

2021 OCT 22 AM 8:44

**City of Salem Zoning Board of Appeals  
Meeting Minutes  
September 22, 2021**

CITY CLERK  
SALEM, MASS

A meeting of the Salem Zoning Board of Appeals (“Salem ZBA”) was held on Wednesday, September 22, 2021 at 6:30 pm via remote participation in accordance with Chapter 20 of the Acts of 2021.

**Chair Mike Duffy calls the meeting to order at 6:30 pm.**

Chair Duffy explains how individuals can participate in the meeting remotely via Zoom, and that instructions to participate remotely can also be found on the Salem website. Chair Duffy also explains the rules regarding public comment.

**ROLL CALL**

Those present were: Mike Duffy (Chair), Paul Viccica, Carly McClain, Rosa Ordaz, and Peter Copelas. Also in attendance were Lev McCarthy – Staff Planner, Tom St. Pierre – Building Inspector, and Jonathan Pinto – Recording Clerk. Those absent were: Steven Smalley

**EXECUTIVE SESSION**

Chair Duffy explains that the Board will conduct an executive session with Assistant City Solicitor, Vickie Caldwell, to discuss litigation relating to a property at 21 Willow Avenue.

**Roll Call Vote to Enter Executive Session: The vote is five (5) in favor (Mike Duffy (Chair), Paul Viccica, Peter Copelas, Carly McClain and Rosa Ordaz) and none (0) opposed. The motion passes.**

The executive session ends at 6:52 and the regular meeting resumes at 6:53PM. Chair Duffy summarizes the discussion from the executive session, noting .

**REGULAR AGENDA**

Location: **10 Lynn Street (Map 26, Lot 206) (R2 Zoning District)**

Applicant: **Timothy Doggett**

Project: **\*Note: The board will vote to continue this petition to the next regularly scheduled meeting on October 20, 2021.** A public hearing for all persons interested in the petition of TIMOTHY DOGGETT to appeal a decision of the Building Inspector per M.G.L ch.40A sections 8 and 15. The petitioner is appealing the Building Inspector’s decision to grant a Building Permit for a two-family residential dwelling at 10 LYNN STREET (Map 26, Lot 206) (R2 Zoning District).

Documents and Exhibitions

- Application date-stamped August 5, 2021 and supporting documentation

Chair Duffy introduces the petition, and explains the Board will vote to continue the petition to next regularly scheduled meeting on October 20, 2021. Mr. McCarthy further explains that the first four petitions are being continued on an administrative basis as the agenda for this meeting is full.

**Motion and Vote:** Mr. Copelas motions to continue the petition of TIMOTHY DOGGETT to appeal a decision of the Building Inspector per M.G.L ch.40A sections 8 and 15. The petitioner is appealing the Building Inspector's decision to grant a Building Permit for a two-family residential dwelling at 10 LYNN STREET (Map 26, Lot 206) (R2 Zoning District) to the next regularly scheduled meeting of the Zoning Board of Appeals on October 20, 2021.

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

Location: **66 Willson Street (Map 24, Lot 23) (R1 Zoning District)**  
Applicant: **Cynthia Nina-Soto**  
Project: **\*Note: The board will vote to continue this petition to the next regularly scheduled meeting on October 20, 2021.** A continuation of a public hearing for all persons interested in the petition of CYNTHIA NINA-SOTO for a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance to expand an existing single-family home by adding a three-car garage within the required front-yard setback, and adding paved driveways that exceed the maximum twenty (20) foot width at the street lot line at 66 WILLSON STREET (Map 24, Lot 23) (R1 Zoning District).

Documents and Exhibitions

- Application date-stamped August 31, 2021 and supporting documentation

Chair Duffy introduces the petition, and explains this petition will similarly be continued to the next regularly scheduled meeting on October 20, 2021.

**Motion and Vote:** Mr. Copelas motions to continue the petition of CYNTHIA NINA-SOTO for a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance to expand an existing single-family home by adding a three-car garage within the required front-yard setback, and adding paved driveways that exceed the maximum twenty (20) foot width at the street lot line at 66 WILLSON STREET (Map 24, Lot 23) (R1 Zoning District) to the next regularly scheduled meeting of the Zoning Board of Appeals on October 20, 2021.

