

City of Salem Zoning Board of Appeals
Meeting Minutes
October 16, 2019

A meeting of the Salem Zoning Board of Appeals (“Salem ZBA”) was held on Wednesday, October 16, 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 shortly after 6:30 pm.

Those present were: Mike Duffy (Chair), Paul Viccica, Jimmy Tsitsinos, Peter Copelas, and Jimmi Heiserman. Also in attendance were Brennan Corrison – Staff Planner, Tom St. Pierre – Building Commissioner, and Jonathan Pinto – Recording Clerk. A formal roll call was not taken.

Chair Duffy asks if some items should be taken out of order regarding extension requests. Brennan Corrison notes that the Board can, and suggests checking if any of the parties requesting extensions have arrived. Chair Duffy asks if anyone is present to discuss the extension request for 16, 18 & 20R Franklin Street. The attorney representing Juniper Point Investment Co LLC is present, so the extension request for 16, 18 & 20R Franklin Street is taken up first.

REGULAR AGENDA

- Location: **16, 18 & 20R Franklin Street (Map 26, Lots 402, 401 & 400) (NRCC and RC Zoning Districts)**
- Applicant: **Juniper Point Investment Co LLC**
- Project: Request for a six (6) month extension to exercise rights granted by the December 3, 2018 Board Decision that approved variances from minimum required lot area per dwelling unit and maximum number of stories to construct 42 residential units within five buildings at 16, 18 & 20R Franklin Street (Map 26, Lots 402, 401 & 400) (NRCC and RC Zoning Districts).

Documents and Exhibitions

- Extension request dated September 25, 2019 and supporting documentation

Attorney Kristin Kolick, representing petitioner Juniper Point Investment Co LLC, addresses the board to request an extension of the variances that were granted in December of last year. She notes that per Massachusetts General Laws Chapter 40A Section 10, variances lapse if rights are not exercised within one year. Attorney Kolick points out to the board that the decision from December 2018 granted both variances and a special permit, the latter of which does not lapse for two years. She notes that therefore there are some rights that will lapse and some that will continue to be in effect. Attorney Kolick states that they are requesting an extension of the permits because they are still permitting. She points out that this project required several permits from almost every board, as well as state permitting, extensive review by the Planning and Design Review Boards resulting in special permits that will not lapse until September of next year.

Attorney Kolick indicates that the primary reason for the requested extension is that there is a Conservation Commission permit that is currently under appeal. She notes that DEP is involved in the currently ongoing process, and that state permitting is still ongoing. Attorney Kolick also explains that the property fronts on the North River, requiring Chapter 91 permits. She asserts that

the statute provides that a permit granting authority, here the ZBA, has the right to extend a permit for a period not to exceed six months, provided that the petitioner makes a written request and that an application is filed prior to expiration. She notes the date on the Board of Appeals decision was December 3, 2018, and the application was made last month. She asks if the Board has any questions.

Chair Duffy notes for the record that the Board has received some correspondence from members of the public concerning this application. He states that this is not a public hearing where we will open it up to public comment, but acknowledges that the letters and emails were received.

Peter Copelas points out that in addition to the standard conditions, there was one special condition of the Board’s approval that had to do with the land dispute, and that this issue must be resolved to the Board’s satisfaction. Mr. Copelas asks Attorney Kolick representative to address the special condition.

Attorney Kolick indicates that there is still research and conversation ongoing about how the land in dispute issue will be addressed. She states that the special conditions will carry forward with the extension of the permit. Attorney Kolick notes that the issue is by no means resolved at this time and the petitioner is working very hard to resolve the issue as expeditiously as possible.

Attorney Kolick also notes that what was permitted is a particular plan; we have the right to build that plan by all boards by means of proper title to the property. If we cannot do that, we cannot exercise our rights under the permit. She notes that the petitioner does intend to go forward with the project.

After Peter Copelas makes the below motion, Jimmy Tsitsinos indicates he will recuse himself and abstain from voting.

Motion and Vote: Peter Copelas moves to approve the request of Juniper Point Investments Co LLC for a six-month extension to their variances covering the property located at 16, 18 and 20R Franklin Street. Paul Viccica seconds. **The vote is four (4) in favor (Peter Copelas, Mike Duffy (Chair), Jimmi Heiserman, and Paul Viccica), none (0) opposed, and one (1) abstaining (Jimmy Tsitsinos). The motion passes.**



After the motion and vote on the 16, 18 & 20R Franklin Street extension request, Chair Duffy notes that there is an extension request from Witch City Gardens for 38 Jefferson Avenue. Brennan Corrison notes that there is a letter requesting the extension. No representative is yet present to present on that request. Paul Viccica asks if they are not present, should we defer until they are here. Tom St. Pierre says that would be his advice. Chair Duffy states that they will defer the extension request for 38 Jefferson Avenue as well as for 3 Dodge Street until later in the meeting.



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

Project: A continuation of 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 asks Mr. Cormier for an update on the project. Mr. Cormier states that he went in front of the Historical Commission several times with drawings and that they came to an agreement that the current architectural drawing being presented would be fine. Mr. Cormier notes that a certified plot plan was done as well.

Brennan Corrison directs the Board to the drawing and plans and introduces a letter dated October 16, 2019, from Patti Kelleher, the preservation planner.

Chair Duffy, referencing the letter from Ms. Kelleher, notes the correspondence mentions issues regarding: the plot plan; the architectural plans; identifying building materials; the porch base being framed by flat boards rather than turn posts; windows needing to be wood; true divided single glaze windows; garage doors needing to be carriage style with upper panel vertically oriented windows; incorporation of a salvaged diamond shape window; and a gable to replace the original window. Chair Duffy asks if all these issues have been addressed and Mr. Cormier responds that they have.

Mr. Cormier mentions the windows have been approved and states that he has worked very hard on the project. He notes that the lattice work on the first floor is a square as opposed to a diamond shape to fit the period aesthetics, and that he will be instructed what style of door to install. He states that the first floor is being called a non-conforming area, as previously discussed, and the property is in a flood zone, which is why he is making his request.

Mr. Corrison provides a copy of Ms. Kelleher's letter to Mr. Cormier and notes that some of the issues in the letter are referring to elements that are not clear in the plan, stating to the Board that this is an opportunity for the Board to look at the letter and the plans and see if there is enough to perhaps move forward with conditions.

Mr. Cormier states that he spoke to the Historical Commission and told them he was willing to comply with all of their requirements. He also states that we had said that we would put everything in writing and that whatever is on this letter, "we would definitely uphold to that."

Mr. Tsitsinos asks about needing a curb cut for the garage, and Mr. Cormier indicates that they are waiting on that. Mr. Viccica notes that a garage cannot be approved without a curb cut, and Mr. Copelas asks about the dimensions of the curb cut. Tom St. Pierre maintains that Mr. Cormier is entitled to a curb cut if he brings in documentation to Engineering and goes through the process and that it is not an issue.

