

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

A meeting of the Salem Zoning Board of Appeals (“Salem ZBA”) was held on Wednesday, January 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 at 6:30 pm.

ROLL CALL

Those present were: Mike Duffy (Chair), Patrick Shea, Jimmi Heiserman, Peter A. Copelas, and Jimmy Tsitsinos. Also in attendance were: Brennan Corriston - Staff Planner, Tom St. Pierre - Building Commissioner, and Lorelee Stewart - Recording Clerk.

REGULAR AGENDA

Location: **80 Margin Street (Map 25, Lot 632) (R2 Zoning District)**
Applicant: **John Femino**
Project: **The applicant requested a continuance to the regularly scheduled meeting on Wednesday, February 20, 2019** of a public hearing for all persons interested in the petition of JOHN FEMINO to appeal two decisions of the Building Commissioner regarding 80 MARGIN STREET.

The Petitioner, John Femino, had requested a continuance prior to the meeting. Mr. St. Pierre asks the Board to send Mr. Femino a letter stating that this item must be heard in February, as this will be the third extension and this is impacting other code issues and difficulties the Inspectional Services Department is having at that building. The Board discusses the procedure and decides that it should be a motion to continue with a special condition for the letter.

Motion and Vote: Mr. Copelas motions to continue the petition to the next regularly scheduled meeting of the Zoning Board on Wednesday, February 20, 2019, with the special condition that a letter be sent to the petitioner stating that this petition must be heard in February. Mr. Tsitsinos seconds the motion. The vote is unanimous with five (5) (Mike Duffy, Peter Copelas, Jimmi Heiserman, Patrick Shea, and Jimmy Tsitsinos) in favor and none (0) opposed.

Location: **331-333 Bridge Street (Map 26, Lot 583) (R2 Zoning District)**
Applicant: **Castle Hill Group, LLP**
Project: A continuation of a public hearing for all persons interested in the petition of CASTLE HILL GROUP, LLP requesting a special permit per Section 3.3.2 Nonconforming Use of the Salem Zoning Ordinance to change from one nonconforming use (commercial) to another nonconforming use (multifamily residential) and variances per Section 4.1.1 Table of Dimensional Requirements for relief from minimum required lot area, lot area per dwelling unit, front yard setback, rear yard setback, and minimum distance between buildings to construct 4 dwelling units at 331-333 BRIDGE STREET (Map 26, Lot 583) (R2 Zoning District).

Documents and Exhibitions

- Application date-stamped September 25, 2018 and supporting documentation
- Plans dated December 18, 2018
- Letter from Tighe and Bond dated January 10, 2019

Board member Mr. Shea recuses himself from the votes for the petitions filed by Castle Hill Group, LLP, leaving four members to vote.

Attorney Stephen Lovely, representing Petitioner Castle Hill Group, LLP, describes how he has responded to questions about the project raised at the last hearing. He has provided the additional documentation requested by the Board at the last meeting. The ZBA asks about the second petition on the agenda from Attorney Lovely in addition to the continuance from last meeting. Steve Livermore, architect for the project, speaks about the second petition. Both petitions reference a drawing dated 12/18/18 with a height of 34 feet height.

Attorney Lovely states that when he first submitted the application, the original plan had a much higher height; now, even though they are asking for a variance for the height in stories, the overall height is lower than it was in the original proposal. Attorney Lovely states that parking is shown on the plan. He adds that snow removal will be in condominium documents. Attorney Lovely states that trash barrels will probably be stored inside the garages, but could be stored behind them, too.

Attorney Lovely states that he included a letter from the LSP [Tighe & Bond] noting that there will probably have to be more testing at the site, because the property used to be a service station, and there could have been a tank at the location. The LSP also noted the costs of removing the fill (if they choose to move it). Attorney Lovely states that in addition to that, the size of the lot and the fact that they need to tear down the existing building are criteria for the hardship.

Chair Duffy notes that there was a letter submitted by the environmental engineer discussing some of the testing, what they found, and expectations for the condition of the site.

Mr. Copelas asks to what extent the additional request for a variance is considered as a separate issue – in addition to the continued petition, there is a new, separate petition. Mr. Copelas asks Attorney Lovely to speak to what led to the second petition and how it impacts either one of the petitions.

Attorney Lovely asks Architect Steve Livermore to discuss the change.