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

Location: **44 Buffum Street (Map 27, Lot 82) (R2 Zoning District)**  
Applicant: **Peter Souhleris**  
Project: **\*Note: The board will vote to continue this petition to the next regularly scheduled meeting on October 20, 2021.** A public hearing for all persons interested in the petition of PETER SOUHLERIS, for a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance to convert a single-family dwelling to a two-family dwelling at 44 BUFFUM STREET (Map 27, Lot 82) (R2 Zoning District).

Documents and Exhibitions

- Application date-stamped August 30, 2021 and supporting documentation

Chair Duffy introduces the petition and explains it is being continued to the next regularly scheduled meeting on October 20, 2021.

**Motion and Vote:** Mr. Copelas motions to continue the petition of PETER SOUHLERIS, for a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance to convert a single-family dwelling to a two-family dwelling at 44 BUFFUM STREET (Map 27, Lot 82) (R2 Zoning District) to the next regularly scheduled meeting of the Zoning Board of Appeals on October 20, 2021

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

Location: **9 Franklin Street (Map 26, Lot 375) (R2 Zoning District)**  
Applicant: **Maria Bova**  
Project: **\*Note: The board will vote to continue this petition to the next regularly scheduled meeting on October 20, 2021.** A public hearing for all persons interested in the petition of MARIA BOVA, for a special permit per Section 3.3.2 *Nonconforming Uses* of the Salem Zoning Ordinance to change from one nonconforming use (commercial – business or professional offices) to another nonconforming use (commercial – kennel) at 9 FRANKLIN STREET (Map 26, Lot 375) (R2 Zoning District).

Documents and Exhibitions

- Application date-stamped September 1, 2021 and supporting documentation

Chair Duffy introduces the petition and similarly explains that it will be continued to the next regularly scheduled meeting on October 20, 2021.

**Motion and Vote:** Mr. Copelas motions to continue the petition of MARIA BOVA, for a special permit per Section 3.3.2 *Nonconforming Uses* of the Salem Zoning Ordinance to change from one nonconforming use (commercial – business or professional offices) to another nonconforming use (commercial – kennel) at 9 FRANKLIN STREET (Map 26, Lot 375) (R2 Zoning District) to the next regularly scheduled meeting of the Zoning Board of Appeals on October 20, 2021

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

Location: **0 Story Street (Map 23, Lot 12) (RC Zoning District)**  
Applicant: **Castle Hill Realty Group, LLC**  
Project: **\*Note: The applicant has requested to continue to the next regularly scheduled meeting on October 20, 2021.** A continuation of a public hearing for all persons

City of Salem Zoning Board of Appeals  
September 22, 2021 Meeting Minutes

interested in the petition of CASTLE HILL REALTY GROUP, LLC to appeal a decision of the Building Inspector per M.G.L ch.40A sections 8 and 15 to construct two foundations for two single-family dwellings at 0 STORY STREET (Map 23, Lot 12) (RC Zoning District).

Documents and Exhibitions

- Application date-stamped June 10, 2021 and supporting documentation

Chair Duffy introduces the petition. Mr. McCarthy explains the applicant submitted a written request to continue to the next regularly scheduled meeting of the Zoning Board of Appeals.

Chair Duffy indicates the applicant's counsel represented that they are engaging in discussions with town counsel related to the appeal, and that discussions are ongoing.

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

**Motion and Vote:** Mr. Copelas motions to continue the petition of CASTLE HILL REALTY GROUP, LLC to appeal a decision of the Building Inspector per M.G.L ch.40A sections 8 and 15 to construct two foundations for two single-family dwellings at 0 STORY STREET (Map 23, Lot 12) (RC Zoning District) to the next regularly scheduled meeting of the Zoning Board of Appeals on October 20, 2021

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

Location: **9 Moffatt Road (Map 31, Lot 37) (R1 Zoning District)**

Applicant: **David Corbin**

Project: A continuation of a public hearing for all persons interested in the petition of DAVID CORBIN for a special permit per Section 3.2.2. *Home Occupations* of the Salem Zoning Ordinance to allow a psychology practice to be located in an existing single-family dwelling at 9 MOFFATT ROAD (Map 31, Lot 37) (R1 Zoning District).

