote:** Mr. Viccica moves to approve the petition of Felipe Sena 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 building a roof over a portion of the existing deck at 253 Loring Avenue, subject to the following terms, conditions, and safeguards. Mr. Copelas seconds the motion. The vote is four (4) in favor (Mr. Copelas, Mr. Duffy, Mr. Heiserman and Mr. Viccica) 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. 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 height of the new roof covering the deck shall be no greater than twelve feet (12') to the ridge as measured from the existing slab.

Location:	<b>89-91 Canal Street (Map 33, Lot 163) (B4 &amp; ECOD Zoning Districts)</b>
Applicant:	<b>68 Rowley Rd. LLC</b>
Project:	A public hearing for all persons interested in the petition of 68 ROWLEY RD. LLC for a special permit per Section 3.3.2 <i>Nonconforming Uses</i> of the Salem Zoning Ordinance to change from one nonconforming use (light manufacturing) to another nonconforming use (multifamily residential) and a special permit per Section 3.3.3 Nonconforming Structures to alter a nonconforming structure at 89-91 CANAL STREET (Map 33, Lot 163) (B4 & ECOD Zoning Districts).

Documents and Exhibitions

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

Attorney Scott Grover presents the petition. He is representing Mike Shea Sr. and Mike Shea Jr. who recently bought the property. The architect for the project, Steve Livermore, is in attendance. Mr. Grover says that 89-91 Canal Street is on the left side of Canal Street going out of Salem, immediately adjacent to the old candy factory that has now been redeveloped into eight residential condominium units based on approvals from this Board a couple of years ago. He notes that until recently, the property was owned by Cathy Crist and was used as light manufacturing for a home décor business, primarily draperies. The location also housed a cat kennel or cat boarding house. Those uses have been discontinued and the property has been vacant now for several months.

Attorney Grover states that the property is in the B4 zoning district and the entrance corridor overlay district. He explains that the existing and past uses are presently nonconforming, and the petitioners are proposing to convert the existing commercial uses to a residential use, which is also not a permitted use in the B4 district. He explains that the proposal is for four residential condominium units in the main building with six parking spaces, which meets the requirement. He notes that in addition to the six spaces in the rear of the property, there are two overflow spaces on the side. The property has two curb cuts but primary access to parking will be on the left side of the building. The proposal is to maintain the full width of the drive aisle at 12 feet. This makes the two overflow parking spots on the right side slightly less than the legal width at eight feet wide instead of nine feet; they do not count toward the number of compliant spaces. There are six compliant spaces in the back.

Attorney Grover explains that they need two special permits. The first is to change from one nonconforming use (light manufacturing) to another (residential) and the second is to alter or reconstruct an existing, nonconforming building. There are no changes to the existing footprint proposed. Currently, there is an exterior stair on the front corner of the building; the proposal is to enclose the stairway. Attorney Grover explains that the reason this is a special permit and not a variance is the narrow provision in Section 3.3.4 that allows you to extend an existing exterior wall along the same nonconforming distance. He explains that they are taking the front wall and side walls and extending them to the corner, boxing in the stairway. In order to do this we need a special permit. The grounds for the special permit are set forth in the petition. The project fills a community need to provide housing opportunities in the moderate price range. There is adequate parking and adequate access to the parking. There should be more than adequate public utilities on Canal Street now that it has been reconstructed. The character of Canal Street is becoming more residential. The property is almost all surrounded by residential. This project fits with that character. This is an opportunity to clean up the site and improve the neighborhood in that respect. Attorney Grover notes that there is really no landscaping now, but that their site plan has a landscaping buffer between the parking and the nearby residential properties. This will provide a screen for the residential properties in the back. The four residential units will enhance the tax revenue for the property and there will be more people living in Salem to support the local economy.

Mr. Copelas asks if there will be mechanicals on the roof or outside in the back or anywhere exposed. Mr. Livermore says they have not resolved it yet, but if they do have mechanicals, they will be on the roof. Mr. Copelas asks if it is a shallow roof; Mr. Livermore responds in the affirmative. Mr. Viccica asks if the project will go to the Planning Board. Mr. Grover replies no, because it is less than 6 units but adds that they are in the ECOD and that they will follow all of those requirements for fencing and lighting. Mr. St Pierre asks about a doghouse on the back of the building. Mr. Livermore says they are reducing size of the doghouse. There is some discussion of landscaping. Attorney Grover points out that the main entrance will be on the side. Mr. Copelas confirms that all of the items in the back of the building are being reduced or eliminated. Mr. Livermore responds in the affirmative, with the exception of the access to the basement. Mr. St Pierre notices a small roof over the main entry and thinks it is subject to being hit by a U-Haul; he asks about some bollards. Mr. Viccica suggests that it can be curbed to frame the two parking spaces and protect the overhang. Mr. Livermore agrees.