Mr. Livermore states that he originally designed the building with higher plate heights because of the upper floor; when Attorney Lovely applied for the special permits, they didn't catch the fact that because they were exceeding two feet on opposite plate heights, they were exceeding the definition of two and a half floors [the maximum allowed by the zoning ordinance]. When they applied last month, they submitted drawings that met the definition of two and a half floors, but they prefer higher plate heights for the use of the floors. The drawings with the higher plate heights had been shown to the neighborhood, and Mr. Livermore thought that the neighborhood preferred that design to the one that they came up with for the December meeting. Technically, the building with the higher plate heights will be lower overall than the one that was presented last month; for the plans presented in December, the ridge was higher than what is now being presented, with the higher plates. The proposed building that met the two and a half floor definition had a height of

thirty-eight feet (38'). The proposal now being submitted has a height of thirty-four feet (34'). This building, which they would prefer to build and which the neighborhood liked better, exceeds two and a half stories but has a lower height [in feet].

Mr. Copelas asks if the plan in the packet that indicates 34' supersedes the presentation from last month; Mr. Livermore answered in the affirmative.

The drawings dated December 18, 2018 are thus considered to be the official drawings for both petitions (the continued petition and the newly submitted petition).

Chair Duffy notes that the Board had questions about parking and other uses of the site; he saw in the new drawings, there is indication of where garbage storage and snow storage would be, and proposed parking space; he asks Attorney Lovely if there is also parking under. Attorney Lovely answers yes, there will be parking in the garage, and that people will likely also park behind their garages, but that does not meet parking requirements, so they also included additional parking. Mr. Copelas states that there are four (garage) spots, one for each building, and three spots at the rear of the property. Attorney Lovely answers yes.

Chair Duffy opens the meeting for public comment.

Justin Whittier of 10 River Street speaks in favor, stating that as much as people love Moe's, this will be a far better use and more compatible with the neighborhood.

Lou Sirianni of Botts Court is enthusiastically in support, stating that the change in use is a benefit not just to the immediate neighborhood, but to the entire McIntire district. Mr. Sirianni commends the architect for the site plan. Mr. Sirianni supports that the garages are in the back and the fronts of the buildings have a residential feel. He notes that the buildings do not exceed the height and there is variety in rooflines.

Chuck Von Bruns of 3 River Street echoes their sentiments and adds that he moved into 3 River Street in about 1985 years; the house was refurbished in 1982 and made into two condos. The conversion took place about 35 years ago, and it has been trouble-free, no issues with plumbing, roofing, electricity; it's been a great place to live with no hassle. He states that Steve Lovely developed that property. He states that it is quality work and [Mr. Lovely] paid attention to what is important in a building.

Jane Arlander of 93 Federal Street states that she thinks this is a great project and she supports it. She states that it is a great change of use, and scale and density complements the surrounding neighborhood. She adds that it has been wonderful having the developer meet with the neighbors twice and listen to their concerns. She adds that he has agreed to have the Salem Historic Commission review the buildings, and he has promised new sidewalks on Bridge Street in front of this project. Jane Arlander adds that this project adds additional buffer zone to the historic district. She adds that all future project will need review for environmental resiliency and sustainability: this is not an overly dense housing project with lots of cars. This project is not in a Flood Hazard Overlay District, but it is within 100 feet of it, so she still has concerns. The density of the project compares favorably to Salem Suede which was issued a special permit.

Jessica Herbert of 70 Webb Street and Chair of the Salem Historical Commission supports the project. She states that Steve has come before the Historical Commission for their input and is a pleasure to work with; not only does he listen but he acts. They (the Commission) are delighted that he is doing this project. It'll be a great boon for Bridge Street; they have been very concerned about some of the projects that have been recently developed there, and she thinks Steve will be pretty much an example of what they are looking to see going forward.

Meg Twohey of 122 Federal Street, also representing 1 Lynn Street, echoes her neighbors and thanks Steve for promoting and providing a quality project.

Fred Beibesheimer of 17 1/2 River Street states that he is about two houses away from this development. He echoes everything that has been said so far and is a strong believer that this is a great project. He is excited about having this property and potentially more down the street revert back to the R2 zoning and have residential uses as it is so close to their neighborhood and their street.

(Name not stated) states that she is sad to see Moe's Garage close as he is an expert and she can walk there, but she is pleased to see this kind of development on Bridge Street and is very much in support.

Ann Knight of 11 River Street states that she thinks this is a very good example of good development. She likes the compatibility with the neighborhood and she likes the scale.

Carol Carr of 7 River Street states that she thinks it is a great project: Steve is an easy guy to work with, he's offered to meet with them a number of times, address any issues that they have, and she really likes the design of the buildings.

John Carr of 7 River Street states that they have convened two meetings at his house since this application was formulated, and it's not just that they are in support, but they are in enthusiastic support. He states that it is not always the condition that describes his attendance at these meetings, and it is so much nicer to come and be for something rather than against something. He reads a letter from abutters Tim and Margaret Doggett of 9 Lynn Street who could not be here. They state "As abutters to the property 331 – 333 Bridge Street we would like to express our approval of the proposal and request that the board approve the application. We see this use of the property as a win for the City as well as a win for the neighborhood. Please accept this letter as an endorsement of the proposed use for this property." Chair Duffy notes for the record that the Board has a copy of the letter John Carr read from Tim and Margaret Doggett.