Documents and Exhibitions

- Application date-stamped July 23, 2021 and supporting documentation

Chair Duffy introduces the petition.

Attorney Bill Quinn introduces himself on behalf of the applicant, David Corbin, and his wife Dr. Shelby Ortega. Mr. Quinn indicates the petition started out as what he thought was a routine application for a home office, which the Board has granted in the past, particularly recently with small businesses facing hardships during the pandemic. Mr. Quinn describes Dr. Ortega as a highly trained and well regarded psychologist with many years of experience, a master's degree from BC, a PhD from Clark, and fellowships at Mass General and Harvard medical schools, to name a few. Mr. Quinn states the applicants moved into 9 Moffatt seven years ago to settle down and start a family, and that they now have a seven year old daughter that lives with them. According to Mr. Quinn, things in the neighborhood were peaceful until the neighbors learned of this application. Mr. Quinn acknowledges that his clients made some initial mistakes because they were not sophisticated in the

realm of law and zoning, and were initially advised by others that what they were doing was routine and did not require a building permit. The applicants started doing work on the property and the neighbors became upset at the heavy nature of the construction. Further, the applicants filed their application without notifying their neighbors in advance, which Mr. Quinn states was a second error.

Mr. Quinn states that after reviewing the concerns and comments submitted, it appeared the major complaints dealt with traffic and parking, with a specific focus on the access between the house and an abutter who use a commonly owned shared driveway. The initial proposal had clients driving up the shared driveway and parking behind the applicant's house, but Mr. Quinn explains they decided to eliminate the problem by agreeing to have a special condition precluding patients from driving onto the shared driveway that is co-owned by the abutters at 17 Moffatt. Mr. Quinn states another objection involved having a regular employee, but that the applicants are willing to have an additional condition that no non-residents may work at the home office. Mr. Quinn suggests that the reasonable objections have been addressed, and that as additional evidence there have been photos submitted of Loring Avenue to demonstrate how much parking is available around the corner. The intention is to have clients park in the public spaces which are four-hour parking and unlimited. Mr. Quinn states the applicants recently had an open house for neighbors to address concerns, and that the typical concerns related to the potential effect on parking and property values. Mr. Quinn suggests that several neighbors are now in support of the petition. Mr. Quinn indicates Dr. Ortega's practice has been described to the neighbors; she is not a psychiatrist, does not prescribe drugs or provide critical care services to people expected to be dangerous. Mr. Quinn maintains she runs a suburban practice with several long-term clients coping with mental health issues, and that she plans to meet with one or two clients a day, five days a week. The office space is separated from the home space, so there is privacy and security according to Mr. Quinn. He contends that some comments focused on the type of people coming into the neighborhood and whether it could create a safety issue, but Mr. Quinn states that such concerns are unfounded. Mr. Quinn states the applicant has a daughter and certainly does not want to bring dangerous people into their home. Rather, what Dr. Ortega provides is a much needed service, which she is now trying to provide in a local setting, according to Dr. Quinn. He contends this is a licensed and reputable business, and warns the Board against being discriminatory, unfair, and blocking health services when there are accountants, dentists, and otherws with home offices.

Chair Duffy opens the floor to the Board.

Ms. McClain asks how a home office differs from a medical office, noting that one letter drew that distinction, which she had not previously considered. Ms. McClain asks if this would be more of a professional medical office than a home occupation, which would not be permitted in an R1 zone.

Dr. Ortega states that for those unfamiliar, home occupations are the origin point of psychology and that it is common practice to practice out of a home. In fact, according to Dr. Ortega major universities such as Harvard and BU use them as part of their clinical training. She adds that most senior therapists that are trained with doctorates have home based practices, particularly when they are not prescribing medication. Dr. Ortega explains there will be no exam room or medical equipment, just a professional setting like any other home based office with two chairs and privacy.

Mr. Quinn suggests that many professionals with home offices, such as CPAs, dentists, plumbers, and others, may have a bigger office elsewhere, but are allowed as a resident owner to use a portion

of their premises to maintain a limited use for work. Mr. Quinn opines that the applicant should not be precluded just because a therapist's office could be in a medical building.