Chair Duffy opens the hearing for public comment.

Sanir Lutfija of 4 Geneva Street #2 is in support of the project. He lives right behind the property and appreciates the landscaping proposed but hopes trash will not be stored in the back.

Chair Duffy notes that the Board received a letter in favor of the project from Mike Becker, owner of 12 Geneva Street, stating that he supports the proposal and that he thinks it will be a positive for the neighborhood.

**Motion and Vote:** Mr. Viccica moves to approve the petition of 68 Rowley Rd. LLC for a special permit per Section 3.3.2 *Nonconforming Uses* of the Salem Zoning Ordinance to change from one nonconforming use (light manufacturing) to another nonconforming use (multifamily residential) and a special permit per Section 3.3.3 *Nonconforming Structures* to alter a nonconforming structure at 89-91 Canal Street, subject to the following terms, conditions, and safeguards. Mr. Copelas seconds

the motion. The vote is four (4) in favor (Mr. Duffy (Chair), Mr. Copelas, Mr. Heiserman, and Mr. Viccica) 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. 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 petitioner shall submit a plan for curbing and/or other methods to protect the new overhang at the side entrance from damage.

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Location:	<b>2A Buffum Street Extension (Map 26, Lot 71) (I Zoning District)</b>
Applicant:	<b>2-A Buffum Street LLC</b>
Project:	A public hearing for all persons interested in the petition of 2-A BUFFUM STREET LLC for a special permit per Section 3.3.2 <i>Nonconforming Uses</i> of the Salem Zoning Ordinance to change from one nonconforming use (single-family residential) to another nonconforming use (two-family residential) and a special permit per Section 3.3.3 <i>Nonconforming Structures</i> to alter a nonconforming structure at 2A BUFFUM STREET EXTENSION (Map 26, Lot 71) (I Zoning District).

Documents and Exhibitions

- Application date-stamped May 28, 2019 and supporting documentation

Attorney Scott Grover of 27 Congress Street is with Steve Livermore, the architect for the project, and Eric Towne, who is representing 2A Buffum Street LLC. This building is at the corner of Buffum after it crosses Mason Street at Buffum Street Extension. Attorney Grover presents photos of the existing conditions and explains that the home is in a significant state of disrepair. The owner bought it after a bank had foreclosed on it. The owner wants to convert this single family home, which is a nonconforming use in the Industrial zoning district, to two residential units. There is some evidence that this was a two-family home in the distant past: there are two electric meters and a front and a rear stairway, but the present use is single-family. Attorney Grover explains that they are seeking a special permit to go from one nonconforming use (single-family residential) to another nonconforming use (two-family residential). Attorney Grover notes that now, there is one parking space serving the existing residence. The proposal to provide the required parking is to add two spaces here [referencing plans]. He states that after consulting with Mr. St. Pierre to not exceed the total width of curb cut allowance, they will limit the curb cut of the entrance to 10 feet, so that there

is a total of no more than 20 feet on the two curb cuts. The entrance then opens up to access the two new spaces. A section of the fence will be opened up to create those spaces.

Attorney Grover shows a rendering and notes that the only change they are making to the building is on the back, where a porch is being covered with a roof to create a deck for the second floor unit. Because of this change to the structure, the petition requires a second special permit, to allow an alteration to an existing nonconforming structure.

The grounds are very similar to the last petition in terms of creating housing opportunities that are much needed in the city in a moderately priced neighborhood. The character of this neighborhood is clearly multifamily: this is right in between the Water Street condominiums and the new Ice Cream Way units. A single-family is an anomaly in this neighborhood. The property is on a public way and there are adequate utilities. They are creating adequate parking and access; the rehabilitation of the building will improve the natural environment and drainage; and as a two unit-building, it will produce greater tax revenue than it is producing now and will provide housing opportunities. For all those reasons, Attorney Grover thinks it meets the requirements that the Board needs to find for the special permits.

