

City of Salem Zoning Board of Appeals
Meeting Minutes
December 18, 2019

A meeting of the Salem Zoning Board of Appeals (“Salem ZBA”) was held on Wednesday, December 18, 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 6:31 pm.

ROLL CALL

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

REGULAR AGENDA

Location: **11 West Avenue (Map 32, Lot 234) (R1 Zoning District)**
Applicant: **John S. Nicolas and Daniel J. Nicolas**
Project: A continuation of 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; a variance per Section 4.1.1 *Table of Dimensional Requirements* from minimum lot area per dwelling unit; and a variance per Section 5.1 *Off-Street Parking* to provide less than the required amount of parking 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

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

Chair Duffy introduces the petition.

Attorney William Quinn from Salem introduces himself, and notes that the petitioners previously requested a special permit, but pursuant to discussions with the building inspector and planners were advised they needed a parking variance as well as a variance to lot area per square foot. He indicates the proposal has been amended to request these variances, as well as a special permit to convert a non-conforming two-family home into a three-family home. Attorney Quinn discusses the property location (near Salem State and behind the new development) and summarizes the petition. He states that when his clients purchased the property, land had been swapped between landowners after the new development abutting the property was built. Attorney Quinn indicates there was an agreement regarding shared parking which would allow the property developer to use a large portion of land for parking, while granting Attorney Quinn’s clients space for five cars. At the time there was no professional vetting, and it became clear eventually that there was not enough land in the parking easement to fit five cars legally, and there was no accommodation to prevent cars from backing out

onto West Avenue. Attorney Quinn expresses that the original five-car plan has been revised to a three-car parking plan. He notes that his surveyor, North Shore Survey, has verified that the space is big enough for three cars, and allows for a T-turn to exit the parking lot, such that no one has to back out on to West Avenue.

Attorney Quinn explains that in going from a non-conforming two family to a non-conforming three family causes an issue regarding additional parking, as under Salem bylaws each unit requires 1.5 spaces, and half spaces round up. This equates to a need for five spaces for the three units. To accommodate parking, Attorney Quinn contends the petitioner obtained a revocable license from the neighboring developer to allow for two cars to park behind the fence between the properties, which would accommodate a total of five cars. He further notes that the area closest to his clients' property has signage reserving parking for Salem State (approximately 10 spaces) during the day until 6:30PM, after which the parking would be available to also accommodate extra parking for the property.

Attorney Quinn acknowledges that since the license is revocable it is not permanent, but states there exists a good working relationship between the two parties, and that the development space has over 100 parking spaces and is currently being underutilized at night.

Attorney Quinn explains that when his clients purchased the property it was in good shape and designed as a first floor flat, with a second unit occupying the second and third floors. He indicates there is plenty of room for a living unit on the third floor, and that the proposal to convert it to a three-family home would not require any exterior renovations or enlargement of the building footprint, only minimal renovations inside (primarily shutting doorways). He also notes the proposal is subject to inspections and approval. Attorney Quinn contends the proposal is consistent with Salem's need for new housing, can easily accommodate the three units, is legal with respect to egress, access, and use, and will have sufficient parking. Attorney Quinn adds there is also resident permit parking nearby across the street.

Attorney Quinn presents a petition signed by eleven immediate neighbors supporting the proposal and indicates there have been no negative comments filed to date. He submits that he also provided a copy of the city assessor's plan, as well as a GIS map of the neighborhood. Though the area is zoned for single family homes, he says the large majority of housing in the area are two- and three-family homes, so the proposal is consistent with existing conditions.

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

Mr. Copelas asks if prior to either of the easements being granted, when the lot was long and narrow, if there was adequate parking in the back yard. Attorney Quinn states only if the rear staircase were relocated and development work was done outside the building, as the rear staircase impedes and blocks the rear yard from being used as parking. Moreover, he states the rear yard was never used for parking.

Mr. Copelas indicates his discomfort with the variance request stems from his concern that the petitioner caused the situation to come about through the granting of the easements. Attorney Quinn acknowledges the easements are inconsistent with what the petitioner is currently proposing, but indicates his clients did not own the property at the time of approval.

Mr. Copelas asks if there was any thought to increasing the easement to make the spaces permanent in some manner, and Attorney Quinn states his clients would have loved to ask for a permanent easement, but notes it was a complicated two-year zoning process, and the decisions that were made for a multi-use building required all the parking that was developed.

Mr. Copelas next asks if the granting of the license impinges on the larger project's approval for parking, and Attorney Quinn responds that it does not, as the city has zoning provisions that allow shared parking on multi-use sites as long as it makes sense.

Attorney Quinn explains that rather than asking for approval of five "jammed-in" spots, his clients thought it would be better to request three that met all requirements, and show that there was an arrangement with the neighbor that would ensure no cars would be on the street during the winter evenings in particular.

Chair Duffy asks about the size of the second and third floor units. Attorney Quinn explains that each could be a separate unit, providing two bedrooms on the second floor and one bedroom with a small den on the third floor, best accomplished by shutting doorways.

Mr. Copelas asks if work has been done on the third floor, and Attorney Quinn indicates only legal work pursuant to building permits and discussions with the building inspector, noting there is a kitchen on the third floor.

Ms. Ordaz asks if there is a date associated with the license, and Attorney Quinn states it is indefinite as long as it is not terminated by the abutting property owner. He contends it seems unlikely there will be a problem.

Mr. St. Pierre states each of the three units is approximately 900 square feet, in response to Mr. Duffy's earlier question.

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

John Nicolas, one of the petitioners, introduces himself and states that he owns the house with his son Dan. He states it is owner occupied (by Dan and his friends). Prior to owning, he notes it was a college rental and had nine or more students living in the building. Mr. Nicolas states the density is now down to five people with two cars. He says it fits in with the character of the area, and that the property has been developed in a way that has neighborhood support.

Chair Duffy notes for the record an email from Judith Riley stating that she and her husband are the owners of 20 West Avenue Unit 3, and that they are in support of the application. She believes it is fair and keeping in the character of the neighborhood and recognizes it as an opportunity to help with the local housing crisis.

Chair Duffy next reviews the petition signed by 11 people in support of the application and reiterates the petition.