Mr. Copelas thanks Ms. McClain for pointing out that letter, as it gave Dr. Ortega an opportunity to explain things in a way that made sense. Given the fact that there would be no prescriptions, medications, exams, or procedures, Mr. Copelas suggests it does seem more akin to an accountant working from a home office than a true medical setting. Mr. Copelas indicates that when he visits his own accountant, they sit at a desk with a computer, have a conversation, and exchange papers, which seems more relevant to the application than categorizing it as a medical operation. Mr. Copelas states the parking accommodations seem reasonable and could be special conditions to any approval.

Mr. Viccica asks if the operation will be by appointment only, and if there will be any rare occasions of emergencies. He also asks about the application mentioning eight to ten clients a week, and asks if there is any chance of overlap and clients waiting. Dr. Ortega states that would not occur, as she schedules specifically to protect the privacy of clients. Mr. Viccica asks how many parking spots exist behind the home, and Dr. Ortega indicates there are two, of which her and her husband use one.

Ms. Ordaz asks if the second spot in back is no longer being offered to clients, and Dr. Ortega confirms that is correct, and states that is a concession she is willing to make.

Chair Duffy opens the floor to public comment.

Kristy Swiniarski of 5 Moffatt Road introduces herself as a direct abutter, and states she is speaking on behalf of her husband as well who is currently working. Ms. Swiniarski requests that the Board visit the site to get a closer look at the setting. Ms. Swiniarski objects to Mr. Quinn's earlier statements regarding comments and concerns raised about the types of people that would be seeking mental health treatment, stating that his claims are inaccurate. Ms. Swiniarski states she has no problem regarding whether the applicant had a permit or not, but indicates she has an issue with the inaccurate information provided by the applicant on the initial application, which claimed no construction would be needed, and then was amended to state it was completed before an application was submitted. Ms. Swiniarski states she fails to see how moving this practice into an R1 neighborhood is a new or direct benefit to the local community as Dr. Ortega will not be taking on any new patients or bringing in future ones until they are long-term established clients. Ms. Swiniarski suggests there may be a financial benefit to the applicant to be home more, but that it should not come at the cost of neighbors' privacy and comfort. Ms. Swiniarski argues that a home practice is not the only option for Dr. Ortega, as she has operated out of two offices until her Salem office was closed. Ms. Swiniarski suggests there are 20 office spaces for rent within a one mile radius of the applicant's home according to one website, and that that would be more appropriate. She notes that professional offices are not allowed in RC or R1 zones, only in B1 or B2. Ms. Swiniarski contends she was shocked and saddened by recent comments from the Ward 2 Councilor, which she characterized as inappropriate as it lumps together the neighbors and accuses them of being discriminatory to women, minorities, and those with mental health issues. Ms. Swiniarski argues such claims are inflammatory and nothing but a scare tactic to ensure the Board approves and instill fear in public commenters. Ms. Swiniarski adds that other instances of home offices being approved did not have the issue of a shared driveway, which she states is significant. While the suggested conditions regarding parking are an improvement, Ms. Swiniarski indicates it

City of Salem Zoning Board of Appeals  
September 22, 2021 Meeting Minutes

does not resolve the main concerns regarding privacy of residents and patients. Moreover, Ms. Swiniarski expresses concerns about winter and whether the driveway will need to be shoveled and salted by 7AM to accommodate the neighbor's clients. She also suggests there is a liability issue with individuals walking on the driveway in winter. Ms. Swiniarski asks that the Board deny the petition, and focus on the facts rather than inflammatory comments and rhetoric.

