

City of Salem Zoning Board of Appeals
Meeting Minutes
October 2, 2019

A meeting of the Salem Zoning Board of Appeals (“Salem ZBA”) was held on Wednesday, October 2, 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: Peter Copelas, Mike Duffy (Chair), Jimmi Heiserman, Jimmy Tsitsinos, and Paul Viccica. Also present were Staff Planner Brennan Corrison and Building Commissioner/Zoning Enforcement Officer Tom St. Pierre.

REGULAR AGENDA

Location: **87 Jackson Street (Map 26, Lot 657) and 26 Phelps Street (Map 25, Lot 326) (R2 and B4 Zoning Districts)**
Applicant: **Peter J. LaBonte, et al.**
Project: A public hearing for all persons interested in the petition of PETER J. LABONTE, ET AL. for a variance from Section 4.1.1 *Table of Dimensional Requirements* of the Salem Zoning Ordinance to change the lot line between two nonconforming properties at 87 JACKSON STREET (Map 25, Lot 657) and 26 PHELPS STREET (Map 25, Lot 326) (R2 and B4 Zoning Districts). The lot at 26 Phelps Street will slightly increase in area; the lot at 87 Jackson Street will slightly decrease in area.

Documents and Exhibitions

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

Attorney John Keilty, with offices in Peabody, discusses the petition. He notes that there are discrepancies between plot plans from 1938 and the records from 1962. There is a line between the upper and lower tiers of the property. The upper tier of the property included a residence, shed, and garage. The lower tier is used as commercial. He is before the Board to move the lot line in order to realign the properties to the spaces they truly occupy. There is a change in topography from the 26 Phelps Street to the 87 Jackson Street lot. The new lot line would be to resolve the difference between the assessor’s plan and the lot lines from the 1938 plan.

He is requesting a variance to allow the upper, residential lot (Phelps Street lot) to officially have shed access. That property also has access to steps and the retaining wall. The lower lot is the commercial property. If this petition is approved by the Zoning Board, they will go to the Planning Board for an ANR.

He states that the shed would be on the upper lot.

Attorney Keilty states that the size of the upper lot (Phelps Street lot) would increase and the size of the lower lot (Jackson Street lot) would decrease. He discussed the hardship, noting the difference in topography between the two sites.

Paul Viccica asked if there is title on record for the properties. Attorney Keilty states that the title says that people own property different from what the Assessor suggests. Paul Viccica asked about the lines shown on the plot plan. There was some discussion clarifying the meaning of the lines. Attorney Keilty notes that there has never been a title issue because since 1962, the LaBonte family has owned everything; this issue comes up now because there are two different users and they are hoping to divide the property. Peter Copelas asked whether Lots 2 and 3, as shown on the plan, are merged. Attorney Keilty responded in the affirmative. Peter Copelas asked whether the Jackson Street lot is the commercial lot. Attorney Keilty responded in the affirmative.

Paul Viccica would like to know from where to where the lot line is moving. The small dashed line is indicated to be the existing lot line; the heavy black line is the proposed new lot line. The shed is not located on Lot B.

Peter Copelas notes that Lot A will remain conforming under this change, and that Lot B will actually become less nonconforming under this change.

Paul Viccica asked why the lot line is skewed. Attorney Keilty responds that it is mainly because of the topography.

Chair Duffy opens the hearing for public comment. No (0) members of the public speak in favor of or in opposition to the petition.

Chair Duffy discusses the variance criteria. He notes that there is an issue with the topography specifically affecting this property. He states that this change will improve the relationship between the properties in terms of use. He notes that the Jackson Street property will still be conforming, and that the Phelps Street property will be made less nonconforming. He adds that no property owners expressed opposition at the meeting or in correspondence. Brennan Corriston confirms that there was no correspondence from members of the public submitted to the Board.

Chair Duffy reviews the hardship, noting that remaining in non-consistent dimensions would make the properties less usable. Given that this is minor dimensional relief, this is unlikely to substantially derogate from the intent of the ordinance or the district.

Motion and Vote: Paul Viccica moves to approve the petition of Peter J. LaBonte, et al. for a variance from Section 4.1.1 *Table of Dimensional Requirements* of the Salem Zoning Ordinance to change the lot line between two nonconforming properties at 87 Jackson Street (Map 25, Lot 657) and 26 Phelps Street (Map 25, Lot 326) (R2 and B4 Zoning Districts), subject to the following terms, conditions, and safeguards. Jimmi Heiserman seconds the motion. **The vote is five (5) in favor (Jimmi Heiserman, Jimmy Tsitsinos, Paul Viccica, Mike Duffy (Chair), and Peter Copelas) and none (0) opposed.**

Standard Conditions:

1. Petitioner shall comply with all city and state statutes, ordinances, codes and regulations.
2. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board.