Mr. Copelas states he is still concerned about potential parking hardship and asks Attorney Quinn to elaborate to help him feel more comfortable. Attorney Quinn asks that a technicality, in this case the need for a parking variance, not be the main consideration of whether this is a valuable proposal.

Attorney Quinn adds that hardships are hard to verify and explains that the original shape of the lot and house location dictate that it cannot meet parking requirements under modern code. There is no legal way to comply without taking down the house and buying adjacent lots. Attorney Quinn maintains these are dimensional variances that do not change the use of the property, other than adding an additional apartment.

Chair Duffy seeks clarification regarding the reciprocal easement agreement as a compromise between the adjacent property owners. Attorney Quinn explains the agreement and how it arose.

Chair Duffy acknowledges that the parking situation was already a bit untenable prior to the requested variance, and by way of the reciprocal agreement some of the issue is alleviated. Mr. Copelas agrees and states he recognizes the project benefits but reiterates some discomfort with the license situation.

Chair Duffy notes Attorney Quinn submitted a statement of grounds that addresses the typical criteria for a special permit. Mr. Copelas suggests the Board move to approve the special permit and variance separately.

Motion and Vote (Special Permit): Mr. Copelas moves to approve the petition of John Nicolas and Daniel 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 at 11 West Avenue in the R1 Zoning District. Ms. Ordaz seconds the motion. **The vote is five (5) in favor (Peter Copelas, Mike Duffy (Chair), Rosa Ordaz, Jimmy Tsitsinos, and Carly McClain) and none (0) opposed. The motion passes.**

Motion and Vote (Variances): Mr. Copelas moves to approve the petition of John Nicolas and Daniel Nicolas for a variance per Section 4.1.1 *Table of Dimensional Requirements* from minimum lot area per dwelling unit; and a variance per Section 5.1 *Off-Street Parking* at 11 West Avenue 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. 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.

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

Location: **6 White Street (Map 41, Lot 285) (B1 Zoning District)**

Applicant: **Sandy J. Martin**

Project: A continuation of a public hearing for all persons interested in the petition of SANDY J. MARTIN for a variance per Section 3.2.4 *Accessory Buildings and Structures* to allow an accessory structure (an enclosure for trash and recycling bins) within the required front yard setback at 6 WHITE STREET (Map 41, Lot 285) (B1 Zoning District).

Documents and Exhibitions

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

Chair Duffy introduces the petition.

Ms. Martin introduces herself and notes she is representing the condo association for the small building located at end of White Street. She explains it is a long, narrow, unusually shaped lot that used to be a bottle manufacturing building decades ago but was converted into condos in 1979.

Ms. Martin indicates the building used to use small narrow bins for trash and recycling receptables until the city mandated to the use of larger ones. Due to the space restriction of the lot they have had difficulty figuring out where to store the bins. Ms. Martin explains that at the street end of the lot there used to be some arborvitae trees that eventually died, after which the area was paved over. Someone in the building thought it would be a good location for the trash bins.

Unfortunately, Ms. Martin states, people leaving the nearby marina were putting trash inside of the bins, so a condo member came up with the idea to have something enclosed on three sides to give a sense of ownership and belonging to the property. Soon after the structure was built the issue ceased, but the condo association discovered they needed a permit for the structure. Ms. Martin presents pictures of the structure and notes explains it is in line with the neighborhood design and states nearby neighbors have no problem with the structure.

Mr. Copelas refers to two pictures and asks if they represent the existing condition, and Ms. Martin confirms it is, and that the pictures were taken in October.

Mr. Copelas asks about the fence location and whether the trash barrels are on private or public property. Ms. Martin indicates the barrels are on the condo property, and that there are no other places where they can reasonably be stored.

Chair Duffy notes that a parking space would be blocked if the barrels were put in another location and Ms. Martin confirms.

Mr. Copelas asks Mr. St. Pierre to speak to the need for a permit and why the fence is considered a structure. Mr. St. Pierre states in this instance the fence creates an enclosure. Mr. St. Pierre says he has questions regarding whether the structure is entirely on the property or not.

City of Salem Zoning Board of Appeals
December 18, 2019 Meeting Minutes

Mr. Copelas asks if removing the protruding areas would still make it considered a structure, and Mr. St. Pierre says it would not, but notes there is an ongoing city issue about leaving trash out for the whole week. Mr. St. Pierre also reiterates the uncertainty regarding whether it is all located on the property. Ms. Martin clarifies that the surveyor said it goes about six inches over the property line but states the condo association was unaware at the time it was built.

Mr. St. Pierre points out that the Board cannot grant relief on an area that is not privately owned by the petitioner, and it appears the structure is encroaching on the public way. He explains the concern from city point of view is that at some point the city will develop a sidewalk in the area and they do not want to create a situation where a semi-permanent structure is blocking the way.

Mr. Copelas and Mr. St. Pierre discuss comparing the photos to surveyor report. Mr. Copelas states that given the uncertainty, and given that there may be an option of moving the fence and removing one of the perpendicular sections so as it would not be considered an enclosure, there seem to be a number of things that the petitioner could work on to potentially provide clarity. Mr. Duffy notes some options could obviate the need for a variance entirely. Mr. Copelas asks for clarification on the present location of parking.

Chair Duffy opens the floor to public comment.

Tom Paschetto introduces himself as an area resident and states he has some objections to the granting of this variance. First, he explains that public health regulations require trash not be on the street except on collection days. Second, he indicates it is difficult for residents to park near the structure because it extends to the curb. Mr. Paschetto also opines that having trash stored on the sidewalk is an eyesore.

Ms. Martin adds that the property is right next to an industrial area, and that the condo association checked with adjacent neighbors who indicated they have no issue with the structure.

Chair Duffy recognizes Mr. St. Pierre's concerns about future plans and whether the fence comes onto public property or not, and states that these issues need to be resolved before a request can be approved.

Mr. Tsitsinos asks about a blue tarp up against the building in one photo and Ms. Martin clarifies it is due to a window box that was being painted at the time.

Mr. St. Pierre indicates the only way to grant the request is to pull the structure back to the property line, as the pictures confirm it is partially in the public way but expresses doubt about the feasibility of pulling the structure back.

Mr. Copelas states it may be worth exploring moving the fence onto the property line, and also recognizes that the city's change resulted in a difficult situation for the property owners.