Attorney Paul Lynch introduces himself as representing Arthur and Kim Sullivan of 17 Moffat Road. Mr. Lynch states the Sullivan's are opposed to the application for several reasons, including the neighborhood density, proximity of homes, nonconformity of lots, and restrictions on non-residential uses in the area. Mr. Lynch argues that properties at 9 and 17 Moffat are only 20 feet apart, and that 9 Moffat only has 7,800 square feet of lot area, which is only half of what is required in the district. More importantly, Mr. Lynch explains that the applicant and his clients share a driveway easement, which presents a liability if business invitees not associated with the Sullivan's are regularly walking down the driveway. Mr. Lynch contends the Board should not allow such an access to occur when other options could be available. Mr. Lynch also questions whether the plans are complete and if the new access and proposed use is ADA compliant. He suggests the Board should require a plan to be submitted to prove where code requirements are located and met. While the applicant indicates there will be a limited number of clients, Mr. Lynch avers that cannot be controlled or monitored, and that it will most certainly intrude on the privacy of neighbors. Mr. Lynch also questions whether there are proper utilities on the premises. Mr. Lynch suggests Dr. Ortega's clients will not actually park on Loring Avenue, and asks that the Board deny the application.

Kim Sullivan of 17 Moffatt introduces herself as a direct abutter and notes her attorney just spoke. Ms. Sullivan states her focus is on the liability issue as she co-owns the driveway that shares access with the applicants. Ms. Sullivan states that while some people do not consider it a big deal, as an insurance professional working in risk exposure and management, claims do occur and it is a big concern. Ms. Sullivan also objects to the proposal because it is an R1 district.

Theresa Needham of 76 Loring Avenue introduces herself, and states she is right around the corner from Moffatt Road, with her property having a point of entry from both Loring Avenue and Moffatt Road Across from Dr. Ortega. Ms. Needham expresses support for the petition, and indicates she has been a patient in home based therapy practices herself, and that while some of the liability concerns may be valid, many of the other concerns raised appear to be desperate attempts to try to deny this practice at any cost. Ms. Needham indicates she moved here from Boston in May, and that this whole situation has made some of the neighbors appear unwelcoming. Ms. Needham states she met with Dr. Ortega and has seen the back yard, what she noticed were nice trees, a lovely deck, and no real privacy issues. Ms. Needham notes that while some have characterized the area as densely populated, coming from Boston it is comparatively not, with most property lines here having fences. Ms. Needham suggests that home therapy offices are common nationwide and that she is baffled by the opposition.

City Councilor Christine Madore of 20 Federal Street, Unit 8 introduces herself and expresses support for this petition. Councilor Madore states she would like to focus on the impact of zoning provisions which have unintentionally created inequalities for women and minorities throughout the country and community. Ms. Madore contends the applicant has been responsive to neighbors, and that this zoning provision should not discriminate against certain occupations. Since the beginning of the pandemic, Councilor Madore notes the Board has set two precedents approving special

permits for a massage therapist and a seamstress, both in densely populated neighborhoods. Councilor Madore maintains these women are pivoting their businesses in response to the pandemic so they can continue to work. She adds that Dr. Ortega is responding to a public health crisis and transitioning to a home based practice to serve clients here on the north shore. Councilor Madore suggests that concerns about traffic and parking are hyperbole, and that Dr. Ortega should not be penalized for doing the right thing and seeking approval, as she could have gone forward without asking and no one would have known. Councilor Madore expresses disappointment that two fellow Councilors have publicly organized neighbors to oppose the proposal, particularly since City Councilors resolved to provide support for mental health services in May and proclaim it mental health awareness month in Salem and improve access for mental health services. Councilor Madore accuses her fellow Councilors of weaponizing zoning to prevent Dr. Ortega from continuing her business from home and provide the services they claim to support.

Amy McKeehan of 6 Cromwell Street introduces herself and expresses support for Dr. Ortega and the petition. Ms. McKeehan explains that over the past two or three years both her psychiatrist and psychologist have moved to home based practice because rents downtown were way too high to maintain. One of the offices is in North Salem and the other is in Marblehead Neck, and according to Ms. McKeehan neither one received this type of pushback from their neighbors. Ms. McKeehan states she is disheartened by what she is seeing and hearing, particularly as a professional working woman. Ms. McKeehan states that when she walks into her therapist's home based practice no one would even know why she was there, as it would be a 40 minute chat and then walking back out. Ms. McKeehan suggests there is a need for home based therapists, particularly if people have a difficult time getting into Boston or other city centers to see their mental health professionals.