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There is a brief discussion and confirmation that the Board has the newest version of the plans. Mr. Viccica asks Mr. Cormier to confirm that he will adhere to all the guidelines in the letter and address all the issues presented, and Mr. Cormier agrees.

Mr. Corrison indicates that the plot plans show the existing conditions, not the proposed conditions, and asks if one with proposed conditions is being prepared for the Historical Commission. Mr. Cormier says he is able to have one made.

Mr. St. Pierre asks if there is a bigger version of the plan that can be shown for anyone interested.

Mr. Corrison notes the final item listed in the letter is a certification by an architect or engineer that the design meets flood elevation requirements as designed. He also notes the Conservation Commission will be involved in that process, and asks if Mr. Cormier has received their approval. Mr. Cormier indicates they are waiting on the ZBA approval, but that they were fine with everything else presented including the survey plan. Mr. Cormier also mentions that he is reconstructing, not digging or making any elevation changes, so he will need to check with the Commission to confirm what they are seeking.

Mr. Viccica asks if the site has been cleaned up and Mr. Cormier states that it has.

Chair Duffy opens the hearing for public comment.

Eric and Ginny Johnson of 75 Columbus Ave both indicate that they are neighbors and that the site has not been properly cleaned up. They reference standing water in the basement, discarded boilers and heaters, a partially mowed lawn, and an untidy demolition phase, as well as concerns about whether the site will be monitored to ensure it is clean and safe during construction.

Tom Nally of 18 Bayview Ave says he lives next door and asks for clarification regarding the limitations on height, and asks if Mr. Cormier needs a permit to go higher than 35 feet. Mr. St. Pierre explains that Mr. Cormier is requesting a special permit, as the district regulations limit height to 35 feet or two and a half stories, and the plans presented are for three stories because of dormers. Mr. Nally asks if the house will be taller than 35 feet, and the Board confirms it will not. Chair Duffy further explains the two requirements on height, one with respect to feet, and one with respect to stories. He clarifies that the proposal will be under 35 feet, but due to the request to add dormers, it becomes three stories rather than 2.5, so the requested relief is to have the home be permitted to have three stories. Mr. Nally insists the building should not be taller than legally limited, and raises concerns about the basement being filled with concrete. He asks if it is ok to not have a cellar or basement, but a solid slab, and questions the contents of the fill. Mr. Nally then asks who is in charge of making sure Mr. Cormier does not violate height limitations. Mr. St. Pierre states that is his job as Building Commissioner. Mr. Nally raises additional concerns about the materials being used, and the neighborhood in general.

Chair Duffy asks for additional comment. Seeing none, he allows Mr. Cormier to respond to comments. Mr. Cormier claims he has been keeping the site clean, and that any debris or heaters are inside the home not on the lawn. Mr. Cormier says he will make sure the whole lawn is mowed and at the end of the project the home will be beautiful and fit nicely in the neighborhood, within a foot of the height limit. Mr. Cormier also indicates a garage is needed due to limited parking and that filling the basement is a benefit as there was previously flooding. Mr. Cormier notes the house sat on

the market for five years and was considered a non-use home, and that he would like to make it a nice home for a family.

Mr. Viccica asks about the diamond shaped window and confirms with Mr. Cormier that it is being replicated, and will match the original.

Mr. Corrison confirms there are five members able to vote on this matter.

Mr. Tsitsinos asks about the basement fill concerns, and Mr. Cormier indicates it will be filled with a special crushed stone per an engineer's recommendation and that the items will be removed prior to filling.

Chair Duffy suggests the Board can take a motion, and that the conditions could include those expressed in the October 16th letter from Ms. Kelleher. Mr. Corrison asks the Board for clarification regarding building materials, and Mr. Copelas requests a condition that clapboards and siding be wood and not any composite material. Mr. Cormier states that he originally wanted to use vinyl siding, but states he is willing to use wood and comply.

Mr. Viccica notes that a plot plan was requested by the Historical Commission and typically the Board requests a plot plan showing the plan condition after construction. Mr. Corrison notes the other historical elements cited in the letter. Mr. Viccica suggests there could be a condition that no building permit be let until a plot plan be submitted showing what the proposed conditions are. Mr. St. Pierre says he does not think it is an unreasonable condition. The Board seems to agree that this would be a reasonable condition. Mr. St. Pierre asks Mr. Cormier that the land surveyor confirm the details of the new structure.

Mr. St. Pierre asks Mr. Cormier if there is funding to move forward in a timely manner since neighbors have concerns about the lot appearance. Mr. Cormier confirms he would like the house completed and on the market by Spring. Chair Duffy asks that an orderly site is kept in the course of construction, and Mr. St. Pierre suggests a functioning dumpster available at all times as a condition.

Chair Duffy explains that the petitioner's application contained statement of grounds, and the petitioner touches on special permit criteria that require consideration, including social, economic, and community needs served by the proposal. Chair Duffy addresses aspects of criteria being met, such as turning a property in disuse into full occupancy, increasing parking, neighborhood preservation, positive fiscal impact, etc.

Motion and Vote: Paul Viccica moves to approve 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 Ave, with the following standard conditions:

1. Petitioner shall comply with all city and state statutes, ordinances, codes, and regulations.
2. All construction shall be done as per the plans and dimensions submitted to and approved by the Building Commissioner.
3. All requirements of the Salem Fire Department relative to smoke and fire safety shall be strictly adhered to.
4. Petitioner shall obtain a building permit prior to beginning any construction.

- 5. Exterior finishes of the new construction shall be in harmony with the former existing structure.
- 6. A Certificate of Occupancy is to be obtained.
- 7. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board.
- 8. All construction shall be done per the plans and dimensions submitted to, and approved by, this board.
- 9. No changes, extensions, material corrections, additions, substitutions, alterations, and/or modification to an approval by this Board shall be permitted without an 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.

Special Conditions:

- 1. There shall be a certified plot plan submitted prior to any building permit being issued, with proposed footprints of the structure, driveway, curb cut, dimensions, and locations.
- 2. The owner is required to use wood for building clapboards and all trim. If a composite material must be used for trim it should appear as wood.
- 3. The porch base should be framed by flat boards and not turned posts.
- 4. Windows are to be wood, true divided singled glazed.
- 5. Garage doors shall be carriage style with an upper panel of vertically oriented windows
- 6. The incorporation of the replica of the diamond shaped window that was once part of the original structure.
- 7. Keep a functioning dumpster on site at all times and empty per the Conservation Commission requirements at all times during construction.