Mr. Livermore states that this will improve the exterior. The exterior is now asphalt shingles and is kind of run-down. He thinks it will be a much nicer place just having re-sided it. Attorney Grover adds that the landscaping will be enhanced in the front.

Mr. Copelas says that the renderings are a little off on the parking in the rear, not showing the curb cut and the reduced side. Mr. Livermore notes that they made that change as a result of discussion that Attorney Grover had with Tom St. Pierre. Attorney Grover notes that they replaced the site plan. Mr. Viccica asks what the curb cut will be. Attorney Grover says it will be ten feet on each; that the existing curb cut on Buffum Street will be reduced to ten feet and Mr. Livermore notes that the curb is fairly undefined there.

Mr. St. Pierre notes that it looks like a fairly small house. Mr. Livermore states that it is 700 square feet per floor. Attorney Grover states that there are two bedrooms proposed in each unit.

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

Chair Duffy reads from the Statement of Grounds, stating that the change increases housing opportunities in the city; there is adequate parking as provided in the plan; public utilities are already there; the impact on the natural environment will be improved with the added landscaping; the surrounding neighborhood has plenty of multifamily uses which will be consistent with this; the proposal will bring the property to a better state of repair, more attractive, better maintained; the increase in units will improve the fiscal impact of the property.

**Motion and Vote:** Mr. Viccica moves to approve the petition of 2-A Buffum Street LLC for a special permit per Section 3.3.2 *Nonconforming Uses* of the Salem Zoning Ordinance to change from one nonconforming use (single-family residential) to another nonconforming use (two-family residential) and a special permit per Section 3.3.3 *Nonconforming Structures* to alter a nonconforming structure at 2A Buffum Street Extension (Map 26, Lot 71) (I Zoning District), subject to the following terms, conditions, and safeguards. Mr. Copelas seconds the motion. The vote is four (4) in favor (Mr. Duffy (Chair), Mr. Copelas, Mr. Heiserman, and Mr. Viccica) 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. 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 curb cut on the South Mason Street side shall be limited to ten feet (10') in width. The existing curb cut on the Buffum Street Extension side shall be no greater than ten feet (10') in width.

**Location: 8 Osborne Street (Map 27, Lot 315) (B1 Zoning District)**  
**Applicant: Evergreen Realty Trust**  
**Project:** A public hearing for all persons interested in the petition of EVERGREEN REALTY TRUST for a special permit per Sections 3.3.3 *Nonconforming Structures*, 3.3.4 *Variance Required*, and 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* to expand a nonconforming residential structure, the two-family house at 8 OSBORNE STREET (Map 27, Lot 315) (B1 Zoning District).

Documents and Exhibitions

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

Attorney Bill Quinn is here representing Michael Becker, who is in attendance along with his architect. Attorney Quinn explains that Mr. Becker purchased and has been working on - basically demolishing and cleaning up - a former two-family dwelling at 8 Osborne Street. The property was in a dilapidated condition when he got it. He explains that Mr. Becker got a building permit last year to start working on the property and has been operating under that. Because the B1 zoning district allows multifamily, Mr. Becker is petitioning to go from a two-family to a three-family. Attorney Quinn states that a building permit issued for that last year and he is in the middle of doing the work. Attorney Quinn notes that while Mr. Becker was working on the building, he became aware of the fact that there might be a better way to do it than the way he had originally planned when he applied for the building permit.

Attorney Quinn references plans and notes that there is an existing addition which is just an up-and-down small room addition with no garage under it, but Mr. Becker decided it would be a better plan and that he could provide better living spaces for the new owners if he removed the existing addition, added some stairs, and put a slightly sloped garage under the addition for one of the three cars on the property. Attorney Quinn states that the new addition is virtually identical in size to the old addition. He states that the stairway or something may come out a little further. Almost all the



construction is in areas well within the setbacks on those sides. The only place he is extending the nonconformity is along the rear lot line.

As Attorney Quinn references plans, Mr. Becker interrupts to state that the change is happening in a different place than where Attorney Quinn has referenced. There is some discussion between Attorney Quinn and Mr. Becker clarifying where work is proposed and where the nonconforming line is.