Location: **4 Buena Vista Avenue West (Map 9, Lot 97) (R1 Zoning District)**

Applicant: **Martin Norwood**

Project: A public hearing for all persons interested in the petition of MARTIN NORWOOD 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 4 BUENA VISTA AVENUE WEST (Map 9, Lot 97) (R1 Zoning District).

Documents and Exhibitions

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

Petitioner Martin Norwood discusses his petition. He notes that his mother is dependent and has special housing requirements; she is exhibiting early signs of Alzheimer's, so getting her established in a new residence would be ideal. Mr. Norwood notes that the property was renovated in December 2009 with the intention of establishing this living space. The only additions at this point would be a fridge, a cooktop, and an oven, as well as a door to separate the two spaces. He notes that this is a four-bedroom house with two residents, so there is low demand on public services. He states that this is a dead end street, so there will not be a negative traffic impact. He states that there is plenty of off-street parking at the property.

Peter Copelas asks whether the accessory living area will be on the first floor. Mr. Norwood responds in the affirmative and explains that the primary residence is on the second and third floors. He states that there is a side stair that leads to a back entrance, the main entrance for the primary residence. He intends to add a door inside, too, to separate the two spaces and provide privacy.

Chair Mike Duffy reviews the criteria per Section 3.2.8 *Accessory Living Areas* of the Salem Zoning Ordinance. He notes that 100% of the title ownership of the property has signed the application. He states that the application includes the names and birth dates of the applicants (current and proposed) of the primary residence and the accessory living area. He notes that the factual basis is provided, as is the floor plan.

Chair Duffy opens the hearing for public comment. No (0) members of the public speak in favor of or in opposition to the petition.

Chair Duffy reviews the general special permit criteria. He notes that this is meeting a social, economic or community need in allowing a family to remain in Salem that might otherwise need to find housing elsewhere. He states that there is ample parking. He states that adequate utilities and public services serve the property. He states that there is no negative environmental impact. The property will fit in with neighborhood character. This change will enhance the potential fiscal impact.

Motion and Vote: Paul Viccica moves to approve the petition of Martin Norwood 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 4 Buena Vista Avenue West (Map 9, Lot 97) (R1 Zoning District), subject to the following terms, conditions, and

safeguards. Peter Copelas seconds the motion. **The vote is five (5) in favor (Peter Copelas, Mike Duffy (Chair), Jimmi Heiserman, Jimmy Tsitsinos, 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. 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.

Location: **52-54 Appleton Street (Map 27, Lot 181) (R2 Zoning District)**

Applicant: **Christopher Gizzi**

Project: A public hearing for all persons interested in the petition of CHRISTOPHER GIZZI for a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance to add a 25' by 8' porch nonconforming to rear yard setback to the rear of a to-be-constructed two-family home at 52-54 APPLETON STREET (Map 27, Lot 181) (R2 Zoning District).

Documents and Exhibitions

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

Petitioner Christopher Gizzi discusses the petition. He explains that he currently lives at the property, a two-family home. He is hoping to demolish the existing property and replace it with a modular house. The new house will be conforming to setbacks except for the rear yard setback; with the proposed porch, the setback will be 22 feet instead of 30. The existing house, which is sited near the rear of the property and is nonconforming to the rear yard setback, will be torn down. Tom St. Pierre notes that the project has received a demolition delay waiver from the Historical Commission.

The Board asks whether this will be a second-floor porch. Mr. Gizzi answers in the affirmative. Chair Duffy asks about the elevation of houses behind the property relative to the house. Mr. Gizzi notes that the houses behind are at about the same elevation.

Chair Duffy opens the hearing for public comment. No (0) members of the public speak in favor of or in opposition to the petition.

Peter Copelas notes that this is a significant improvement in the siting of the structure and to the building itself.

Chair Duffy reviews the special permit criteria as presented in the petitioner's Statement of Grounds. He notes that this project will have a minimal impact.

Paul Viccica asks about the parking and siting of the house on the site. Mr. Gizzi explains that the house is proposed to be situated in the center of the lot to meet setbacks and to utilize the existing curb cut, on the right side of the property; if the house were sited closer to the left lot line, he still would not be able to fit two parking spaces next to each other. By siting the house in the middle of the lot, he can fit one parking spot on the right side (at the existing curb cut) and add a 10-foot curb cut on the left side for another parking spot.

Mr. Gizzi notes that the rear porch will have stairs going down to the yard; the porch will thus constitute the second means of egress for the second floor unit.

Motion and Vote: Paul Viccica moves to approve the petition of Christopher Gizzi for a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance to add a 25' by 8' porch nonconforming to rear yard setback to the rear of a to-be-constructed two-family home at 52-54 Appleton Street (Map 27, Lot 181) (R2 Zoning District), subject to the following terms, conditions, and safeguards. Peter Copelas seconds the motion. **The vote is five (5) in favor (Paul Viccica, Jimmy Tsitsinos, Peter Copelas, Mike Duffy (Chair), and Jimmi 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.