Josiah Fisk of 358 Essex Street echoes what has been said, in particular he thinks this design is superior with the variety that you get having two different facades in the same building. He states that it makes such a difference to have the developer come in and have informal meetings and just listen and talk. He feels that this is a good project for the neighborhood, a good project for Steve – he gets the sense that this has worked out well for him. Josiah Fisk says this is a vote in favor for that kind of conversation in general. He thinks this is a poster child for the kind of good project and goodwill that it can lead to.

Jeremiah Jennings of 18 River Street is in support of this project.

Jim Kearney of 1 ½ Cambridge Street echoes the other comments and would support also that it is in keeping with the NRCC zoning.

Chair Duffy notes that the Board received an email from Ann Whittier stating that she and her husband Stephen are in support of the proposal. [The letter states in relevant part: “As close neighbors to the site, my husband Stephen and I welcome this plan and applaud the momentum to bring two residential townhouse units to this stretch of Bridge Street. We think the design looks fine. We hope you concur.”]

Chair Duffy notes that there are variance requests on two applications, and a special permit request. Staff Planner Brennan Corrison asks if there should be one vote or two votes. Zoning Enforcement Officer Tom St. Pierre states that there should be two votes. Chair Duffy states that one application is for a special permit and variance requests, and the other application is the height variance request.

Chair Duffy summarizes the grounds that were submitted in support of the variance requests (noted below). Chair Duffy states that there was a supplemental submission that addressed the hardship issue that was discussed last meeting, and that the submission was supplemented by a letter from the environmental consultant noting that there may be some additional costs in developing this project and handling the soils. Chair Duffy notes that Attorney Lovely stated that the existing building will be demolished; this will add costs and burden to the development of the project. Chair Duffy states that counsel’s Statement of Hardship also made reference to the unique shape and dimension qualities of the parcel itself. Chair Duffy says he wanted to recite those as a very brief summary of the grounds that were submitted in support of the variance request.

Chair Duffy discusses the Statement of Grounds in support of the special permit request, speaking to traffic flow and safety, utilities, neighborhood character, natural environment, and boost to economic development. Chair Duffy adds that the Statement notes that this will add needed affordable housing to the Salem housing stock.

Mr. Copelas asks if this will technically be reserved as affordable housing. Attorney Lovely states that he thinks it will be at the lower end of market rate, but there will not be a deed restriction regarding affordability. Chair Duffy adds, “affordable in the market sense.”

The Board proceeds to a vote on the first application submitted (date-stamped September 25, 2018), for a special permit and variances.

Motion and Vote: Mr. Copelas makes a motion to grant a special permit per Section 3.3.2 Nonconforming Use of the Salem Zoning Ordinance to change from one nonconforming use (commercial) to another nonconforming use (multifamily residential) and variances per Section 4.1.1 Table of Dimensional Requirements for relief from minimum required lot area, lot area per dwelling unit, front yard setback, rear yard setback, and minimum distance between buildings to construct 4 dwelling units at 331-333 Bridge Street, subject to the following terms, conditions, and safeguards. **The motion is seconded by Mr. Tsistinos. The Board votes four (4) (Mr. Copelas, Mr. Duffy, Mr. Heiserman and Mr. Tsistinos) in favor, none (0) opposed, and one (1) (Mr. Shea) abstaining.**

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. The petitioner shall obtain a building permit prior beginning any construction.
5. A Certificate of Occupancy is to be obtained.
6. A Certificate of Inspections is to be obtained.
7. The petitioner shall obtain street numbering from the City of Salem Assessor's office and shall display said numbering so as to be visible from the street
8. The petitioner is to obtain approval from any City Board or Commission including but not limited to, the Planning Board.

Location: 331-333 Bridge Street (Map 26, Lot 583) (R2 Zoning District)

Applicant: Castle Hill Group, LLP

Project: A public hearing for all persons interested in the petition of CASTLE HILL GROUP, LLP requesting a variance per Section 4.1.1 Table of Dimensional Requirements of the Salem Zoning Ordinance for relief from maximum height of buildings (stories) to build a third story (an extra-tall half-story) under a gable or gambrel roof in two buildings at 331-333 BRIDGE STREET (Map 26, Lot 583) (R2 Zoning District).