Mr. Copelas seconds the motion. **The vote is five (5) in favor (Mike Duffy (Chair), Peter Copelas, Jimmi Heiserman, Jimmy Tsitsinos, and Paul Viccica) and none (0) opposed. The motion passes.**



Location: **11 Rice Street (Map 36, Lot 197) (R2 Zoning District)**
 Applicant: **Pamela J. Barton**
 Project: A continuation of a public hearing for all persons interested in the petition of PAMELA J. BARTON for a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance to enlarge an existing two-family structure by adding one additional story to the existing 2.5-story building, removing a side addition, and adding several exterior stairways and porches at 11 RICE STREET (Map 36, Lot 197) (R2 Zoning District).

Documents and Exhibitions

- Revised architectural plans

Scott Grover, an attorney representing the property owners at 11 Rice St. (Joy Barton and Mike Rivera) introduces himself and the project architect, Bernardo Jose. He explains this is a continuation of a public hearing that was opened at the prior meeting. Attorney Grover explains there is currently a dilapidated two-family house on the property that is in a serious state of disrepair and presently

uninhabitable. The petitioners are proposing a full renovation to return the property to productive use and are seeking a special permit to modify an already existing non-conforming building. Attorney Grover explains that the nature of the reconstruction involves an expansion to an existing attic space to create a full third floor, a reconfiguring of the units internally, and a reconfiguring of the method of egress. Attorney Grover acknowledges that the Board previously had concerns about certain design features, and presents revised architectural plans. One of the concerns was the presence of a porch alongside the property, as well as a cantilevered section on the front. The revised plans show the porch on the side has been removed, and access to the second floor of the property is now in the back; access from unit one is on the side and back corners. Attorney Grover discusses the internal configuration of the units in the revised plans.

Attorney Grover explains the requirement for a special permit is a demonstration that the building is not to be substantially more detrimental than the existing building, and that the proposal meets all the criteria. It will be taking an uninhabitable property and restoring it to two functional units, serves a community need, has a positive impact on the neighborhood and environment, etc. He explains he is here to answer any questions and to address any concerns, and explains Mr. Jose is here to answer questions as well.

Mr. Viccica recognizes the special permit to exceed 2.5 stories, but asks if a variance is required for exceeding 35 feet; the petitioner says he believes they are not exceeding the height requirement. Mr. St. Pierre explains that the height is measured as an average between the ridge and the soffit, not overall height. Mr. Viccica asks, and the petitioner confirms that the building is not being torn down, just rehabilitated. The structural integrity is remaining the same.

Mr. Copelas asks if the only material change is the elimination of the side porch. Attorney Grover adds that the access points were changed slightly, and Mr. St. Pierre identifies changes in the façade such as the addition of bay windows.

Mr. St. Pierre comments positively on the petitioners' efforts, and notes the drawings with before and after images are well done and appreciated.

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

Motion and Vote: Paul Viccica moves to approve the petition of Pamela J. Barton for a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance to enlarge an existing two-family structure by adding one additional story to the existing 2.5-story building, removing a side addition, and adding several exterior stairways and porches at 11 Rice St. with the following standard conditions:

1. Petitioner shall comply with all city and state statutes, ordinances, codes, and regulations.
2. All construction shall be done as per the plans and dimensions submitted to and approved by the Building Commissioner.
3. All requirements of the Salem Fire Department relative to smoke and fire safety shall be strictly adhered to.
4. Petitioner shall obtain a building permit prior to beginning any construction.
5. Exterior finishes of the new construction shall be in harmony with the former existing structure.
6. A Certificate of Occupancy is to be obtained.

7. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board.
8. All construction shall be done per the plans and dimensions submitted to, and approved by, this board.
9. No changes, extensions, material corrections, additions, substitutions, alterations, and/or modification to an approval by this Board shall be permitted without an approval of this Board, unless such change has been deemed a minor field change by the Building Commissioner in consultation with the Chair of the Board of Appeals.

Mr. Tsitsinos seconds the motion. **The vote is five (5) in favor (Jimmi Heiserman, Mike Duffy (Chair), Peter Copelas, Jimmy Tsitsinos, and Paul Viccica) and none (0) opposed. The motion passes.**

Location:	3 Dodge Street (Map 34, Lot 401) (B5 Zoning District)
Applicant:	CTDW LLC
Project:	Request for a six (6) month extension of special condition #3 in the August 29, 2018 Board Decision granting a special permit per Sections 6.10.4 and 9.4 to operate a licensed retail marijuana establishment at 3 Dodge Street. Special Condition #3 required that the applicant be issued a state license within six (6) months of the issuance of this special permit. This special condition stated that “A six (6) month extension can be granted by the Board of Appeals if good cause is shown.” Special Condition #3 was previously extended to August 29, 2019 by the Board of Appeals.

Documents and Exhibitions

- None

This item is taken out of order.

Thomas Alexander, attorney with offices at 1 School Street, Beverly, MA, representing CTDW LLC introduces himself. Attorney Alexander notes that by statute the special permit from the Board of Appeals is good for two years, however there was a requirement of getting the license from the CCC within six months. He explains the process has been taking much longer than anyone had anticipated. He notes that the petitioner successfully obtained an HCA from the City in December 2018, then applied in January 2019 to the CCC. He states that the petitioners heard from the CCC in August that they were one of 130 pending applications and they issued a request for further information (“RFI”). Mr. Alexander explains they responded in September, after which a second RFI was issued at the end of September. The petitioner responded to the second RFI in October and does not anticipate additional RFIs. Attorney Alexander hopes they will receive a determination of application completeness over the next couple of weeks, at which point under statute the CCC would have 60 to 90 days to issue a provisional license. Then the petitioner would proceed with buildout, and once the buildout is completed, the CCC would inspect and issue the final license.

Attorney Alexander states that the Board’s original decision indicated six months with a six-month extension. He has submitted one six-month extension request. Attorney Alexander states that he

noticed that the other applicant asked for a twelve-month extension; he would like to request this if possible so as not to have to return in front of the Board in a few months. He notes that the special permit itself is good until August 29, 2020 by statute. Mr. Alexander introduces Chip Tuttle, one of the principals of CTDW LLC, and says he is also here to answer any questions.

Chair Duffy says he does not want to change the request because the Board's special condition was specific to seeking a six-month extension, and so changing that would be an amendment to the special condition. Mr. Viccica notes that the petitioner can just come back and ask for another extension when the time comes. This was not advertised as a public hearing so it is not opened for public comment.

Chair Duffy acknowledges that petitioner cannot meet conditions of the special permit without some cooperation from the state regulatory side and recognizes that the backlog and circumstances certainly present good cause.

Motion and Vote: Paul Viccica moves to approve a six (6) month extension of special condition #3 in the August 29, 2018 Board Decision granting a special permit per Sections 6.10.4 and 9.4 to operate a licensed retail marijuana establishment at 3 Dodge Street. Mr. Tsitsinos seconds the motion. **The vote is five (5) in favor (Paul Viccica, Jimmy Tsitsinos, Jimmi Heiserman, Mike Duffy (Chair), and Peter Copelas) and none (0) opposed. The motion passes.**

Chair Duffy asks if anyone is here to present on the 38 Jefferson Avenue extension request. No one is. The Board returns to the agenda in order.