Ms. Ordaz notes that while not in the Board's purview to make suggestions, she notes if the fence was turned to eliminate the question of whether it is on public way or not, the structure could still be enclosed.

Mr. Copelas notes there exists a higher standard for variances so to be open to other alternatives available. He suggests that Ms. Martin request a continuance to provide the opportunity to go back and talk to the condo association and surveyor to see what can be done.

Ms. Martin asks what can be done to obviate the need for a variance, and Mr. St. Pierre explains based on the land survey, and states she also has the option to return with an amended plan. Chair Duffy adds that granted variances are still subject to appeal by abutters, so it may be easier to do something allowed by right that would not be subject to appeal.

Mr. Copelas asks if Ms. Martin would like to request a continuance. Ms. Martin asks about how weather affects the situation given that the structure is currently cemented in. Mr. St. Pierre suggests asking for a continuance as it can always be withdrawn. Mr. St. Pierre also suggests talking to Mr. Terenzoni [land surveyor] about the feasibility of moving the fence, and states that if a plan and commitment is made he would be willing to back off enforcement until the weather is conducive.

Chair Duffy notes that fences are currently being built in the city of Salem. Mr. St. Pierre acknowledges it could be done sooner if necessary, but that the situation is not dire, so a reasonable timeline would be appropriate.

Motion and Vote: Mr. Copelas moves to continue the petition of Sandy J. Martin for a variance per Section 3.2.4 *Accessory Buildings and Structures* at the property 6 White Street in the B1 Zoning District until the next scheduled meeting of the Zoning Board of Appeals on January 15, 2020. Jimmy Tsitsinos seconds the motion. **The vote is five (5) in favor (Rosa Ordaz, Mike Duffy (Chair), Jimmy Tsitsinos, Carly McClain, and Peter Copelas) and none (0) opposed. The motion passes.**

Location: **602 Loring Avenue (Map 20, Lot 11) (R3 and ECOD Zoning Districts)**
Applicant: **Vavel LLC**
Project: A continuation of a public hearing for all persons interested in the petition of VAVEL LLC for a special permit per Section 7.1 *Multifamily Development* to construct a three-story building consisting of 20 apartment units at 602 LORING AVENUE (Map 20, Lot 11) (R3 and ECOD Zoning Districts).

Documents and Exhibitions

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

Chair Duffy introduces the petition.

Scott Grover introduces himself as an attorney in Salem whose office is located at 27 Congress Street. He states he is representing the petitioners and also introduces Peter Pitman, project architect from Pitman and Wardley Architects and Scott Cameron, project civil engineer from the Morin-Cameron Group. Attorney Grover indicates he filed a similar petition in 2017 to the one before the Board this evening, and that relief was granted by unanimous vote. Unfortunately, he notes, the petition was appealed and the case has been pending in the land court for two years. Attorney Grover describes the subject site and explains that the property has been vacant in recent years. He

also describes Section 7.1 as permitting multi-unit residential with greater density than would otherwise be allowed in the R3 district. Attorney Grover states it reduces the lot area per dwelling unit from 3,500 square feet to 1,000 square feet, encouraging multifamily development while establishing conditions that need to be met for special permits.

Attorney Grover indicates the 2017 plan required, and was granted, the following variances from conditions in Section 7.1: 1) a height variance as the proposed building was 50 feet tall and five stories, and what is allowed is 35 feet and three stories; and 2) a variance related to set back requirements, which was appealed by an abutting property owner and is currently pending. Attorney Grover explains the abutting property has changed ownership, and the courts and new owner suggested he refile the petition. The petition before the Board currently is similar to what was approved in 2017 but does not require the two variances previously requested. Attorney Grover indicates the unit count has not changed, but it has been reduced in height to 35 feet and three stories, and the footprint has been changed to eliminate the setback requirement variance. He contends the plan is otherwise the same and is just seeking the special permit per Section 7.1. Attorney Grover reads the findings of the Board from the 2017 decision approving the petition.

Attorney Grover adds there were three special conditions as part of the 2017 approval that would need to be carried forward, which were: 1) a negotiated easement with the city solicitors office to legalize the existing practice of parking along Loring Avenue; 2) the HVAC units are to be located on the roof and screened in; and 3) recycling is to be provided on the property, as well as adequate space for a recycling dumpster.

Scott Cameron with Morin-Cameron Group introduces himself and discusses the existing conditions as well as the proposed conditions. He shows the survey plan, notes the easement, building footprint, and the position of the property entrance subject to the street, which is a bit dangerous due to limited driver visibility. Mr. Cameron explains how the proposal would make the intersection safer and increase driver sight. He discusses how a ledge cut would also create a 24-foot driveway with two-way traffic. Mr. Cameron demonstrates the garage and surface parking as well as property entrance and exits. He also indicates the building is fully handicap accessible despite grade challenges and adds there is a handicap-accessible sidewalk connection to the street.

Attorney Grover adds that the plan is subject to review by the planning Board, so there will be another set of eyes looking at all the issues discuss thus far.

Peter Pitman from Pitman Wardley Architects introduces himself and discusses in more detail the interior parking, flow of traffic, and how the unique footprint was a function of all the zoning requirements. He notes where storage for tenants is located, discusses the interior building layout, and explains the units will all be two-bedroom, two-bathroom units ranging from 1,200 to 1,400 square feet. Mr. Pitman also notes the HVAC systems will not be visible from the street and will be located away from any abutters. Mr. Pitman goes on to visually compare the originally approved elevation plan and the currently proposed plan.

Attorney Grover contends if granted by the Board, this would resolve the pending litigation as the new owner of the abutting property has indicated they would not appeal if approved as proposed.

Chair Duffy asks what would happen regarding the outstanding approval from 2017, and Attorney Grover states he would rescind the prior approval if the current proposal were approved and survived appeal.

Mr. Corrison asks a clarifying question regarding dimensional requirements of Section 7.1.

Mr. Copelas notes that since variance requests are subject to scrutiny, he questions why this was not the original request in 2017. He asks what the specific compromises were to keep the same number of units. Mr. Cameron explains that from a site perspective there is a significant increase in excavation with the current proposal, and that the configuration posed many challenges due to the strange shape. Mr. Pitman adds that the blasting will be more difficult than the original design, and that the strange shape requires more special cuts for floors and walls.