Location: **1 Woodlands Road (Map 6, Lot 21) (R1 Zoning District)**

Applicant: **Laurianne Emery**

Project: A public hearing for all persons interested in the petition of LAURIEANNE EMERY 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 1 WOODLANDS ROAD (Map 6, Lot 21) (R1 Zoning District).

Documents and Exhibitions

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

Petitioner Laurianne Emery and Brett Emery discuss the petition. Laurianne Emery notes that she currently lives at the property and that her mother cannot do stairs. She states that the property has a two car garage so there will be no negative traffic or parking impacts. She notes that all work will be happening within the home, so there is no negative neighborhood impact.

Chair Mike Duffy notes that there is a pretty good Statement of Grounds submitted with the application discussing the special permit criteria.

Chair Duffy opens the hearing for public comment. No (0) members of the public speak in favor of or in opposition to the petition.

Chair Duffy reviews the criteria per Section 3.2.8 *Accessory Living Areas* of the Salem Zoning Ordinance, noting that all criteria are met. He notes that standard special permit criteria are met as well.

The Board asks about the square footage of the accessory living area. Laurieanne Emery responds that the area will be 698 square feet.

Motion and Vote: Paul Viccica moves to approve the petition of Laurieanne Emery 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 1 Woodlands Road (Map 6, Lot 21) (R1 Zoning District), subject to the following terms, conditions, and safeguards. Jimmy Tsitsinos seconds the motion. **The vote is five (5) in favor (Jimmy Tsitsinos, Jimmi Heiserman, Paul Viccica, Peter Copelas, and Mike Duffy (Chair)) 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.

MEETING MINUTES

1. April 17, 2019
2. May 15, 2019
3. June 19, 2019
4. July 17, 2019
5. August 21, 2019

April 17, 2019 Minutes

Brennan Corriston notes that the other minutes will be posted on the website in draft form as they are completed, and will be brought to the Board soon. There are no proposed changes to the April minutes. Peter Copelas initially brings the motion to approve the minutes, but Paul Viccica notes that Mr. Copelas was not present at the April 17 meeting. Mr. Viccica brings the motion instead.

Motion and Vote: Paul Viccica moves to approve the April 17, 2019 minutes as drafted. Jimmy Tsitsinos seconds the motion. **The vote is five (5) in favor (Peter Copelas, Mike Duffy (Chair), Jimmi Heiserman, Jimmy Tsitsinos, and Paul Viccica) and none (0) opposed.**

OLD/NEW BUSINESS

Vote on revised ZBA Application Package

Brennan Corrison notes that he is planning to add two elements to the application package: a checklist and language regarding the streetscape rendering requirement. He states that he has brought the revised application package which was reviewed by City Solicitor Beth Rennard and was sent to the Board on July 15, 2019. Mr. Corrison suggests that the Board could vote on this application package tonight and could vote to amend the package to include the two elements discussed. Peter Copelas asks if the other elements will be ready soon; if so, he would rather wait and vote on it all at once. Mr. Corrison responds in the affirmative. Chair Duffy suggests a motion to table the discussion to the next meeting.

Motion and Vote: Peter Copelas moves to table the revised ZBA application package to the next meeting. Jimmy Tsitsinos seconds the motion. **The vote is five (4) in favor (Peter Copelas, Mike Duffy (Chair), Jimmi Heiserman, Jimmy Tsitsinos, and Paul Viccica) and none (0) opposed.**

Discussion of and vote on new condition(s) for approved applications

Brennan Corrison notes that Chair Duffy provided a suggested new condition following the Board's discussion regarding changes made to projects after going through the Zoning Board of Appeals. The Board, along with Brennan Corrison and Tom St. Pierre, discuss the language and make some edits. Tom St. Pierre notes that the reason for proposals to come back is that there have been a few things recently where others have felt free to add or delete a dormer, things like that.

Brennan Corrison reads the proposed standard condition into the record:

All construction shall be done per the plans and dimensions submitted to and approved by this Board. No change, extension, material corrections, additions, substitutions, alterations, and/or modification to an approval by this Board shall be permitted without the approval of this Board, unless such change has been deemed a minor field change by the Building Commissioner in consultation with the Chair of the Board of Appeals.

Motion and Vote: Peter Copelas moves to approve the additional standard condition as read by Brennan Corrison to be added to the list of standard conditions. Paul Viccica seconds the motion. **The vote is five (5) in favor (Jimmi Heiserman, Jimmy Tsitsinos, Peter Copelas, Paul Viccica, and Mike Duffy (Chair)) and none (0) opposed.**

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 Paul Viccica) and none (0) opposed.**

City of Salem Zoning Board of Appeals
October 2, 2019 Meeting Minutes

The meeting ends at 7:32 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 Corriston, Staff Planner