Location: **528 Loring Avenue (Map 21, Lot 9) (B2 and ECOD Zoning Districts)**
Applicant: **Alimenti Properties, LLC**
Project: A public hearing for all persons interested in the petition of ALIMENTI PROPERTIES, LLC for a special permit per Section 3.3.2 *Nonconforming Uses* of the Salem Zoning Ordinance to change from existing nonconforming use (two offices and one personal service business [nail salon]) to another nonconforming use (one office, one personal service business [nail salon], and one residential dwelling unit above first floor personal service and office uses) at 528 LORING AVENUE (Map 21, Lot 9) (B2 and ECOD Zoning Districts).

Documents and Exhibitions

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

Attorney William Quinn introduces himself. He is representing Gerard Alimenti of Alimenti Properties, LLC. Attorney Quinn explains that Mr. Alimenti is a long-time, well-respected businessman doing business in Vinnin Square as Mr. Jerry's Hair Salon. Attorney Quinn, presenting photographs, states that Mr. Alimenti owns a property at 528 Loring Avenue which is a small building in Vinnin Square. The building has been there many years and has been mixed use, primarily office spaces and small businesses. Mr. Alimenti purchased the building in the 1980s, and at the time it was a one-story building with a small peak.

Attorney Quinn explains the zoning and history of the property, and notes that in 1988 Mr. Alimenti received a variance from the ZBA to put a peak on the building, which added a second floor which he received permission to use as additional office space (a third unit of about 1000 square feet). This space was occupied by a small insurance agency for many years, but they moved out and the space has since been empty for a number of years. Attorney Quinn notes the building has four parking spaces along Loring Avenue and five in back for a total of nine. The petitioner would like to replace the small office space with a two-bedroom apartment. He notes that this is downsizing quite a bit in terms of the density of required parking. Attorney Quinn explains that it is non-conforming in Salem to have an apartment above an office or personal service business, which is why the petitioner is requesting a special permit to convert the property. He notes that Mr. Alimenti has tried for the last year and a half to find another office tenant and has been unable to do so. Attorney Quinn notes that there does not seem to be much of a market for this type of office in Salem but that there is a good market for decent housing and apartment housing. He notes that the space sets up perfectly for a two-bedroom apartment with a kitchen and two means of egress.

Attorney Quinn notes that the property is near a lot of housing and cites a few examples. Attorney Quinn explains that a building at 534 Loring Avenue is similar to what is being proposed here (mixed use, with commercial on first floor and residential above). Attorney Quinn requests to add another decent, up-to-code apartment will meet a community need for housing. He points out that there will be no changes to the outside of the building and no increase in dimensions; there is plenty of parking; and that the residential unit will add to the tax base.

Chair Duffy notes that there are no exterior changes proposed, only inside renovations. Mr. Copelas asks about egress requirements, specifically whether they differ for residential and commercial. Attorney Quinn states he does not know the answer, but explains there are two egress stairways, one from the kitchen and one from the hallway. Attorney Quinn says that Mr. St. Pierre has seen the plans and has not expressed any concern.

Chair Duffy opens the floor to public comment, but there is none. He states that a Statement of Grounds was submitted with the application, discusses that the criteria have been satisfied, and further notes that the proposal addresses the city's need for housing.

Motion and Vote: Mr. Copelas moves to approve the petition of Alimenti Properties LLC for a special permit per section 3.3.2 *Nonconforming Uses* of the Salem Zoning Ordinance to change from existing nonconforming use (two offices and one personal service business) to another nonconforming use (one office, one personal service business, and one residential dwelling unit above first floor personal service and office uses) at 528 Loring Ave in the B2 Zoning District, subject to the following standard conditions:

1. Petitioner shall comply with all city and state statutes, ordinances, codes, and regulations.
2. All construction shall be done as per the plans and dimensions submitted to and approved by the Building Commissioner.
3. All requirements of the Salem Fire Department relative to smoke and fire safety shall be strictly adhered to.
4. Petitioner shall obtain a building permit prior to beginning any construction.
5. A Certificate of Occupancy is to be obtained.
6. A Certificate of Inspection is to be obtained.

- 7. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board.
- 8. All construction shall be done per the plans and dimensions submitted to, and approved by, this board.
- 9. No changes, extensions, material corrections, additions, substitutions, alterations, and/or modification to an approval by this Board shall be permitted without an approval of this Board, unless such change has been deemed a minor field change by the Building Commissioner in consultation with the Chair of the Board of Appeals.

Mr. 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. The motion passes.**



Location: **11 West Avenue (Map 32, Lot 234) (R1 Zoning District)***
 Applicant: **John S. Nicolas and Daniel J. Nicolas**
 Project: ***NOTE: More relief is required than was initially requested and advertised. The petition will be not be heard this evening, will be re-advertised and first heard by the Board of Appeals at its November 20, 2019 meeting.** A public hearing for all persons interested in the petition of JOHN S. NICOLAS AND DANIEL J. NICOLAS for a special permit per Sections 3.3.2 *Nonconforming Uses*, 3.3.5 *Nonconforming Single- and Two-Family Residential Structures*, and 9.4 *Special Permits* of the Salem Zoning Ordinance and a variance per Section 4.1.1 *Table of Dimensional Requirements* from minimum lot area per dwelling unit to change the existing nonconforming use (two-family dwelling) to another nonconforming use (three-family dwelling) by separating the second and third stories into separate dwelling units at 11 WEST AVENUE (Map 32, Lot 234) (R1 Zoning District).

Documents and Exhibitions

- None

Chair Duffy and Mr. Corriston discuss that this application will require more relief than was initially requested, and so it will be re-advertised and brought up for the first time in the November meeting.

Chair Duffy asks if there are members of the public present to speak regarding this petition, but there are none. No further action by the Board is required in this meeting for this petition.



Location: **12 Buffum Street (Map 26, Lot 366) (R2 Zoning District)**
 Applicant: **Richard Wilcock**
 Project: A public hearing for all persons interested in the petition of RICHARD WILCOCK for a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance to add a third floor addition of approximately 572 square feet to the rear of the existing two-story,

single-family home at 12 BUFFUM STREET (Map 26, Lot 366) (R2 Zoning District).

Documents and Exhibitions

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

Thomas Mayo, an architect out of Ipswich, MA, introduces himself and property owner Richard Wilcock, and Mr. Wilcock's son. Mr. Mayo states they are here seeking permission to allow a third story addition to an existing nonconforming building. He notes that the property is located on a street composed of three-story, 2.5-story, and two-story buildings. Mr. Mayo states the property is very well maintained, and that the proposal would add a third story in the back of the building which would not be visible from Buffum Street. Mr. Mayo explains that the reason for the proposal is to add bedrooms so that the petitioner's children have separate bedrooms. He notes that the square footage is all within the existing footprint of the building, there is no proposed change to parking or utilities, and demonstrates that the peak is under 35 feet so it is under the height restriction. The petitioner is seeking for relief to allow for the third story addition on the existing two story house.