Attorney Grover returns to the topic of the existing approval and appeal, suggesting the petitioner would agree to judgment, where the court would annul the prior decision of the Board.

Chair Duffy opens the floor to public comment.

Susan Kornfeld from Weatherly Drive introduces herself, and states she appreciates the proposed changes to the intersection regarding safety, but also has concerns about blasting causing her home to shake. Ms. Kornfeld asks about the time frame for blasting so residents can be aware.

Mr. Cameron explains this will not be an aggregate industries excavation, and estimates there will be a small window of time where there will be blasts that can be sensed (once a day for a few weeks). Mr. Cameron adds that regulations are governed by the state and are strict, with serious penalties for exceedances. He also notes that everyone within a 300-foot radius will be notified, and that a pre-blast survey will occur to document the conditions of nearby homes should anything happen. Mr. Cameron asserts that the technology and science behind blasting has improved and become rather precise, and that they are aware that the area is densely populated.

Ms. Kornfeld asks for more detail about the pre-blast survey and Mr. Cameron expounds on the process, noting it is essentially a free insurance policy for homes within a 300-foot radius.

Chair Duffy notes the proposal appears to meet all the criteria stated in Section 7.1, and that the Board made findings on the prior 2017 proposal that contained special permit and variance requests. Mr. Duffy states the relief being sought in the current proposal is less intense than what was previously approved, and therefore the criteria seems to be met. Chair Duffy expresses comfort going forward with a motion that carries forward the special conditions imposed on the first application.

There is a brief discussion between Chair Duffy, Attorney Grover, and Mr. Copelas regarding the pending petition and the plan to agree to judgement. Mr. Corrison and Chair Duffy confirm that the findings would be identical to those for the 2017 permit.

Motion and Vote: Mr. Copelas moves to approve the petition of VAVEL LLC for a special permit per Section 7.1 *Multifamily Development* to construct a three-story building consisting of 20 apartment units at 602 LORING AVENUE 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 the 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. 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.

The approval is also subject to the following special conditions:

1. The petitioner shall secure an easement with the City of Salem to allow the private use of this portion of land for the benefit of providing parking for the proposed development.
2. All HVAC units shall be located on the roof of the property and shall be screened.
3. The petitioner shall provide recycling at the property and provide adequate space for a recycling dumpster.

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

Location: **30 Leach Street (Map 33, Lot 585) (R2 Zoning District)**

Applicant: **Frandy Xu**

Project: A continuation of a public hearing for all persons interested in the petition of FRANDY XU for a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* to expand a nonconforming two-family home by adding an exterior stair and extending an existing dormer at 30 LEACH STREET (Map 33, Lot 585) (R2 Zoning District).

Documents and Exhibitions

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

Chair Duffy introduces the petition.

John Seger with Seger Architects, located at 10 Derby Square, introduces himself and states he is representing the petitioner, Frandy Xu, who owns and resides at the two-family home located at 30 Leach Street. Mr. Seger explains the petition is for a special permit to add a balcony stair addition on the back of the property, as well as an extension of the dormer on the third floor. Mr. Seger presents photos of the property and explains the property location and details. He demonstrates the existing balcony and dormer, presents a site plan, and discusses the property elevation and conditions.

Mr. Seger indicates there are two options for the proposal, which would ultimately add an exterior stair to the third floor and accommodate some new bathrooms on the inside. The first option is to have the stairs run parallel to the deck with an 8 foot 9 inch setback for the property, compared to the existing 12 foot 9 inch setback. The second option blocks some windows but infringes upon the back yard setback less. Mr. Seger notes the first option is the preferred option.

Mr. Seger continues by describing the proposed addition of a shed dormer to the existing third floor dormer to gain access to the third floor. He notes the main reason Mr. Xu is seeking the special permit is to be able to access both units from the outside and free up a bit of space on the inside. Mr. Seger describes the two units and asserts that Mr. Xu's children have moved back home causing a need for more bathrooms in the two units. He also indicates Mr. Xu works late nights and would like to be able to use the back stairs to get to his bedroom so as not to disturb sleeping family members by going through the house. Mr. Seger contends there is little impact on the side yard as the existing building already has a third-floor balcony in the back. Moreover, Mr. Seger states the dormer extension will not be visible because it would be blocked by the existing dormer. Existing building already has balcony on the back, so little impact on the side yard

Mr. Tsitsinos asks if there is a kitchen on the third floor, and Mr. Seger explains there is not, just a bathroom and two bedrooms.

Mr. Copelas asks about the rear setback for both options, and Mr. Seger explains the second option would have a 9.5 foot setback, but that the first option with the 6.9 foot setback is preferred.

Mr. Tsitsinos questions the need for a third-floor egress, and Mr. Seger explains that the proposal would eliminate a second interior set of stairs between the second and third floor to accommodate additional bathrooms. Chair Duffy confirms with Mr. Seger that the proposal would get rid of a second interior egress and replace it with an external egress. Mr. Tsitsinos asks if there will be access between the second and third floor internally, and Mr. Seger confirms where will.

Mr. Tsitsinos asks if the petitioner is intending to make a third unit, and assumes the access between the second and third floor is being removed. Mr. Seger clarifies and reiterates that there are two existing internal stairs between the second and third floor, and that only one will be removed.

Mr. Seger discusses the layout of the two units further, and Mr. Tsitsinos insists the petitioner is attempting to make a third unit. Mr. Xu attempts to explain, and Mr. Tsitsinos states he would like a view of the interior design to confirm that third unit is not being made. Mr. St. Pierre states that an extra mode of egress is not too unusual, and Mr. Tsitsinos reiterates that he believes a third unit will be created.

Ms. Ordaz confirms with Mr. Seger that the third floor has two bedrooms and a bathroom, and the second floor has the kitchen and current bathroom. There is a brief discussion by all about the plan to add a third bathroom to the second unit and a bathroom to the first unit.

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

Mr. Seger presents floor plans and describes the proposed interior changes, noting that it could not be a three unit as proposed. Ms. Ordaz asks about the basement level, and Mr. Seger explains it is used as storage. The proposed plans are further discussed.