Documents and Exhibitions

- Application date-stamped December 20, 2018 and supporting documentation
- Plans dated December 18, 2018
- Letter from Tighe and Bond dated January 10, 2019

(This petition was discussed along with the above petition for 331-333 Bridge Street. The above minutes reference both petitions. The same findings for the Variance in the above petition for 331-333 Bridge Street apply to this petition.)

Motion and Vote: A motion is made by Mr. Copelas to grant a variance per Section 4.1.1 Table of Dimensional Requirements of the Salem Zoning Ordinance for relief from maximum height of buildings (stories) to build a third story (an extra-tall half-story) under a gable or gambrel roof in two buildings at 331-333 BRIDGE STREET (Map 26, Lot 583) (R2 Zoning District), subject to the following terms, conditions, and safeguards. **The motion is seconded by Mr. Tsistinos. The Board votes four (4) (Mr. Tsitsinos, Mr. Heiserman, Mr. Duffy, and Mr. Copelas) in favor, none (0) opposed, and one (1) (Mr. Shea) abstaining.**

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. The petitioner shall obtain a building permit prior beginning any construction.
5. A Certificate of Occupancy is to be obtained.
6. A Certificate of Inspections is to be obtained.
7. The petitioner shall obtain street numbering from the City of Salem Assessor's office and shall display said numbering so as to be visible from the street
8. The petitioner is to obtain approval from any City Board or Commission including but not limited to, the Planning Board.

Location: 19 Pickman Street (Map 35, Lot 578) (R2 Zoning District)

Applicant: Castle Hill Group, LLP

Project: A public hearing for all persons interested in the petition of CASTLE HILL GROUP, LLP for a special permit per Section 3.3.3 Nonconforming Structures of the Salem Zoning Ordinance to allow a full story (an extra-tall half-story) instead of a standard half-story under a gable or gambrel roof at 19 PICKMAN STREET (Map 35, Lot 578) (R2 Zoning District).

Documents and Exhibitions

- Application date-stamped December 20, 2018 and supporting documentation

Board member Patrick Shea recuses himself from the vote.

Attorney Scott Grover speaks about the property and the proposed changes. He notes that the existing building is in a state of serious disrepair. Attorney Grover states that it is an unusual building – it is really two buildings connected by a small hallway or breezeway. The main structure faces on Pickman Street, and a small two-story structure faces on Spring Street. Attorney Grover states that there are four units in the combined buildings there, and that will not change with the proposed redevelopment. Attorney Grover states that the units will change from apartments to condominiums.

Attorney Grover states that the existing hallway connecting the two buildings will be expanded to improve flow between the buildings. He states that this is the only change in footprint, and that the footprint around the perimeter of the building will not change. He states that the other change is the construction of shed dormers on both the front and back of the building.

Attorney Grover states that the plan between the owner of 19 Pickman Street and 13 Spring Street (a building under development) is to combine the two into a single condominium consisting of the four units at 19 Pickman Street and the three units at 13 Spring Street, in order to provide (off-street) parking for 19 Pickman Street. [The combination of these properties is from a legal standpoint – no structural connection is proposed.] Attorney Grover states that there is currently no parking for 19 Pickman Street, and the lack of parking is a concern for the neighborhood, and a concern for the owner from a marketability standpoint. He states that by combining 19 Pickman Street and 13 Spring Street into one condominium, sufficient parking can be provided for both properties. He adds that because they are not increasing the density at 19 Pickman Street, they are not triggering a parking requirement, but the parking is needed from a marketability standpoint and a

neighborhood standpoint. Attorney Grover adds that there is an existing agreement between the two property owners. Attorney Grover notes that he wanted the Board to be aware of this agreement because it is an important aspect of the finding the Board needs to make that the change is not more detrimental to the neighborhood, and that it is actually beneficial, creating parking where none exists.

Attorney Grover discusses the zoning relief. Because they are not creating a new nonconformity, they are requesting a special permit to alter an existing nonconforming structure. Attorney Grover discussed the criteria for special permit per Section 3.3.3 Nonconforming Structures of the Zoning Ordinance.

- Social, economic and community needs served by the proposal: The proposal is serving a community need by changing from transient housing and providing opportunities for homeownership, which is good for both the future homeowners and for the neighborhood.
- Regarding traffic flow and safety, including parking and loading: this proposal will take a property with no parking and create new parking through the collaboration between the owners of 19 Pickman Street and 13 Spring Street.
- Utilities and other public services: there is no impact; there are existing utilities.
- There will be no impact on the natural environment, including drainage.
- Potential fiscal impact, including impact on City tax base and employment: by converting the four residential units from rentals to condominiums, the proposal will increase the tax benefits for the City.