Chair Duffy asks the Board if there are questions for the applicant, but there are none. The attorney presents a petition signed by 36 neighbors that all approve of the proposed project to the Board. Mr. St. Pierre asks to confirm the square footage of the addition, which is 570 square feet. Chair Duffy opens the floor to public comment.

Jerry Ryan from 11 Locust Street spoke positively of Mr. Wilcock as well as the proposal, and states it would allow a great family to stay in Salem. He is in support of the request.

Chair Duffy reiterates the statement of grounds, explains that all conditions have been met, and notes that neighbors are in support of the proposal.

Motion and Vote: Mr. Viccica moves to approve the petition of Richard Wilcock for a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance to add a third floor addition of approximately 572 square feet to the rear of the existing two-story, single-family home at 12 Buffum Street with the following standard conditions:

1. Petitioner shall comply with all city and state statutes, ordinances, codes, and regulations.
2. All construction shall be done as per the plans and dimensions submitted to and approved by the Building Commissioner.
3. All requirements of the Salem Fire Department relative to smoke and fire safety shall be strictly adhered to.
4. Petitioner shall obtain a building permit prior to beginning any construction.
5. Exterior finishes of the new construction shall be in harmony with the existing structure
6. A Certificate of Inspection is to be obtained.
7. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board.
8. All construction shall be done per the plans and dimensions submitted to, and approved by, this board.
9. No changes, extensions, material corrections, additions, substitutions, alterations, and/or modification to an approval by this Board shall be permitted without an approval of this Board, unless such change has been deemed a minor field change by the Building

Commissioner in consultation with the Chair of the Board of Appeals.

Mr. Tsitsinos seconds the motion. **The vote is five (5) in favor (Jimmy Tsitsinos, Jimmi Heiserman, Peter Copelas, Mike Duffy (Chair), and Paul Viccica) and none (0) opposed. The motion passes.**

Location: **42 Osborne Hill Drive (Map 4, Lot 42) (R1 Zoning District)**

Applicant: **Helio Duarte and Caroline Duarte**

Project: A public hearing for all persons interested in the petition of HELIO DUARTE AND CAROLINE DUARTE 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 footprint of a to-be-constructed single-family house at 42 OSBORNE HILL DRIVE (Map 4, Lot 42) (R1 Zoning District).

Documents and Exhibitions

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

Mr. Duarte explains the proposal is new construction, and that the lot was purchased specifically because there was an opportunity to have a walk-out. He explains his mother-in-law is recently retired and father-in-law has recently passed away. He also explains that he will have two children under the age of two, so this is a great opportunity to add an in-law dwelling that will be 750 square feet. This will be a great opportunity to have [our mother-in-law] live with us.

Mr. Corrison notes that there is a letter from the current owner of the property (Osborne Hills Realty Trust – letter from Trustee Paul DiBiase), as well as the quitclaim deed showing Paul DiBiase's ownership of the property.

Chair Duffy reviews the plans of the proposed layout and opens to floor to questions from members of the Board, but there are none. Chair Duffy opens the floor to public comment but there is none.

Chair Duffy indicates there is information that speaks to subsection two of the Accessory Living bylaw, including information about the family members that live in the property and their relation to one another. There are floor plans for the accessory living area, and under subsection three of the bylaw it is a property in the R1 District. Chair Duffy discusses the other general criteria for a special permit, and notes that they are met. All changes to the building will be internal.

Motion and Vote: Mr. Copelas moves to approve the petition of Helio and Caroline Duarte 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 footprint of a to-be-constructed single-family house at 42 Osborne Hill Drive in the R1 Zoning District, subject to the following standard conditions:

1. Petitioner shall comply with all city and state statutes, ordinances, codes, and regulations.
2. All construction shall be done as per the plans and dimensions submitted to and approved by the Building Commissioner.
3. All requirements of the Salem Fire Department relative to smoke and fire safety shall be strictly adhered to.

4. Petitioner shall obtain a building permit prior to beginning any construction.
5. A Certificate of Occupancy is to be obtained.
6. A Certificate of Inspection is to be obtained.
7. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board.
8. All construction shall be done per the plans and dimensions submitted to, and approved by, this board.
9. No changes, extensions, material corrections, additions, substitutions, alterations, and/or modification to an approval by this Board shall be permitted without an approval of this Board, unless such change has been deemed a minor field change by the Building Commissioner in consultation with the Chair of the Board of Appeals.

Mr. Viccica seconds the motion. **The vote is five (5) in favor (Paul Viccica, Peter Copelas, Mike Duffy (Chair), Jimmy Tsitsinos, and Jimmi Heiserman) and none (0) opposed. The motion passes.**



Location: **0 Story Street (Map 23, Lot 2) (RC Zoning District)**
 Applicant: **Castle Hill Partners, LLC**
 Project: A public hearing for all persons interested in the petition of CASTLE HILL PARTNERS, LLC for variances per Section 4.1.1 *Table of Dimensional Requirements* of the Salem Zoning Ordinance from minimum lot width for each of three proposed lots on a 5.8-acre parcel of land at 0 STORY STREET (Map 23, Lot 2) (RC Zoning District).

Documents and Exhibitions

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

Stephen Lovely, manager of Castle Hill Partners, LLC introduces himself. He explains that he and his wife purchased this property in 2007 with the idea to one day either downsize or build some houses in that area. Mr. Lovely states that his daughter and her husband are present, newly married, and hoping to build a house on the property. Mr. Lovely notes that in speaking with Mr. Corrison earlier, he was told he would need a variance from frontage, but did not have time to prepare research. However, he states the waiver he is requesting is with respect to lot width. Mr. Lovely says he does not believe he needs a variance from frontage, but concedes that if he is wrong he will come in and reapply.

Mr. Lovely explains the history of purchasing the property and his original intentions, followed by a description of the abutting property (St. Anne’s School, which has offices and CC classes but currently not a full time school). Mr. Lovely further explains initial discussion with a broker about purchasing that property and constructing a subdivision, but the archdiocese wanted to lease the property rather than sell. Mr. Lovely states that the future of the school property is unclear.

Mr. Lovely reiterates that his daughter is newly married and would like to stay in Salem. Mr. Lovely explains that he initially wanted to apply for a cluster development to request a waiver for frontage and lot size but thought the present proposal would be better as it is less expensive and less time

sensitive than the cluster development permitting process. He notes that he will need to go through Engineering Department, create a sewer line, there will be site work, issues of conservation (Conservation Commission), Planning Board, potential blasting, etc. Mr. Lovely explains that the hardship in this area is wetlands (5.8 acres) that bifurcate the lot; some abuts the golf course, and some abuts Castle Hill Park. Mr. Lovely states that all the lots are in an RC Zone, and the abutting lots are R1, and continues to discuss the property history.