Attorney Quinn explains that all they are doing with the new addition, similar to the old addition they are taking down, is carrying a nonconforming setback line further by the width of the addition. What we are talking about is the enlargement of a nonconforming building whereby the only nonconformity is the extension of an existing side line nonconformity or rear yard nonconformity, here [referencing plans], which requires a special permit under Section 3.3.4, so we are seeking a special permit for that purpose.

Mr. Viccica asks if there is an existing one-story addition. Mr. Becker states that no, it is a two-story addition, and the topography is down about five feet from the street line. Mr. Viccica clarifies, two-story, but it does not match the ridge line currently, but you will raise it to match the current ridgeline? Mr. Becker responds in the affirmative. Attorney Quinn adds, "But within the height dimensional limitations."

Attorney Quinn restates that the application is a special permit to enlarge or alter a nonconforming building by replacing a rickety, old addition with a new addition with an underground parking space. Attorney Quinn invites architect Tom Mayo to discuss the plans.

Architect Tom Mayo of Ipswich, Massachusetts introduces himself and points out the existing building, facing Osborne Street, which will not really change. Mr. Mayo points out the side of the building with the addition and highlights the plans, drawing attention to the shape of the existing addition. He explains that they are basically rebuilding the existing addition, but extending it out a bit so they can get a car parked, but it is well within the setback. He adds that the other reason they are extending it is that they can get a car in there but still have parking elsewhere, so they can maintain green space, raised garden, and large tree. They will have pervious pavers as they go down the slope, then grass beyond that.

Mr. Mayo notes that the total height is twenty-five feet four and three-quarter inches (25' 4.75"), from mean grade in front to the peak. To the mean height of the gable is twenty-six feet two inches (26'2"), so we are well under the zoning guidelines. Mr. Mayo notes that we are proposing a shed dormer that goes on the top of the side elevation - the front of the house faces the side - so we are keeping the existing house and would like to add a dormer on the top of it on the front half, there is nothing on the back side of it.

Mr. Mayo reviews the plans in more detail and shows how they are making space to park the car underneath.

Mr. Viccica asks him to review the units, asking if they are all single-bedroom. Mr. Mayo replies that Unit 1 has three (3) bedrooms, Unit 2 has two (2) bedrooms and Unit 3 has two (2) bedrooms. Mr. Copelas asks him to tell him more about the existing parking situation. Mr. Becker notes that the building permit that they pulled had parking in three spots, but it would require taking out a large,

healthy, mature tree. By putting a third car parking underneath the building, which is dead space now, they can save green space and that tree. Mr. Mayo shows current parking in the driveway and shows the tree and stone wall that they want to keep, noting that right now there is no parking in the back at all.

Mr. Becker adds that the existing addition is out of plumb by eight to ten inches, leaning towards the neighbor's side. He states that we started working on it and realized that this addition is in a very dilapidated state, and it would be easier to knock it down and rebuild it, but if we're going to knock it down and rebuild it, five feet under it could be used as garage space to allow us to keep the tree and green space and make for a better unit for Unit 1. The garage will be attached to Unit 1, which he believes will be three bedrooms on the first floor.

Attorney Quinn files a letter from the abutter who he states is most directly affected on the rear side where the line is being extended. He states that the abutter has signed a petition asking you to approve the project. Attorney Quinn states that if you've seen the house and the neighborhood, you would understand, because this is a real eyesore at the moment but it is a beautiful old house with signage from Historic Salem on it, and it's going to add quite a bit to the neighborhood once it's cleaned up and painted and the renovation is finished. This is a signed note from abutter Eric Moriello of 10 Osborne Street stating that he is in favor of the proposed renovation.

Chair Duffy opens the hearing for public comment. There is none.

Mr. Becker introduces his partner, the other owner on the building.

Chair Duffy asks if the real issue is just the extension along the existing nonconforming side. Attorney Quinn responds in the affirmative and reviews the grounds for special permit. He states that they are taking a dilapidated old house and making it into modern housing with a third unit; it will enhance the tax roll; it will provide good housing for people that live there, up to code; there are no new units going into the building, so it is unlikely that there will be additional cars than are already on the property, thus no traffic congestion should be associated with this; the roof is replacing the roof of the existing addition, so drainage should not be different than it is today. He states that we think those basic grounds justify deciding that it is not more detrimental to the neighborhood than the existing dilapidated use of the building. Chair Duffy states that this is reflected in the Statement of Grounds submitted with the application as well.