Attorney Grover adds that the idea behind the dormers is to make the interior space more usable; they are not adding square footage with the dormers, just creating better headroom so the third floor is more usable. He notes that Betsy Merry, Stephen Lovely and Steve Livermore are present to answer questions.

Chair Duffy asks what the current use of the third story is. Architect Steve Livermore states that the existing third floor (in the larger building) is a full apartment (though it is under eaves). He adds that the smaller building, facing Spring Street, will be independent of the Pickman Street units with a fire wall, so it is almost like a separate, attached house. The larger building, facing Pickman Street, will be reconfigured internally so that there is a flat on the first floor and two townhouses on the second and third floors.

Mr. Copelas notes that the LLC Attorney Grover referenced representing (19 Pickman Street, LLC) is different from what is listed on the petition (Castle Hill Group, LLP), and asks Attorney Grover to clarify. Attorney Grover states that since the petition was filed, the property was conveyed from the prior owner to a new LLC, 19 Pickman Street, LLC. He adds that the original petition was filed with the consent of the then-owner of the property.

Mr. Copelas asks if the additional parking is to be part of a finding that this proposal is not more detrimental, should the Board condition approval on the establishment of the condominium. Attorney Grover states that that would be acceptable. He adds that the configuration of the parking may change from what is represented in the plans, but they can certainly condition that there will be 6 parking spaces (that would ordinarily be required by zoning) provided for 19 Pickman Street on the adjacent property.

Chair Duffy opens the hearing for public comment.

Ronda Smith of 24A Pickman Street states that the biggest issue she would have had is parking, because Pickman Street parking is horrible. But with the parking on Spring Street they are providing, it's great. I like it and it's bringing a pretty dilapidated building up to some nice standards. So yes, I am for it.

Caroline Coburn of 21A Pickman Street states that she had submitted some questions and concerns but they (she and Mr. Lovely) have now agreed on them. Chair Duffy notes that she is making reference to a letter that she submitted; Ms. Coburn responds in the affirmative. Chair Duffy notes for the record that Ms. Coburn submitted the letter and came and spoke tonight, and the concerns in the letter were addressed by the applicant. Ms. Coburn states that Steve Lovely had addressed her concerns.

Jerry Smith of 24A Pickman Street and President of the Salem Common Neighborhood Association states that anything that betters the neighborhood, they are for. He states that this is a betterment for that property, and it's also an improvement for all who live on Pickman who know how bad parking is. So we support this project as long as the stipulation on the parking is addressed.

Kathleen Keefe Ternes of 16 Pickman Street notes that some of the people at 19 Pickman Street have lived there for years and disagrees with Attorney Grover's description of this as "transient housing." Ms. Keefe Ternes adds, while it's wonderful that these are going to be condominiums, and it's a beautiful building and she supports it, there is no guarantee that the people who live there don't move out and make it a rental property. Attorney Grover agrees.

(Name not stated) of 21A Pickman Street states that he is in favor of the project.

Chair Duffy notes that Lynda Fairbanks-Atkins of 24B Pickman Street sent an email in favor of the petition which is read into the record: "From what I have seen and heard, I have no objection to what is being proposed and, in fact, think that the outside changes would be an improvement to the look of the neighborhood. Thank you for passing this on the ZBA as part of its consideration."

Mr. St. Pierre states that off-street parking is not required, but once it is added, the Zoning Ordinance states that it must stay in ownership and cannot be separated, so there are protections in the Ordinance against separating the parking. He states that he would not object to a special condition, but he thinks the Ordinance takes care of it. Mr. Copelas states that since the condominium hasn't been formed yet, and the Board needs some way of referencing it, he thinks the easiest way to reference it is a special condition. Chair Duffy states that it may be a little belt and suspenders, but no one will be embarrassed by that. Attorney Grover adds that they are fine with that.

Chair Duffy reviews the special permit criteria.

1. Social, economic and community needs served by the proposal: this is an improvement to the housing in the building and the condition of the building.
2. Regarding traffic flow and safety, including parking and loading: the parking situation will be bettered by the provision of parking through the establishment of the condominium and shared parking between 19 Pickman Street and 13 Spring Street.
3. Adequate utilities and other public services exist.
4. There is no significant negative impact on the natural environment, including drainage.

5. Neighborhood character: The design fits in with neighborhood character, and many members of the public in the neighborhood are in favor of the petition.
6. Potential fiscal impact, including impact on City tax base and employment: this will have a positive impact on the City's tax base through the conversion of the units from rentals to condominium units.

Motion and Vote: A motion is made by Mr. Copelas to grant a special permit to CASTLE HILL GROUP, LLP per Section 3.3.3 Nonconforming Structures of the Salem Zoning Ordinance to allow a full story (an extra-tall half-story) instead of a standard half-story under a gable or gambrel roof at 19 PICKMAN STREET (Map 35, Lot 578) (R2 Zoning District), subject to the following terms, conditions, and safeguards.