Mr. Lovely explains that the area is urban fill, similar to what is currently in Castle Hill, and goes on to note there are eight different requirements in an RC district which are all met by the current proposal. The petitioner wishes to go step by step and receive special permits to obtain the waiver for frontage. Mr. Lovely presents larger plans, and notes that after consulting with the Fire Chief and safety officer the plans have been approved and stamped.

Mr. Viccica asks to review the issue of lot frontage and asks why the petitioner is not seeking that variance (variance from minimum lot frontage) today. Mr. Lovely states that frontage is the width of the lot at the street, and further explains that the width is required to be 200 feet and he is asking for 20 feet.

Mr. Viccica asks if the request is to condition the approval on the basis of getting approval by the City Solicitor and the Building Inspector. Mr. Lovely confirms he is fine with that.

Mr. Copelas asks Mr. St. Pierre if he has looked at the plans, and Mr. St. Pierre confirms he has and that he and Mr. Corrison want further input from the City Solicitor regarding whether a variance for frontage is required. Mr. St. Pierre notes that it is not a usual subdivision by any means. There is discussion about the petitioner's approach and whether additional variances are required.

Chair Duffy notes that there must be a finding of substantial hardship, and that has been addressed in the petitioner's application. Chair Duffy asks for more detail about the conditions affecting the land that present hardship, and Mr. Lovely provides an explanation using the plans. He discusses the wetlands condition on the site, including the need to build a bridge to access certain parts of the site; he notes that there is ledge and there are elevation changes.

Mr. Copelas discusses the dimensions and the acknowledges the petitioner's attempts to minimize the amount of relief being requested. There is further discussion of the requirements of the RC district.

Chair Duffy opens the floor to public comment.

Linda Tardiff-Pierro of 15 Story Street states she lives across from Mr. Lovely and abuts the wetlands. She asks for clarification of a statement of hardship, and states that her husband had previously had the land for sale and surveyed by Bradford Engineering. She states she has the delineation of the entire property. Ms. Tardiff-Pierro explains the land contains a large amount of wetlands, and states that Massachusetts wetlands regulations were strict in 2006 when her husband attempted to sell, so assumes they must be even stricter now. Ms. Tardiff-Pierro reads out facts about the property and states she has plenty of paperwork on it.

One concern Ms. Tardiff-Pierro expresses is not knowing where the lots are going to be and the impact it could have on the wetlands. She explains she would like to see a layout of the lots and what the Conservation Commission has to say, particularly regarding the engineering survey, before a

variance is allowed or any lots are made narrower. Ms. Tardiff-Pierro notes that a bridge is necessary, that the buffer zone is important, and addresses additional concerns regarding traffic.

Mr. St. Pierre asks Ms. Tardiff-Pierro if she has seen the current plans as laid out, and she is given a copy. There is a brief discussion of Story Street being a dead-end street and how all the lots are at the end of Cleveland Street, despite being designated 0 Story Street.

Mr. Corrison reminds everyone that if anyone has questions about plans or petitions to contact the Planning Department as they have copies of all plans and have applications on file.

Chair Duffy asks if there are additional members of the public who wish to speak. Ms. Tardiff-Pierro mentions an additional concern about what will happen to the church parking, and general congestion. Chair Duffy asks Mr. Lovely to respond.

Mr. Lovely explains that he owns the parking lot and has historically allowed the church to use the lot. He also acknowledges that he stores his boats in the lot during the winter. Mr. Lovely indicates he has not had any neighbor complaints, and that a neighbor abutting his property has some litter visible but that it is not on the lot in question. Mr. Lovely states he has always had good communication with the archdiocese and that the area has been used for a variety of reasons, despite his ownership with no issue or objection. Mr. Lovely says that he has no intent to build the bridge on the lot.

Chair Duffy asks what additional reviews would be required, and Mr. Lovely identifies Engineering (Department), Planning Board, and Conservation Commission. Chair Duffy notes that issues regarding the wetlands will fall under the purview of the Conservation Commission.

Mr. Copelas asks the petitioner to speak about the street numbering. Mr. Lovely indicates this is based on the assessor, and that the property has been number zero forever. He states he has no objection to renumbering or renaming. Mr. St. Pierre informs that one of the first steps on a building permit is the routing slip, and that the assessor determines the final street numbering, and that the Planning Board would do an A&R at some point. Mr. St. Pierre also notes that he has had talks with St. Anne's regarding parking and that they may construct parking for the church on a triangular plot of land they own on the other part of Jefferson Avenue on the corner of Lawrence.

Chair Duffy notes that with respect to this request for a variance, the Board has heard discussion of extensive areas of wetland and some topography that indicates great changes, discussion of the potential presence of ledge, and how this impacts where the applicant can feasibly place the proposed dwellings, and where the access would have to be on the adjacent streets. Chair Duffy indicates that there are circumstances that affect the land that are not generally affecting the entire district, such that literal enforcement as written would present a hardship for developing this property or putting it to any productive use. He indicates that relief could be granted for the proposal tonight which is just for lot width, without substantially derogating from the intent of the district or the intent of the ordinance.

Mr. Viccica asks Mr. Corrison who will approve the street as it is drawn. Mr. Corrison states that street acceptance is done by engineering. Mr. St. Pierre clarifies that the engineering department can set standards for roads, but that ultimate acceptance is done by City Council. Mr. Lovely acknowledges there is a long way to go and lists many of the steps that will be required.

Mr. St. Pierre discusses the process a bit more, specifically the Planning Board review and solicitation of comments from various departments such as engineering. Mr. Lovely notes he may also need a flood management permit from the Planning Board as well.

Motion and Vote: Mr. Copelas moves to approve the petition for Castle Hill Partners, LLC, for a variance per Section 4.1.1 *Table of Dimensional Requirements* of the Salem Zoning Ordinance from minimum lot width for each of three proposed lots on a 5.8-acre parcel of land at 0 Story Street in the RC Zoning District, subject to the following standard conditions:

1. Petitioner shall comply with all city and state statutes, ordinances, codes, and regulations.
2. All construction shall be done as per the plans and dimensions submitted to and approved by the Building Commissioner.
3. All requirements of the Salem Fire Department relative to smoke and fire safety shall be strictly adhered to.
4. Petitioner shall obtain a building permit prior to beginning any construction.
5. A Certificate of Occupancy is to be obtained.
6. A Certificate of Inspection is to be obtained.
7. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board.
8. All construction shall be done per the plans and dimensions submitted to, and approved by, this board.
9. No changes, extensions, 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.