Mr. Tsitsinos opines that it is not necessary to have a second form of egress for a second and third floor townhouse unit. Mr. St. Pierre and Mr. Copelas acknowledge a second egress is not needed but confirm that the petitioner's request is for personal convenience. Mr. St. Pierre proffers there can be an additional condition that a third unit could not be built. Mr. Tsitsinos states he is concerned the proposed laundry area would be turned into a kitchen.

Mr. Corrison and Mr. St. Pierre note that having a third unit in this zoning area would be illegal, and Mr. Tsitsinos states the proposal would give the option of creating one anyway. Mr. St. Pierre indicates there is always a risk of someone creating an illegal unit.

Chair Duffy confirms with Mr. Seger that the proposal is based in part on convenience of accessing the third floor to Mr. Xu's bedroom without going through the interior of house. Chair Duffy asks if a small porch is created by extending the dormer and Mr. Seger confirms it would just be a small landing.

Chair Duffy next asks about the rear yard setback options, and Mr. Copelas asks if the petitioner must to specify one. Mr. St. Pierre indicates the preferred option needs to be specified and chosen now. Mr. Seger indicates the petitioner would like to pursue the first option which blocks less of the house and windows.

Char Duffy considers the special permit criteria and notes that they all appear to be met. He asks if there is a need to impose conditions beyond the standard conditions, to address some of the concerns relating to the foregoing use of the units after adding the additional exterior egress. Mr. Copelas notes that the enforcement officer already has the power to look at that, but if the petitioner is in agreement there can be a special condition that the second and third floor duplex will remain one as one residential unit.

Motion and Vote: Mr. Copelas moves to approve the petition of FRANDY XU for a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* to expand a nonconforming two-family home by adding an exterior stair and extending an existing dormer at 30 LEACH STREET in the R2 Zoning district, making specific reference to Option 1 of the plans (elevations dated September 25, 2019) subject to 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 the beginning any construction.
5. Exterior finishes of the new construction shall be in harmony with the existing structure.
6. A Certificate of Occupancy is to be obtained.
7. A Certificate of Inspection is to be obtained.
8. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board.
9. All construction shall be done per the plans and 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.

And the following special condition:

1. The second and third floor duplex shall remain one unit.

Ms. Ordaz seconds the motion. **The vote is four (4) in favor (Peter Copelas, Mike Duffy (Chair), Rosa Ordaz, and Carly McClain) and none (1) opposed (Jimmy Tsitsinos). The motion passes.**

Location:	9 Boston Street (Map 25, Lot 39) (B1 and ECOD Zoning Districts)
Applicant:	Kevin McCafferty
Project:	A continuation public hearing for all persons interested in the petition of KEVIN MCCAFFERTY for variances per Section 4.1.1 <i>Table of Dimensional Requirements</i> of the Salem Zoning Ordinance from maximum height of buildings (stories), minimum lot area, minimum lot area per dwelling unit, minimum depth of front yard, and minimum width of side yard and a variance from Section 5.1 <i>Off-Street Parking</i> to provide less than the required amount of parking to construct a three-story, three-family dwelling with four parking spots on the vacant lot at 9 BOSTON STREET (Map 25, Lot 39) (B1 and ECOD Zoning Districts).

Documents and Exhibitions

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

Chair Duffy introduces the petition.

Kevin McCafferty introduces himself and explains he is seeking a number of variances for a proposed project at 9 Boston Street. Mr. McCafferty states he is hoping this project will bring some help and life to the area since Boston Street has previously had some difficulties. Mr. McCafferty shows the proposed plan, noting it is a small undersized B1 lot of 4,103 square feet which presents the first hardship, as 5,000 square feet is required. He indicates the property is currently an overflow lot for a dentist's office located across the street that has never been utilized, and that the plan would allow for a multifamily to be built. Mr. McCafferty adds that the lot currently sits unmaintained and unlit and is considered a nuisance. He further states the lot is often used as a cut through from Boston Street to May Street and often gets littered. Mr. McCafferty asserts the proposal would help the corridor by building three units.

Mr. McCafferty states he went through options with Derby Street Architects to determine what made the most sense based on the street architecture. He describes how the undersized lot triggers multiple variances, but thinks the proposal makes the best use of the space given requirements.

Mr. McCafferty describes the corner lot location in more detail and reiterates the both the similarity between the proposal and existing nearby buildings, and the current underutilization of the lot.

Mr. McCafferty explains the plan requires two curb cuts, as well as a height variance to create three stories rather than the allowed 2.5 stories. He notes the proposal would be under the 30 foot limit, coming in at a height of 29.6 feet. Mr. McCafferty indicates the intent is to make the units affordable for working class families, and that it only makes sense financially with three units.

Mr. McCafferty presents a street view rendering of the proposed building and parking.

The project architect, Lee Dearborn, discusses the variances requested for the front and side setbacks to keep the building in line with the context of the neighborhood. Mr. Dearborn also explains the lot short by one parking spot per requirements, but opines it is reasonable considering the site restrictions and small size. Mr. Dearborn indicates this would be an improvement to the neighborhood and provides his own anecdotes of the lot being poorly maintained and unsightly.

Mr. McCafferty explains how the setback variances allow for parking. And Ms. Ordaz confirms the setback and parking details as proposed.

Mr. Dearborn notes the proposal requests two curb cuts, one on each street, and while it is permitted to have a 24 foot wide curb cut, they are only requesting one 12 feet wide. He explains this would be better for pedestrian safety, and that by having cars exit onto May Street it would improve traffic flow on Boston Street.

Ms. Ordaz asks if there is street parking on Boston Street, and Mr. Dearborn and Mr. McCafferty indicate there is on both sides, and that the property is also close to the commuter rail

Ms. Ordaz asks the petitioner to discuss the units being affordable, as previously mentioned. Mr. McCafferty states they are requesting three units to keep the price point down, hopefully in the \$400,000 range, and that each unit will have two bedrooms and 2.5 bathrooms. Ms. Ordaz clarifies that by “affordable” the petitioner means “market rate” as opposed to “luxury”, and Mr. McCafferty agrees.