The motion is seconded by Mr. Tsitsinos. The Board votes four (4) (Mr. Duffy, Mr. Copelas, Mr. Heiserman and Mr. Tsitsinos) in favor, none (0) opposed, and one (1) (Mr. Shea) abstaining.

Standard Conditions:

1. Petitioner shall comply with all city and state statutes, ordinances, codes and regulations.
2. All construction shall be done as per the plans and dimensions submitted to and approved by the Building Commissioner.
3. All requirements of the Salem Fire Department relative to smoke and fire safety shall be strictly adhered to.
4. Petitioner shall obtain a building permit prior to beginning any construction.
5. Exterior finishes of the new construction shall be in harmony with the existing structure.
6. A Certificate of Occupancy is to be obtained.
7. A Certificate of Inspection is to be obtained.
8. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board.

Special Conditions:

1. This approval is subject to the establishment of the aforementioned seven-unit condominium complex between 19 Pickman Street and 13 Spring Street, with shared parking in which no fewer than six (6) parking spaces are reserved for 19 Pickman Street.

Location: 24 Lynde Street (Map 26, Lot 428) (B5 Zoning District)

Applicant: David Pabich

Project: A public hearing for all persons interested in the petition of DAVID PABICH for a special permit per Section 15-6 (d) of the Salem Code of Ordinances to allow the continued operation of two non-owner occupied short-term rental units in the seven-unit residential building at 24 LYNDE STREET (Map 26, Lot 428) (B5 Zoning District).

Documents and Exhibitions

- Application date-stamped November 28, 2018 and supporting documentation

Petitioner David Pabich discusses the two units. Mr. Pabich notes that Salem Renewal LLC, which owns these units, owns and operates more than 60 apartments in the city. Mr. Pabich states that they have operated two of the seven units at 24 Lynde Street as short-term rental units in various different formats. Mr. Pabich states that they have used various units throughout their portfolio as short-term rentals, as the company owns furniture and can place it in units as they do development. Mr. Pabich states that they are looking for permission to continue using the two units in the building as short-term rentals. Mr. Pabich notes that these two units have designated parking spaces and their own egresses of the side of the building. He adds that they are located in the Central Development (B5) zoning district, which he thinks is perhaps the most appropriate in the city for short-term rentals.

Chair Mike Duffy asks Mr. Pabich to describe the units. Mr. Pabich states that one unit is a very small one bedroom and the other is a very small studio. Both have small kitchens and single bathrooms. Mr. Shea asks if this is a two-family building; Mr. Pabich responded that it is a seven unit building, which is one of three contiguous buildings that comprise twenty-two (22) total units, which share a parking setup.

Chair Duffy asks if nothing would change with the use; Mr. Pabich stated that nothing would change.

Mr. Copelas notes that one of the requirements is that this property was being used for this purpose prior to the submission of the Ordinance. He asks if they had been operating prior to July; Mr. Pabich responds that they had been operating for quite a bit longer than that – not necessarily those two units. Mr. Pabich adds that for the two units for which they are requesting the special permit, yes, they were operating prior to July.

Mr. Copelas asks if Mr. Pabich understands that those (specific units) are the only two units that can continue to operate as non-owner occupied short-term rentals. Mr. Pabich responds in the affirmative.

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

Chair Duffy notes that the application deadline was met and adds that the Board must consider the special permit criteria. He discusses the special permit criteria:

1. Social, economic and community needs served by the proposal: this use serves the tourism-driven need for short-term rentals in the downtown area, and guests staying in these units often support local restaurants and shops.
2. There will be no changes to traffic flow and safety, including parking and loading, as the use will not change. Each short-term rental unit has a designated parking space.
3. There will be no change in use of utilities and other public services; as such, existing utilities and other public services are adequate.
4. There will be no change in impacts on the natural environment, including drainage, as the use and structure will not change.
5. Neighborhood character: this use is appropriate for the character of downtown.
6. Potential fiscal impact, including impact on City tax base and employment: this real estate use helps boost the economy and contributes real estate and room occupancy taxes while, as Petitioner notes in the Statement of Grounds, “limiting the impact on school and municipal

budgets.” In addition, Petitioner notes that “this use has necessitated the creation of a half-time professional position for assistance in managing the property.”

Mr. Copelas asks if the Board needs to reference the specific units. He asks the petitioner if he objects to referencing the specific units. Mr. Pabich responds that he would not object, though he would prefer the flexibility if the Board did not. Mr. Copelas responds that the Board is specifically referring to two units; Mr. St. Pierre states that he thinks they need to be registered (specifically). Mr. Pabich states that the units are #2 and #3 as referenced in the application.