There is a brief discussion about lot frontage and a potential special condition, but ultimately none is needed.

Mr. Viccica seconds the motion. **The vote is five (5) in favor (Mike Duffy (Chair), Peter Copelas, Paul Viccica, Jimmi Heiserman, and, Jimmy Tsitsinos) and none (0) opposed. The motion passes.**

Location:	38 Jefferson Avenue (Map 25, Lot 388) (B4 and R1 Zoning Districts)
Applicant:	Witch City Gardens
Project:	Request for a twelve (12) month extension of special condition #3 in the August 1, 2018 Board Decision granting a special permit per Sections 6.10.4 and 6.10.9 to operate a licensed retail marijuana establishment and marijuana cultivation facility at 38 Jefferson Avenue. Special Condition #3 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.” Special Condition #3 was previously extended to August 1, 2019 by the Board of Appeals.

Documents and Exhibitions

- None

Tim Haigh of Witch City Gardens explains he is seeking an extension on a special permit granted last year. He explains that they submitted the application to the state in mid-January and that it is currently still in review.

Chair Duffy confirms that the petitioner is awaiting authorization from the state, which is a condition of the special permit. Chair Duffy notes that the extension being requested is twelve months, and Mr. Haigh states the requested length is due to the anticipated delay in receiving a provisional license. Chair Duffy notes that a similar application was submitted by CTDW LLC, and that the condition in the special permit, specifically number three, references a six-month extension, and therefore anything other than a six-month extension would require an amendment to the special condition.

Mr. Haigh states he is fine with six months, but just notes he will likely be back before the Board in a few months. Mr. Corrison indicates the petitioner may be able to just submit a letter, in terms of discussing good cause down the line, but ultimately such a decision would be up to the Board. Mr. St. Pierre explains that the other petitioners with similar requests outlined what they have accomplished to date and asks the petitioner to do the same.

Mr. Haigh indicates he submitted a full application to the CCC [the Massachusetts Cannabis Control Commission] in January for a cultivation and retail facility. Since then the petitioner has received a number of RFI's [requests for information] from the state. The petitioner notes they are responding to the RFI's. Once the application is deemed fully complete, the CCC will have a 90 period to act on it, but the petitioner notes that the CCC has been very delayed.

Chair Duffy notes that the circumstances are a mirror image to what was heard earlier today.

This hearing also is not open for public comment as it is not noted as a public hearing.

Motion and Vote: Paul Viccica moves to approve a six (6) month extension of special condition #3 in the August 1, 2018 Board Decision granting a special permit per Sections 6.10.4 and 6.10.9 to operate a licensed retail marijuana establishment and marijuana cultivation facility at 38 Jefferson Avenue. Peter Copelas seconds the motion. **The vote is five (5) in favor (Mike Duffy (Chair), Peter Copelas, Paul Viccica, Jimmy Tsitsinos, and Jimmi Heiserman) and none (0) opposed. The motion passes.**

Location: **2 Horton Court (Map 27, Lot 236) (R2 Zoning District)**
Applicant: **Michael Clarke**
Project: A public hearing for all persons interested in the petition of MICHAEL CLARKE for a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance to construct a 10' by 10' shed dormer at the existing nonconforming single-family home at 2 HORTON COURT (Map 27, Lot 236) (R2 Zoning District).

Documents and Exhibitions

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

Petitioner Michael Clarke (the contractor) and property owner Clay S. Didier introduce themselves. Mr. Didier notes that he purchased the 19th century house in 2013. Mr. Didier explains that the house has a triangular bathroom upstairs; he would like to build a shed dormer to turn this bathroom (with an angled roof) into a more rectangular shape and build a modern shower. Mr. Didier presents a map of the lot found online on his cell phone. Mr. Corrison informs the petitioner he can email a copy of the map. Mr. Corrison also notes the letter from Ms. Kelleher regarding dormer construction is relevant for this discussion.

Mr. Copelas states that although it may not seem like a significant addition or change, the Board has not been presented the kind of information required to approve this. Mr. Copelas mentions photographs of the existing house and site plan. Mr. Clarke presents pictures of the existing house, and states you cannot see where the dormers would be from the street.

Mr. Viccica states the submission does not meet the requirements of the zoning ordinance. He mentions needing plot plans and some other scale drawings. Mr. Clarke notes that we do have an elevation. Mr. Corrison notes that this is the plan that was submitted October 13 and points Mr. Viccica to the document.

Mr. Viccica asks if they have a builder. Mr. Clarke responds that he is the builder.

Mr. Viccica asks why Ms. Kelleher wrote her letter. Mr. Corrison states that he thinks it is because there were a few applications on tonight's meeting and a few recently; this was a chance to offer comment on dormers going on historic houses.

Chair Duffy references the memo from Ms. Kelleher dated today with regard to applications for special permit for dormers on historic buildings. Chair Duffy notes that the letter addresses that the historic architecture of buildings serves the City and local residents; the letter comments on the design of dormers and references guidelines that are set out by the city of Cambridge for new dormers on historic buildings. Chair Duffy reads the recommendations in the letter, which include: setback for the front wall of the dormer should be at least one foot six inches from the building's main wall; the setback for the side wall of the dormer should be at least three feet six inches from the roof at the building's gable ends; length of the dormer shall be no longer than 15 feet or half the length of the roof; dormers should be set back at least one foot from the roof ridge; if the dormer meets the recommended setback for side and front walls, the dormer can start at the ridge eave. She encourages us to consider those recommendations when entertaining dormer applications. Mr. Corrison apologizes and notes he should have referenced this earlier with the 12 Buffum Street application. Mr. Viccica notes that it is not the purvey of this Board as they are not the Historical Commission or Planning Board.

Mr. Viccica offers some recommendations for the dormer design and notes that there are many dormer additions throughout the city that respect the conditions that exist in the petitioner's house, and he recommends the petitioner look at some to get ideas. He notes again that they are not a design review board, but recommends the petitioner look at examples in town and the guidelines in the memorandum.

Chair Duffy opens the floor to public comment.

Thomas Higgins from 8 Orne Street states he is curious about the plan as when he initially read “shed dormer” he thought it meant the construction of a shed with a dormer on top. Mr. St. Pierre suggests he come up and review the plan. After review, Mr. Higgins states he is fine with what is being proposed.

Chair Duffy reviews the special permit criteria and states that the criteria are met.

Mr. Viccica begins to make the below motion. The advertisement refers to a 10’ by 10’ dormer, but Mr. Viccica points out this is not accurate. Mr. Clarke states the elevation is the proper dimension right there. Mr. Viccica states that we will do it per the drawings.

Mr. Corrison notes that the drawing referenced there is date-stamped by the Department of Planning and Community Development October 15, 2019.