Kristy Swiniarski of 5 Moffatt Road introduces herself again, and states she would like to make it clear that she is 100 percent in support of mental health services and recognizes that there is a shortage of providers in the country and region. Ms. Swiniarski states she did not want to have to bring it up, but that there have been multiple people in her family who have had to seek mental health services and that she understands the importance. Ms. Swiniarski contends her opposition relates to the proximity of the homes, which can be seen in the photos she submitted with her comments. Ms. Swiniarski indicates her thirteen year old daughter's bedroom window has a direct view of the proposed therapy office entrance. Ms. Swiniarski also expresses concern that the number of patients has changed over time and lessened, but questions who will be monitoring and enforcing that number. Ms. Swiniarski suggests that if the petitioner had two acres of land this would be no issue, but due to the proximity she is opposed as she claims it is an invasion of her privacy. Ms. Swiniarski argues that Dr. Ortega's business has not suffered due to the pandemic, and that she would not object to telehealth visits via Zoom or video calls. She claims her opposition has nothing to do with race, gender, or any other of the accusation that have been proffered by Mr. Quinn.

City Councilor Arthur Sargent introduces himself and states that this issue should be about zoning rules and rights and only that. Councilor Sargent asks the Board to deny the petition.

Kim Sullivan of 17 Moffat introduces herself again and states she resents any suggestion that she and neighbors are pawns in some greater political debate. Ms. Sullivan states her concerns are a direct impact to her and the liability issues at hand. Ms. Sullivan suggests she is the victim of vitriol and being accused of being discriminatory when she has never stigmatized this type of business. She adds that she has lived here her entire life and is an avid volunteer, and to be painted in a dishonest



way is abhorrent. Ms. Sullivan reiterates that her concerns are with respect to liability and privacy, and have not been addressed.

City Councilor Steve Dibble introduces himself, and states that while he is a candidate running for Mayor, that has nothing to do with the matter at hand. Councilor Dibble indicates he lives on Moffat Road as well, and that he drives by the property in question daily. Mr. Dibble states he has no financial interest in the matter. Councilor Dibble suggests the comments made by the Ward 2 Councilor were inappropriate, and argues that he takes mental health seriously. Councilor Dibble states that he was invited to attend the abutters meeting, and that he did not hear any offensive comments made by those present. He states the concerns were about the neighborhood, houses, and families. Councilor Dibble emphasizes that this is a zoning issue, and that other issues raised should have no bearing on the discussion. Mr. Dibble discusses the tightness of the road and neighborhood density, claiming that many senior citizens have difficulty navigating the street and getting onto Loring Avenue. Councilor Dibble also raises concerns that a future property owner could piggy-back on this special permit and create some home business other than a therapy office, and as such argues that the neighborhood must be protected.

Ms. McClain asks the applicants to respond to the driveway liability issue, and if they would be willing to take on an insurance policy and indemnify the neighbors. She also asks that the ADA compliance and privacy concerns be addressed as well, the latter perhaps being solved by a privacy screen. Ms. McClain also asks if there were any additional statements regarding the use not carrying with the sale of the property as a special condition for approval.

Mr. Quinn states that the issue of ADA compliance will be up to the building inspector, and that the applicants will do whatever he says is required. Regarding privacy screening, Mr. Quinn states that would not be a problem, and that a privacy screen could be put on the side of the house or anywhere that helps. Mr. Quinn indicates the applicant would also be amenable to the condition of the special permit not being transferrable upon sale. Mr. Quinn posits the liability issue is interesting, but explains that both property owners signed an agreement on file at the registry of deeds regarding the common driveway and maintenance. Mr. Quinn argues there was no restriction on use, and that it was agreed to be used for common purposes. He adds that Fedex and postal workers walk up the driveway almost every day, and that he does not think walking down the driveway is an abuse of an easement. Nonetheless, Mr. Quinn suggests a solution could be to amend the insurance policy to obtain a larger umbrella liability policy, and that the applicants could be open to negotiations regarding cost. Mr. Quinn asks that the petition be approved with whatever conditions necessary.

Ms. McClain informs Mr. Quinn she is also a lawyer and has concerns about the liability issue. Ms. McClain suggests she would feel more comfortable if there were an umbrella policy where the applicant paid for the increase in coverage. Dr. Ortega states that would not be a problem, and that she is looking forward to working with her neighbors to resolve concerns. Mr. Quinn suggests a special condition of a \$1 million umbrella coverage where the applicants pay the premiums.