Mr. Copelas states he understands it may be a more attractive project at three units but does not see how the lot demonstrates adequate hardship. He notes there is a document provided by the city solicitor with guidelines to understand findings of hardship, and that this particular lot does not seem to meet any of the requirements of the variance for a hardship. Mr. Copelas indicates that while an irregular shape or topography issue may trigger a hardship, a small lot size does not. He reiterates that a three family may make the project more attractive, but that several of the variances requested are due to the proposal to build a three family, three story property rather than a two family property. Chair Duffy states the only variance that seems unavoidable is relating to minimum lot area.

Mr. McCafferty contends the proposal for three stories made sense while planning as the building would still be under the 30 foot height requirement. Chair Duffy clarifies that part of issue the Board is struggling with is that the representation being made is that there is an economic reason supporting the third unit, which is the entire reason for needing a parking variance. He also notes the Board has been reluctant in the past to ask for that type of pro-forma information to evaluate whether a genuine economic hardship exists.

Mr. Copelas indicates the property is a typical lot size for Boston Street and that there is nothing special about the location, so he does not see how the Board could approve a variance.

Mr. McCafferty maintains that other lots in the area are a bit larger than the lot in question, which he contends is the smallest in the area. Mr. McCafferty states he is open to making it work and is open to suggestions as he wishes to enhance the area. He states the proposal is based on acquisition costs and the economics of the project.

Ms. Ordaz and Mr. Copelas discuss the project justification and multiple variances being requested. Chair Duffy offers that while he does not doubt the good faith of the petitioner, there is hesitance incorporate that into a finding currently without adequate support. Mr. Duffy states he is not certain if additional information would change his or Mr. Copelas' opinion, but it could help. Ms. McClain states that when the petitioner mentioned affordability, she wondered whether there might be Mass Housing money involved or community development funds, and that such funding might be contingent on unit size or number, but that this appears to not be the case. Ms. McClain contends that \$400,000 is not an affordable unit. Mr. McCafferty apologizes for the mischaracterization and clarifies that it would be "affordable to the working class." Ms. Ordaz offers that more information regarding the project economics might help her as well.

Mr. Copelas indicates he has other issues with the proposal as well but would be open to the developer restating the reasons and producing financial documentation.

Mr. McCafferty elaborates that the project plan was based on the acquisition costs of the property itself, and the cost per square foot to build. He estimates the build out costs to be \$650 to \$700 thousand once complete. Mr. McCafferty asserts that building three units is the only way it makes economic sense to attempt to put a property on the otherwise vacant lot.

Mr. Copelas doubts the lot will remain vacant if this particular project is not approved, noting it need not be a binary option. Mr. McCafferty reiterates that the property cost itself makes it unattractive for other developers to attempt any project.

Chair Duffy notes the petitioner has presented some discussion of back of the envelope cost estimates, but that clarification on costs and economic justification could be helpful. Mr. Copelas requests any such material be provided in advance so the Board can analyze and consider it prior to the next meeting. Mr. Copelas reminds Mr. McCafferty to look carefully at the information provided by the city solicitor regarding variances and justifications.

Mr. Tsitsinos asks where trash and recycling would be stored, and Mr. Dearborn says he is not certain. Mr. Tsitsinos ask for it to be included in the drawing for the next meeting.

Mr. McCafferty indicates he would like to request a continuance.

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

Motion and Vote: Ms. McClain moves to continue the petition for residential development at 9 BOSTON STREET at the next regularly scheduled meeting on January 15, 2020. Mr. Tsitsinos seconds the motion. **The vote is five (5) in favor (Carly McClain, Jimmy Tsitsinos, Rosa Ordaz, Mike Duffy (Chair), and Peter Copelas) and none (0) opposed. The motion passes.**

Mr. Copelas asks to take a 2 minute break and Chair Duffy adjourns for 2 minutes.

End adjournment at 8:53.

Location: 169 North Street (Map 27, Lot 105) (R2 and ECOD Zoning Districts)
Applicant: Scott Sobolewski
Project: A public hearing for all persons interested in the petition of SCOTT SOBOLEWSKI for a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance for minimum lot area per dwelling unit to officially convert a single-family home to a two-family home at 169 NORTH STREET (Map 27, Lot 105) (R2 and ECOD Zoning Districts). The property has been used and assessed as a two-family home.

Documents and Exhibitions

- Application date-stamped October 8, 2019 and supporting documentation

Chair Duffy introduces the petition.

Adam Doane from Lux Realty North Shore introduces himself and states he is representing Scott Sobolewski. Mr. Doane states the property at 169 North Street has been assessed as a two family since 1999 by the city of Salem assessor. He notes there is adequate parking (five spots currently), and that there will be no impact on taxes or traffic. Mr. Doane explains the property was sold in 2001 and marketed as a two family, and the current owner purchased the property in 2007 when it was again marketed as a two family. He adds that Salem fire prevention has a record of the smoke certificate indicating the property is a two family and that many surrounding properties are two family dwellings. Mr. Doane also notes that prior to 1999 a permit was pulled to add a second egress, but the plans never finalized to make a two family.

Chair Duffy asks if there is work being proposed or if the petition is just to lawfully recognize the property as a two family. Mr. Doane confirms it is just to recognize the property as a two family so the sale can proceed.

Mr. Copelas asks Mr. St. Pierre what database shows this property as a single family, if other sources list it as a two family. Mr. St. Pierre describes the issue further but notes that the building records show the property as a single family. He notes that someone sneaking it in as a two family 20 years ago does not equate to it being okay. Mr. St. Pierre notes if it had been done with a building permit it would not be an issue, but there is no evidence of that currently.

Mr. Tsitsinos asks about permits being pulled for second electric or gas meter, and Mr. St. Pierre indicates the petitioner would need to provide documentation to show how and when the property became a two family. H adds that the year 1965 is used as a look back date and cutoff for grandfathering.

Mr. Copelas asks if the request to create a two family today would require a special permit or variance. Mr. St. Pierre indicates it would require a special permit. Mr. Copelas asks if an alternative

option could be to request a permit to convert the property to a two family, rather than arguing it is an existing two family.

Mr. Corrison clarifies the relief being sought is a special permit. There is a brief discussion between Mr. Copelas and Mr. St. Pierre, and Mr. St. Pierre notes he took exception with the language used regarding town records.