Motion and Vote: Paul Viccica moves to approve the petition of Michael Clarke for a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance to construct a shed dormer at the existing nonconforming single-family home at 2 Horton Court subject to the following standard conditions and special condition:

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 Inspection 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.
7. All construction shall be done per the plans and dimensions submitted to, and approved by, this board.
8. No changes, extensions, material corrections, additions, substitutions, alterations, and/or modification to an approval by this Board shall be permitted without an 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.

Special Condition:

1. The applicant shall seriously consider the recommendations put forth by the Historic Commission in the construction and design of the shed dormer.

Mr. Tsitsinos seconds the motion. **The vote is five (5) in favor (Jimmi Heiserman, Paul Viccica, Peter Copelas, Jimmy Tsitsinos, and Mike Duffy (Chair)) and none (0) opposed. The motion passes.**

Location: **94 Washington Square East (Map 35, Lot 536) (R2 Zoning District)**
Applicant: **Spire Investments LLC**
Project: A public hearing for all persons interested in the petition of SPIRE INVESTMENTS LLC for an amendment to the July 3, 2018 decision of the Board of Appeals, seeking an additional variance per Section 3.3.4 *Variance Required* of the Salem Zoning Ordinance to allow two dormers on the attic level of the mansion at 94 WASHINGTON SQUARE EAST (Map 35, Lot 536) (R2 Zoning District).

Documents and Exhibitions

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

Attorney Scott Grover, representing the petitioner, Jay Goldberg, introduces himself and identifies Peter Pitman as the project architect. Attorney Grover states that the petitioner appeared before the Board in July 2018 on several occasions to present the rehabilitation and expansion of the Knights of Columbus building located at 94 Washington Square East. He says the Board granted a number of variances and special permits that allowed the project to go forward. Construction has been going well and the project is expected to be completed next year.

Attorney Grover requests a minor change to the approved plans, and notes that the petitioner is seeking Board approval despite the decision not containing the new “no change” condition for special permits heard at tonight’s meeting. Mr. St. Pierre notes for the record that this is actually one of the projects that drove the need for that special condition.

Attorney Grover presents the original approved plan and the change being proposed, which is the addition of dormers. He notes that the addition does not raise the height of the building, and that the petitioner is not seeking new relief, but to amend the already approved plans. The circumstances and findings made by the Board demonstrating grounds for relief are the same. Attorney Grover asks Mr. Pitman to explain why adding dormers is a good thing for the project.

Mr. Pitman states that the proposed dormers are to be on the previously approved loft area. He notes that the building is unique because as a Federal building, at some point in the late 1800’s the third floor burned off and it was completely reframed in the industrial age. As such, the framing consists of massive steel trusses. When the petitioners saw how magnificent the trusses were, they wanted to take advantage of the feature and space. Mr. Pitman notes that the dormer would raise the roof up and allow an unusable area to be utilized. Mr. Pitman notes that he has not received the memo from Ms. Kelleher, but believes the project plans have captured most of the memo’s points. Mr. Pitman explains the dormers will have windows, and that the dormer siding will match the siding of the building.

Attorney Grover adds that proposed change does not add any bedrooms, just additional countable square footage.

Mr. Viccica asks about the dormer width and whether it needs to be as wide as proposed. Mr. Pitman states the width was dictated by wanting it to align with the windows, and thought that any smaller width would appear arbitrary despite being less costly. Mr. Viccica then asks about using the

roofing material, slate, rather than clapboard for the dormer siding. Mr. Pitman says he likes the siding material, but after Mr. Viccica asks him to reconsider Mr. Pitman states he is amenable to that change.

Mr. Copelas asks the petitioners if the dormers have already been built, and Mr. Pitman states that they have been rough framed.

Chair Duffy mentions for the record an email from Milo Martinez, the head trustee at 78 Washington Square and a member of the Historic Commission. Mr. Martinez learned about the request, and though he recognizes the property is outside the jurisdiction of the Historic Commission, due to the prominent location on the Common, Mr. Martinez believes it would be beneficial for the applicant to go before the Historic Commission for comment before final approval. Mr. Corriston clarifies this is not a letter from the Commission, just from Mr. Martinez.

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

Mr. Viccica notes that this is not a design review board or Historic Commission, but he suggests the applicant consider the change of material for the dormer siding, as well as the dormer proportions, but that the Board will not make it a condition. Mr. Pitman agrees to consider the suggestions.

Chair Duffy states that the hardships that impact the property have been previously considered in granting the variances, and notes that this change to incorporate dormers falls under the same analysis conducted before. Chair Duffy explains that this does not trigger the need for new discussion or findings, as it would echo what has already been discussed. Chair Duffy notes that all previous conditions should hold as well.

Motion and Vote: Paul Viccica moves to approve the petition of Spire Investments, LLC for an amendment to the July 3, 2018 decision of the Board of Appeals, seeking an additional variance per Section 3.3.4 *Variance Required* of the Salem Zoning Ordinance to allow two dormers on the attic level of the mansion at 94 Washington Square East, with the following standard conditions and special condition:

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 or amend the original building permit prior to beginning any construction.
5. Exterior finishes of the new construction shall be in harmony with the existing structure.
6. A Certificate of Inspection is to be obtained.
7. A Certificate of Occupancy is to be obtained.
8. Petitioner shall obtain street numbering from the City of Salem Assessor's
9. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board.
10. All construction shall be done per the plans and dimensions submitted to, and approved by, this board. No changes, extensions, material corrections, additions, substitutions,

alterations, and/or modification to an approval by this Board shall be permitted without an 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.

Special Condition:

- 1. The cladding material of the dormer shall be the same cladding material as the roof.

Peter Copelas seconds the motion. **The vote is five (5) in favor (Jimmi Heiserman, Jimmy Tsitsinos, Paul Viccica, Peter Copelas, and Mike Duffy (Chair)) and none (0) opposed. The motion passes.**

MEETING MINUTES

May 15, 2019

Minutes distributed, no changes are proposed.

Motion and Vote: Peter Copelas moves to approve the May minutes, and Jimmy Tsitsinos seconds the motion. All are in favor, none are opposed. **The motion passes.**

OLD/NEW BUSINESS

Revised 2019 ZBA Application Package and Fee Schedule

Mr. Corriston says the City Solicitor has been busy so there has not been a chance for approval. Mr. Corriston indicates if he does not hear back, he will circulate the most recent draft where the only change is adding a checklist to be submitted with the application to ensure completion. There has also been discussion of a requirement to show street scape rendering if requesting height relief for buildings.

Mr. St. Pierre adds that it is helpful for petitioners to provide a certain size minimum drawing, and at least one on a poster board so that the public can see, perhaps no smaller than 18” x 24”. There is a brief discussion of adding language to reflect this requirement.

ADJOURNMENT

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

The meeting ends at 9:16 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>

City of Salem Zoning Board of Appeals
October 16, 2019 Meeting Minutes

Respectfully submitted,
Brennan Corrison, Staff Planner