Motion and Vote: Mr. Copelas moves to grant a special permit to David Pabich per Section 15-6 (d) of the Salem Code of Ordinances to allow the continued operation of two non-owner occupied short-term rental units in the seven-unit residential building at **24 Lynde Street, Units #2 and #3** (Map 26, Lot 428) (B5 Zoning District), subject to the following terms, conditions, and safeguards. **The motion is seconded by Mr. Tsitsinos. The vote is unanimous with five (5) (Mr. Tsitsinos, Mr. Heiserman, Mr. Shea, Mr. Copelas, and Mr. Duffy) in favor and none (0) opposed to the petition.**

Standard Conditions:

1. Petitioner shall comply with all city and state statutes, ordinances, codes and regulations.
2. A Certificate of Occupancy is to be obtained.
3. A Certificate of Inspection is to be obtained.
4. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board.

Location: **100 Washington Street (Map 35, Lot 15) (B5 Zoning District)**

Applicant: **Peter Bohlin**

Project: A public hearing for all persons interested in the petition of PETER BOHLIN for a special permit per Section 15-6 (d) of the Salem Code of Ordinances to allow the continued operation of two non-owner occupied short-term rental units in the mixed-use building at 100 WASHINGTON STREET (Map 35, Lot 15) (B5 Zoning District).

Documents and Exhibitions

- Application date-stamped November 29, 2018 and supporting documentation

Petitioner Peter Bohlin speaks about his 2 short term rental units. He notes that there have been no complaints about the use. Mr. Bohlin notes that there is on-site maintenance and on-site management.

Staff Planner Brennan Corriston asks the Petitioner if the units are #42 and #23, as per the original application; Mr. Bohlin responds that the units are #42 and #45, if they can make that change. The change is accepted and is addressed in the conditions of this decision.

The Board asks questions about the units. Chair Mike Duffy asks the Petitioner to describe the units. Mr. Bohlin states that both are small, one-bedroom units, each with a full kitchen and full bath. He

states that they are both furnished and that they provide common amenities. Mr. Copelas asks Mr. Bohlin to tell the Board more about the building as a whole. Mr. Bohlin responds that there are 38 residential units in the building, and that these 2 apartments are on the same level, which makes it easier for neighbors. He adds again that the management office is on-site.

Chair Duffy notes that there is no parking, but that the petitioner submits that there is train access and nearby public parking and parking garages. Mr. Bohlin states that as part of the building property there is a parking area out back, but that is not provided to Airbnb guests. He adds that there is ample metered parking and garage parking.

Chair Duffy asks how long the Airbnb business has been operating in these units. Mr. Bohlin responds that they've been operating for a little over a year.

Mr. Bohlin discusses the following in reference to the criteria for special permits:

- Social, economic and community needs: This use provides visitors a convenient, affordable place to stay. This drives a substantial amount of business to local restaurants, tour companies, bars, and more.
- Traffic flow and safety, including parking and loading: Due to the close proximity of the train, many guests arrive that way. There are also ample parking garages in the area.
- Utilities and other public services: The building has a dumpster out back which provides as a depository for all trash. Given that this is a short-term rental, the dumpster is rarely used by Airbnb guests, but the cleaning crew has full access.
- Impacts on the natural environment, including drainage: There are no known effects on natural environment or drainage.
- Neighborhood character: There are no known effects on neighborhood character. Guests enjoy the neighborhood as is and enjoy being in downtown Salem.
- Potential fiscal impact, including impact on City tax base and employment: This use provides the city and local businesses with additional revenue and ultimately the city with additional tax revenues.

Mr. Corriston asks if the Airbnb confirmations provided as proof of operation were for these specific units (for which the special permit is requested). Mr. Bohlin answers in the affirmative.

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

Motion and Vote: Mr. Copelas moves to grant a special permit to Peter Bohlin per Section 15-6 (d) of the Salem Code of Ordinances to allow the continued operation of two non-owner occupied short-term rental units in the mixed-use building at **100 Washington Street, Units identified by the Petitioner as #42 and #45 at the time of the application**, subject to the following terms, conditions, and safeguards. **Mr. Tsitsinos seconds the motion. The vote is unanimous with five (5) (Mr. Heiserman, Mr. Shea, Mr. Tsitsinos, Mr. Copelas, and Mr. Duffy) in favor and none (0) opposed to the petition.**

Standard Conditions:

1. Petitioner shall comply with all city and state statutes, ordinances, codes and regulations.
2. All requirements of the Salem Fire Department relative to smoke and fire safety shall be strictly adhered to.