Mr. Copelas informs that in order to request a special permit per Section 3.3.5 to convert the property from a one family to a two family, the petitioner would need to meet the requirements of a special permit request. He states that if that had been included in the application, the Board could go forward on that basis rather than simply relying on historical indicators that reflect it being used as a two family, which differs from the grounds needed to cite in a decision to go ahead and convert the property. Mr. Copelas explains that petition before the Board requires a written statement that addresses the grounds for a special permit, and that such a statement was not included here. Chair Duffy demonstrates the second page of the application which shows requirements for a special permit and notes the need for a written statement.

Mr. Corrison informs the Board the following page appears to speak to some of the criteria, with references to taxes, employment, parking, utilities, etc. Chair Duffy and Mr. Copelas discuss pulling from this page to support a finding.

Ms. McClain asks when the sale of the property is supposed to occur, and Mr. Doane explains it has been postponed for a while as this is the remaining factor holding the sale back.

Chair Duffy speaks to the special permit criteria goes through how each one is met by the proposal.

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

Mr. Copelas expresses his discontent with the process and notes that under different circumstances it would be easy to approve. He therefore states he will go ahead and motion to approve the proposal.

Motion and Vote: Mr. Copelas moves to approve the petition of SCOTT SOBOLEWSKI for a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance for minimum lot area per dwelling unit to officially convert a single-family home to a two-family home at 169 NORTH STREET (Map 27, Lot 105) (R2 and ECOD Zoning Districts) with 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 the 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. 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 (Rosa Ordaz, Jimmy Tsitsinos, Carly McClain, Peter Copelas, and Mike Duffy (Chair)) 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 frontage 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 October 22, 2019 and supporting documentation

Chair Duffy introduces the petition.

Steven Lovely from 14 Story Street introduces himself as representing Castle Hill LLC. Mr. Lovely states he came before the Board in October and that there was a question about whether an additional variance was required. He explains he attempted to call the city solicitor, but ultimately paid the and is before the Board.

Mr. Copelas asks if the issue is lot frontage versus lot width, and Mr. Lovely reminds the Board of the previous discussion when he received his approval, and he explains that he has put in an application for the variance from minimum lot width. He hopes to get everything for the project lined up with the engineering department and the planning Board.

Mr. Copelas asks Mr. Corrison to remind him of what the Board previously approved. Mr. Corrison explains the confusion between lot width versus lot frontage and that the two are measured differently, and notes the Board previously approved a variance for minimum lot width.

Chair Duffy clarifies that the Board previously considered and granted a requested variance for minimum lot width, and that the minimum lot frontage request is based on the same information provided previously. Mr. Lovely confirms. Mr. St. Pierre discusses the difference between lot frontage and lot width briefly, and that they can be different as they are measured differently. Mr. Lovely adds that the lot frontage is actually a bit smaller than the lot width. Mr. Corrison adds that the proposal includes the hammerhead recommended by the fire department.

Mr. Copelas asks if the proposal is materially different than what was previously approved. Mr. St. Pierre confirms there is no material difference, and that this was just an additionally needed variance.

Chair Duffy opens to the floor to public comment and there is none. He notes for the record the proposal was already approved, and this request is similar if not identical.

Mr. Corrison clarifies the only difference is a dimensional/measurement change.

Motion and Vote: Mr. Copelas moves to approve 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 frontage 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) subject to standard conditions listed in the previous approval at the October Zoning Board meeting. Mr. Tsitsinos seconds the motion. **The vote is five (5) in favor (Peter Copelas, Mike Duffy (Chair), Rosa Ordaz, Jimmy Tsitsinos, and Carly McClain) and none (0) opposed. The motion passes.**

Location: **7 Winthrop Street (Map 25, Lot 549) (R2 Zoning Districts)**
Applicant: **Patricia Laforme**
Project: A continuation of public hearing for all persons interested in the petition of PATRICIA LAFORME for a special permit per Section 3.35 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance to expand an existing, nonconforming two-family home by adding a 10-foot-wide, third-story dormer at 7 WINTHROP STREET (Map 25, Lot 549) (R2 Zoning District).

Documents and Exhibitions

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

Chair Duffy introduces the petition.

Rich Blanchard introduces himself as a representative for Patty Laforme, and states the petition is for approval to create a dormer on the existing third floor intended to become a reading room. Mr. Blanchard addresses how the proposal meets the required criteria for a special permit, noting no change of occupancy, positive fiscal impact, no change in utilities, a design that preserve neighborhood character, and the positive fiscal impact.

Chair Duffy notes plans lack information such as existing and proposed heights and asks if there will be any changes. Mr. Blanchard indicates there will be no change in the roof line, as the dormer will be a foot below the ridge line.

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

Mr. Copelas asks if the property is currently considered to be 2.5 stories. Mr. St. Pierre clarifies that the dormer is what makes it three floors and therefore requires a special permit.

Chair Duffy reiterates the special permit criteria and explains indicates they have been met.

Motion and Vote: Mr. Copelas moves to approve the petition of PATRICIA LAFORME for a special permit per Section 3.35 *Nonconforming Single- and Two-Family Residential Structures* of the Salem

Zoning Ordinance to expand an existing, nonconforming two-family home by adding a 10-foot-wide, third-story dormer at 7 WINTHROP STREET (Map 25, Lot 549) (R2 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 the beginning any construction.
5. Exterior finishes of the new construction shall be in harmony with the existing structure.
6. A Certificate of Occupancy is to be obtained.
7. A Certificate of Inspection is to be obtained.
8. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board.
9. All construction shall be done per the plans and 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.

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

Location: **3-5 Pleasant Street (Map 36, Lot 432) (R2 and ECOD Zoning Districts)**
Applicant: **Juniper Point Investment Co LLC**
Project: A public hearing for all persons interested in the petition of JUNIPER POINT INVESTMENT CO LLC for a special permit per Section 3.3.2 *Nonconforming Uses* of the Salem Zoning Ordinance to change from one nonconforming use (music school) to another nonconforming use (business or professional offices) at 3-5 PLEASANT STREET (Map 36, Lot 432) (R2 and ECOD Zoning Districts).

Documents and Exhibitions

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

Chair Duffy introduces the petition. Mr. Tsitsinos recuses himself.