Mr. Viccica asks if we would only be approving a special permit, not a variance. Chair Duffy confirms. Mr. Viccica asks if this is incorrect. Mr. Copelas clarifies that that is the title of the ordinance [Section 3.3.4 *Variance Required*]. Attorney Quinn states that the section says that everybody else needs a variance, but if you're only extending one line, you need a special permit only. Mr. Corrison adds that this is a confusingly titled section.

**Motion and Vote:** Paul Viccica moves to approve the petition of Evergreen Realty Trust for a special permit per Sections 3.3.3 *Nonconforming Structures*, 3.3.4 *Variance Required*, and 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* to expand a nonconforming residential structure, the two-family house at 8 Osborne Street (Map 27, Lot 315) (B1 Zoning District), subject to the following terms, conditions, and safeguards. Mr. Copelas seconds the motion. The vote is four (4) in favor (Peter Copelas, Mike Duffy (Chair), Jimmi Heiserman, and Paul Viccica) 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. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board.

During the reading of conditions, Paul Viccica asks if they have a building permit and whether it has to be modified. Attorney Quinn says they have a building permit. Mr. St. Pierre responds in the affirmative regarding whether the building permit will have to be modified.

## MEETING MINUTES

Brennan Corrison notes that he only got to the February minutes, and hopefully he will be able to get to March and April for next month. There are no changes suggested to the minutes.

Peter Copelas moves to approve the February 20, 2019 minutes as printed. Paul Viccica seconds the motion. All four are in favor (Peter Copelas, Mike Duffy (Chair), Jimmi Heiserman, and Paul Viccica), and none (0) are opposed.

Mr. St. Pierre has questions about the last petition. He asks Mr. Corrison if they talked about the 8 Osborne Street petition. Mr. Corrison says he is not sure. Mr. St. Pierre asks whether you can use the one- and two-family exceptions to go to a three-family. He says it troubled him as he sat there. He says he does not think you can use that for a three-family. Mr. Copelas asks if they have already been approved to convert it to a three-family and have a building permit. Mr. St. Pierre says they did not get relief to do that. Mr. St. Pierre states that Mr. Becker was using the B1 zoning to his advantage, which is why we changed B1 zoning last summer: he was able to put as many units as he wanted to because there was no restriction on lot area per dwelling unit. That has been fixed. So you [Mr. Copelas] are correct: he got a building permit to convert to a three. And the attorney just used the section that is referencing one- and two-family nonconforming structures. Chair Duffy asks whether he did. Mr. St. Pierre responds, "Yes." Chair Duffy asks, doesn't it start with "except with regard to single- and two-family," then refer to 3.3.5? Mr. Corrison states that his understanding was that the change was the extension of the two walls along the existing walls, which is the portion of Section 3.3.4 that Attorney Quinn referenced, but in terms of the dormer addition, is that what you're referencing? Mr. St. Pierre states that Attorney Quinn referenced 3.3.5, which is about nonconforming single- and two-family structures, but he already had permits to go as a three, so it's under way as a three, so how do you use 3.3.5? The dormer should have been relief from number of stories. Mr. St. Pierre tells Mr. Corrison that's why it's important that we do have to go over these. Mr. Corrison says he thought that he had brought this to [Mr. St. Pierre]. Mr. St. Pierre says we did not do this one.

Mr. Viccica says we have approved something that may or may not be applied. Mr. Copelas asks what they would have been applying for, the way Mr. St. Pierre is looking at it. Mr. St. Pierre says he would have at least needed relief for the third story - as a three-family, he definitely would have needed relief to go to a third story instead of two and a half stories. Mr. St. Pierre stated that he wanted to make the Board aware of it, and that maybe he will need to talk to the City Solicitor. Mr. Viccica asks what happens if we have inadvertently approved something that was not properly applied for. Mr. St. Pierre says it's flawed: if the attorney didn't ask for the correct stuff, and you guys went ahead and approved it, it's flawed.