3. A Certificate of Occupancy is to be obtained.
4. A Certificate of Inspection is to be obtained.
5. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board.

Location: 20 Turner Street (Map 41, Lot 16) (R2 and B1 Zoning Districts)

Applicant: Copper Realty LLC

Project: A public hearing for all persons interested in the petition of COOPER REALTY LLC for a special permit per Section 15-6 (d) of the Salem Code of Ordinances to allow the continued operation of one non-owner occupied short-term rental unit (a single-family home) at 20 TURNER STREET (Map 41, Lot 16) (R2 and B1 Zoning Districts).

Documents and Exhibitions

- Application date-stamped December 18, 2018 and supporting documentation

Attorney William Quinn discusses the petition. Attorney Quinn notes that the property is a small colonial home near the House of Seven Gables, the marina, and the ferry. He notes that the property has been available for short-term rentals through Airbnb since 2017. Attorney Quinn states that there have been no problems with the property to the best of his knowledge, and that this property is perfect for this use.

Attorney Quinn speaks to the special permit requirements:

- Traffic flow and safety, including parking and loading: There are six (6) parking spaces on the property, and no more than one (1) family (or group) can rent the property at a time. This is more parking than is required in the R2 zoning district, and because the use will not change and no construction is going on, there will be no changes to traffic flow and safety.
- Utilities and other public services: there is no change planned; existing utilities and other public services are adequate.
- Impacts on the natural environment, including drainage: as the use would not change, the environmental impacts would not change.
- Neighborhood character: this historic Colonial building fits in with the other single- and multifamily historic Colonial buildings in the neighborhood.
- Potential fiscal impact: The assessed value of the property is likely to increase, and there will be increased revenue to the City through real estate taxes.

Staff Planner Brennan Corriston notes that in the advertisements for the public hearing, he had mistyped the name of the Petitioner as Cooper Realty LLC, not Copper Realty LLC. Mr. Corriston states that he had checked with Attorney Quinn and the City Solicitor's Office to see if they could proceed without re-advertising, and they said this would be permissible. Attorney Quinn notes that the name of the petitioner is properly written as Copper Realty LLC on the application.

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

Motion and Vote: Mr. Copelas moves to grant a special permit to Copper Realty LLC per Section 15-6 (d) of the Salem Code of Ordinances to allow the continued operation of one non-owner occupied short-term rental unit (a single-family home) at 20 TURNER STREET (Map 41, Lot 16) (R2 and B1 Zoning Districts), subject to the following terms, conditions, and safeguards. **The motion is seconded by Mr. Tsitsinos. The vote is unanimous with five (5) (Mr. Shea, Mr. Heiserman, Mr. Tsitsinos, Mr. Duffy, and Mr. Copelas) in favor and none (0) opposed to the petition.**

Standard Conditions:

1. Petitioner shall comply with all city and state statutes, ordinances, codes and regulations.
2. All requirements of the Salem Fire Department relative to smoke and fire safety shall be strictly adhered to.
3. A Certificate of Occupancy is to be obtained.
4. A Certificate of Inspection is to be obtained.
5. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board.

MEETING MINUTES

There are no suggested edits.

Motion and Vote: Mr. Shea makes a motion to approve the November 19, 2018 meeting minutes as drafted. The motion is seconded by Mr. Tsitsinos. The vote is four (4) (Mr. Duffy, Mr. Tsitsinos, Mr. Shea and Mr. Heiserman) in favor, none (0) opposed, and one (1) (Mr. Copelas) abstaining.

OLD/NEW BUSINESS

2019 ZBA Application Package

The Board discusses the Zoning Board packet and application form. Mr. Corrison notes that he made minor changes. They discuss the fee structure for the ZBA and review progress on this issue. The general opinion from past discussions is that fees in Salem were very modest. A tiered structure of fees is mentioned. Mr. Corrison states that he will compile the fee structures of surrounding towns and report back to the Board.

Mr. St Pierre adds that he will review the Standard Conditions and wishes to change of one of the standard conditions related to plans—he wants language to reflect “plans approved by the Zoning Board of Appeals as approved by the building inspector.”

Mr. Corrison tells the Board that he anticipates more petitions for Special Permits related to non-owner occupied short term rentals next month following the recent passage of the related City Ordinance.

ADJOURNMENT

Motion and Vote: Mr. Copelas makes a motion to adjourn. The motion is seconded by Mr. Tsitsinos. The Board votes five (5) (Mr. Copelas, Mr. Duffy, Mr. Tsitsinos, Mr. Shea and Mr. Heiserman) in favor and none (0) opposed.

The meeting ends at 7:45 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:

<http://www.salem.com/zoning-board-appeals>

Respectfully submitted,
Brennan Corrison, Staff Planner