Attorney Joseph Correnti of 63 Federal Street introduces himself as representing the petitioner, Juniper Point LLC. Attorney Correnti notes this is the petition for the property at 3 and 5 Pleasant Street, which recently held the Salem Music Studio. He indicates there are no plans to present as he is requesting a special permit to go from one non-conforming use to another. Attorney Correnti presents a photo of the property and asserts it has been used commercially for decades. He discusses the history of the property and its previous uses, as well as the easements and driveway allowing for parking.

Attorney Correnti explains that the Salem Music Studio has been there since 2013 but decided to move operations to Marblehead, so the building went for sale. He adds that Juniper Point LLC currently needs an independent office and intends to use the property for that purpose. Attorney Correnti contends the property itself is too large to fill, so the goal is to take the smaller brick side for Juniper Point's office and lease out the larger side for a business or office user. He restates that the petition is to go from one non-conforming use to another.

Attorney Correnti discusses the peak hours of use when the property was used as a music studio and notes the under the new proposal it would be busier when residents are typically at work. He insists the property will be used for business office operations and will not be storage for materials or parking for dump trucks.

Attorney Correnti explains there are no proposed exterior changes to the building other than minor improvements. Additionally, Attorney Correnti states he met with neighbors who came to the previous Zoning Board meeting that were curious about the plan details. He states that the neighbors seemed to approve of the proposal and adds that the proposal keeps the property taxed as commercial while keeping businesses and jobs in Salem. Attorney Correnti explains how the proposal meets the criteria for a special permit.

Mr. Copelas asks about square footage of the property and the petitioner indicates it is approximately 3,200 square feet. Attorney Correnti notes that while the buildings are disparate looking, they are connected internally. He discusses the internal layout and expresses he is unsure who the other tenant will be but can confirm that Juniper Point will be there and look for a responsible tenant they can live with.

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

Motion and Vote: Mr. Copelas moves to approve the petition of JUNIPER POINT INVESTMENT CO LLC for a special permit per Section 3.3.2 *Nonconforming Uses* of the Salem Zoning Ordinance to change from one nonconforming use (music school) to another nonconforming use (business or professional offices) at 3-5 PLEASANT STREET (Map 36, Lot 432) (R2 and ECOD Zoning Districts) 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 the 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. 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.

Ms. Ordaz seconds the motion. **The vote is four (4) in favor (Carly McClain, Rosa Ordaz, Mike Duffy (Chair), and Peter Copelas) and none (0) opposed, with one (1) (Jimmy Tsitsinos) abstaining.**

The motion passes.

MEETING MINUTES

May 15, 2019 (Revision to previously approved minutes)

June 19, 2019

July 17, 2019

August 21, 2019

September 18, 2019

October 2, 2019

October 16, 2019

November 20, 2019

Mr. Corriston notes drafts of all minutes have been uploaded to the city website and explains the May 15th minutes had been approved previously but the last page had outdated info, so a new updated draft has been distributed.

Mr. Copelas for clarification on which meeting minutes are currently subject to Board approval, and Mr. Corriston explains the meetings to approve are May 15, June 19, August 21, October 2, and November 20.

Chair Duffy asks if there are any proposed revisions and there are none.

Motion and Vote: Mr. Copelas moves to approve the revisions to the previously approved minutes for the May 15, 2019 meeting. Ms. Ordaz seconds the motion. **The vote is five (5) in favor (Mike Duffy (Chair), Peter Copelas, Jimmy Tsitsinos, Carly McClain, and Rosa Ordaz) and none (0) opposed. The Motion passes.**

Motion and Vote: Mr. Copelas moves to approve the minutes of the June 19, 2019 meeting. Mr. Tsitsinos seconds the motion. **The vote is five (5) in favor (Mike Duffy (Chair), Peter Copelas, Jimmy Tsitsinos, Carly McClain, and Rosa Ordaz) and none (0) opposed. The Motion passes.**

Motion and Vote: Mr. Copelas moves to approve the minutes of the August 21, 2019 meeting. Ms. Ordaz seconds the motion. **The vote is five (5) in favor (Mike Duffy (Chair), Peter Copelas, Jimmy Tsitsinos, Carly McClain, and Rosa Ordaz) and none (0) opposed. The Motion passes.**

Motion and Vote: Mr. Copelas moves to approve the minutes of the October 2, 2019 meeting. Mr. Tsitsinos seconds the motion. **The vote is five (5) in favor (Mike Duffy (Chair), Peter Copelas, Jimmy Tsitsinos, Carly McClain, and Rosa Ordaz) and none (0) opposed. The Motion passes.**

Motion and Vote: Mr. Copelas moves to approve the minutes of the November 20, 2019 meeting. Ms. Ordaz seconds the motion. **The vote is five (5) in favor (Mike Duffy (Chair), Peter Copelas, Jimmy Tsitsinos, Carly McClain, and Rosa Ordaz) and none (0) opposed. The Motion passes.**

OLD/NEW BUSINESS

Revised 2019 ZBA Application Package and Fee Schedule

Chair Duffy notes there were some revisions to language which included adding a checklist.

Mr. Corrison says most other changes are what were previously distributed earlier in the year. He notes the City Solicitor felt good about checklist, and that the other changes include: 1) ensuring his name is on the application, 2) requiring a rendering of heights for buildings along with adjacent buildings for any application seeking relief for height dimensional requirements.

Chair Duffy notes there is a new fee schedule approved that will go into effect. Mr. Corrison notes the Chair can set the effective date. They discuss briefly and determine an effective date of January 1, 2020.

Motion and Vote: Mr. Copelas moves to approve the Revised 2019 ZBA Application Package as submitted to be effective as of January 1, 2020. Mr. Tsitsinos seconds the motion. **The vote is five (5) in favor (Jimmy Tsitsinos, Peter Copelas, Rosa Ordaz, Carly McClain, and Mike Duffy (Chair)) and none (0) opposed. The Motion passes.**

There is a brief discussion about the draft meeting schedule, and that the Board continues to plan to meet the third Wednesday of the month. Mr. Copelas confirms with Mr. Corrison that this is just a discussion of the draft meeting schedule and not an approval.

ADJOURNMENT

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

The meeting ends at 9:46 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