Chair Duffy states that in the application, he has referred to [Section] 3.3.3 which would be the nonconforming structure, to alter a nonconforming structure. Mr. St. Pierre says any nonconforming structure needs that. Chair Duffy adds that the attorney has referred to [Section] 3.3.4, which Chair Duffy thinks in 3.3.4, the relief could be granted - it doesn't have to be a single or a two [family], it could be any - "provided, however the extension of an exterior wall at or along the same nonconforming distance." That's the one carve-out from otherwise requiring a variance, right? Mr. St. Pierre responds, in the middle it says, "...in a manner to increase an existing nonconformity or create a new nonconformity shall require the issuance of a variance, provided, however..." I don't know, that section has given me problems lately, it's not worded properly. Chair Duffy states that he is not sure that granting the relief under 3.3.4 was not appropriate. Mr. St. Pierre responds that he is less troubled with 3.3.4 than using 3.3.5 on what was already started as a three-family. He says you wouldn't be able to do a three-family there today; you'd have to come in and ask for relief from lot area per dwelling unit.

Chair Duffy says the one thing we didn't seem to really be addressing was changing the number of stories; he asks if we are now thinking that he was requesting that change under 3.3.5. Mr. Viccica says no. Mr. Copelas says there was no discussion about stories. Mr. St. Pierre says you guys did not talk about it at all. Mr. Viccica says they are not raising the roof, but we do not know if there is a current use on the third floor. Mr. St. Pierre says it's a gable roof; they are putting another story in. Chair Duffy says, so there was no request for relief to get another story; they may have to come back.

Mr. Viccica asks if we should talk to the City attorney. Mr. St. Pierre says he will talk to Beth. Chair Duffy says he thinks so, certainly for the stories, because we did not address it. Mr. St. Pierre says Mr. Quinn should eliminate any reference to 3.3.5. Chair Duffy says he doesn't need it, he should be seeking something related to the story. Mr. Copelas asks if this is then a variance. Mr. St. Pierre responds in the affirmative because it's a three family, he does not get to use that special one and two family. Mr. St. Pierre states that he will talk to Beth or Vickie and see if they can sort this out. Mr. Copelas says considering they are in the middle of construction they ought to be made aware. Mr. St. Pierre says he'll make them aware - Mr. Quinn will be the first to know. Mr. Corrison apologizes.

## **OLD/NEW BUSINESS**

### **2019 ZBA Application Package and Fee Schedule**

Mr. Duffy states they have had on the agenda for a long time to do this application package and fee discussion. He says we have this redlined. Mr. Corrison says that he has provided a version with track changes. He says essentially it is very minimal updates to make sure that all the information is

accurate, to reflect that he is the staff planner for the Zoning Board, and clarifying a little bit of language. He says there are no substantive changes in terms of application requirements.

Mr. Copelas notes that under Section 2 Plans [of the application], if we are not requiring a plot plan if there is no change to the footprint of the building, we have come across some circumstances when a plot plan is nonetheless-- Mr. Viccica asks why we allow single-family residents not to provide a plot plan. Mr. Copelas says he thinks it is to make it a more simple process. Mr. St. Pierre says that it is to make it a less expensive process. He asks if you are not changing the footprint, why you need the homeowner to pay \$1400 for a plot plan. Mr. Viccica answers that if they start to modify the parking, we don't see any of that. Mr. St. Pierre says that a plot plan usually does not show parking, just the dwelling on the plot. Mr. Viccica says if a single-family residence in an R2 district decides to add a second unit without expanding [the footprint], they would still be required to add more parking than is currently there, so how would we know how the parking would be distributed on a pretty tight lot? Mr. St. Pierre says you can ask for a parking plan drawn by an engineer or a professional; the requirement of a plot plan is a surveyor only, and that's expensive. He adds that you can ask for a scale drawing.

Mr. Copelas notes that before Mr. St. Pierre arrived, they briefly went through 79 Columbus Avenue, it's an existing single-story that has been essentially demolished, and they are seeking to put a three-story, and what we were presented with in the package was really inadequate for us to be able to make a decision. Mr. Viccica says a to-scale site plan may require a plot plan: someone has to put actual metes and bounds on a site. Mr. St. Pierre says only a surveyor, and that would cost \$1400 on up, for a guy that's maybe just putting a second story on. Mr. Copelas says he brought it up because we are reconsidering what these requirements are. Mr. St. Pierre says he thinks you guys had asked for and we had agreed to, that on jobs like that we would get a streetscape, showing that house and the houses on either side of it, which I think we should probably get back to, because I think it would have been helpful for the Board and the neighbors. Mr. Copelas says we got a Google Street View from someone from the City provided us, that showed the existing. Mr. St. Pierre says that may show the existing, but you guys and the neighbors want to see a streetscape, I think, to see what the scale of the building is in regard to the others.

Mr. Viccica asks if an applicant like 79 Columbus is asking for three-stories for a single-family residence, that is not a variance, because it's a single-family? Mr. St. Pierre says he thinks it is a special permit. He thinks we made most of the stuff on existing single-families a special permit. Mr. Corrison adds that his understanding generally is if it is a one- or a two-family, and the amount of units is not increasing beyond two units, then where a variance would normally be required, you're allowed to receive a special permit. Mr. Viccica asks, anything over two units, so three units and above? Mr. St. Pierre says right, three units and above changes, and reads from Section 3.3.5 of the Zoning Ordinance. Mr. St. Pierre says, but it would be a special permit to expand to a third floor.

Mr. Viccica says that he would think that because we live in a city where plots are so tiny, that we should require a site plan to scale. If they need to hire a surveyor to produce it or if they can do it themselves, he'd rather see a layout than not see a layout, and proof of a single-family going to a two-family with additional parking, [rather] than someone verbally describe what is happening. If we're cognizant of the fact that a plot plan costs money, then it is up to the applicant to provide it however they can. Mr. Corrison asks, so in other words, not requiring that it be a site plan stamped by an engineer? Mr. St. Pierre suggests a "to-scale site plan." Mr. Viccica says when you buy a house you get a plot plan, so if someone did that as a scaled drawing. Mr. St. Pierre says when you buy a

house you get a mortgage plan - it's better than nothing, most people pay for that when they buy a home.

Mr. Corrison reads from the application language that currently allows a mortgage plan for certain one- and two-family homes where the alteration is two feet or less from a property line; he says it should be two feet or more, actually. There is some brief discussion about this; Mr. Corrison says you should only be allowed to do the mortgage plan if it is two feet or more from the lot line, so he should correct the language on page 1.

Mr. St. Pierre says we could say a site plan prepared by a qualified professional or something along those lines. That allows them to seek out someone who is acceptable the Board, whether it's a surveyor, an engineer, or someone with some proficiency that you guys can rely on.

Mr. Viccica says sometimes I just like to have something to look at so we can ask the right questions. If it doesn't look right, we could always ask request more information.

Mr. St. Pierre says he is also going to contact them [the 79 Columbus Avenue petitioner] tomorrow to ask about a streetscape, which we had talked about many meetings ago. That's one of the cases where you definitely want to see the scale to the other houses.

Mr. Copelas asks Mr. Corrison if he will tweak the language [in the application]. Mr. Corrison says he will work on it and send it out before next meeting. Mr. Viccica asks Mr. Corrison what he needs from the Board to finish this up. Mr. Corrison says he thinks it will just be a majority vote to approve the amended application package as printed, so he can provide the edited language before next month's meeting and take a vote on it then.

Mr. Copelas says back in February Mr. Corrison provided a fee schedule, and asks if he will incorporate that. Mr. Corrison notes that the Board has not discussed the fee schedule. Chair Duffy notes that it was just an analysis; we haven't determined whether we are changing anything. Mr. Corrison states that we had briefly opened the discussion and discussed the possibility of some sort of scaled fee system based on one- and two-families in a separate category like I think the Building Department does it, but that's as far as we got. Mr. St. Pierre notes that they cannot discuss it by emails back and forth so that it is ready for the next meeting. Mr. Viccica states that the general gist is that the Board members are in favor of a graduated fee schedule, because we also heard many times that even the fees don't cover the City's printing costs. Mr. Corrison says in some cases, definitely. Mr. Copelas asks if Mr. Corrison can include in the packet for next month a recommendation on the fee schedule in addition to the language in the application. Mr. St. Pierre says he thinks we have to give you a proposed fee schedule, proposed language so you can read it ahead of time and then vote on it. There is some more discussion about this. Mr. St. Pierre says that will be on the agenda as a vote on proposed [schedule]. Mr. St. Pierre said let's make that the goal to be on the agenda, and that the fee and application package should be two items, so if the Board likes one, they can get one out of the way.

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## ADJOURNMENT

City of Salem Zoning Board of Appeals  
June 19, 2019 Meeting Minutes

**Motion and Vote:** Paul Viccica moves to adjourn the meeting. Peter Copelas seconds the motion.  
**The vote is four (4) in favor (Mike Duffy (Chair), Peter Copelas Jimmi Heiserman, and Paul Viccica) and none (0) opposed.**

The meeting ends at 8:40 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