Mr. Copelas summarizes the special conditions discussed, namely with respect to parking, equestrian, the privacy screen, and increased insurance coverage. Mr. Quinn affirms.

Chair Duffy discusses and summarizes the statement of grounds, and asks the Board for a motion.

**Motion and Vote:** Mr. Copelas motions to approve the petition of DAVID CORBIN for a special permit per Section 3.2.2. *Home Occupations* of the Salem Zoning Ordinance to allow a psychology practice to be located in an existing single-family dwelling at 9 MOFFATT ROAD (Map 31, Lot 37) (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 dimension submitted to and approved by this Board. Any modification to the plans and dimensions must be approved by the Board of Appeals unless such changes are deemed a minor field change by the Building Commissioner in consultation with the Chair of the Board of Appeals.

And the following special conditions:

1. None of the applicants patients may drive motor vehicles over the shared driveway with the abutter at 17 Moffat Road.
2. None of the applicant's patients will be allowed to park on that driveway or the paved parking area in the rear.
3. The applicant will not have any non-resident employees work in the home office.
4. The applicant will provide adequate screening on the back porch between abutting neighbor at 5 Moffat Road.
5. The special permit will not continue beyond current ownership of 9 Moffatt Road.
6. Petitioner will obtain enhanced insurance coverage up to \$1 million in a liability umbrella policy which would cover the shared driveway access and include the abutting neighbor at 19 Moffatt as an insured party.

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

Location: **9 Buffum Street (Map 26, Lot 318) (R2 Zoning District)**

Applicant: **Valerina Condor, LLC**

Project: A continuation of a public hearing for all persons interested in the petition of VALERINA CONDOR, LLC for a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance to expand a nonconforming two-family home by expanding the third story from a gable to mansard roof at 9 BUFFUM STREET. Additionally, the Petitioner seeks an infill addition to the side porch area.

#### Documents and Exhibitions

- Application date-stamped July 28, 2021 and supporting documentation

Chair Duffy introduces the petition.

Attorney Kristin Kolick introduces herself on behalf of the applicant and explains a request to continue was submitted today. Ms. Kolick indicates the proposed project is a renovation of an existing two-family home and that the request is for a special permit to expand a nonconforming structure. Pursuant to filing, Ms. Kolick notes that several public comment letters were received, including one recent comment letter from an abutter with some thoughtful comments and suggestions. Ms. Kolick contends this second request to continue is due to a discussion with the developer, who would like to speak to the neighbors and immediate abutter to reevaluate the plans and see if the concerns can be addressed.

Chair Duffy says the request makes sense, as sometimes issues and concerns can be resolved before coming back before the Board.

Mr. Viccica states this is not a first continuance, and asks how many times the applicant has continued. Mr. McCarthy confirms this would be the second continuance, if granted.

**Motion and Vote:** Ms. Ordaz motions to continue the petition of VALERINA CONDOR, LLC for a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance to expand a nonconforming two-family home by expanding the third story from a gable to mansard roof at 9 BUFFUM STREET (Map 26, Lot 318) (R2 Zoning District) to the next regularly scheduled meeting of the Zoning Board of Appeals on October 20, 2021.

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

Location: 73 Lafayette Street (Map 34, Lot 411) (B5 Zoning District)  
Applicant: North Shore Community Development Coalition, Inc.  
Project: A continuation of a public hearing for all persons interested in the petition of NORTH SHORE COMMUNITY DEVELOPMENT COALITION, INC. for a special permit per Section 3.1.2 *Special Permit: Zoning Board of Appeals* of the Salem Zoning Ordinance to operate a Medical Clinic at 73 LAFAYETTE STREET (Map 34, Lot 411) (B5 Zoning District).  
(Map 31, Lot 244) (RC Zoning District).

#### Documents and Exhibitions

- Application date-stamped February 24, 2021 and supporting documentation

Chair Duffy introduces the petition.

Attorney Scott Grover introduces himself on behalf of the applicant, and explains the proposal is a joint venture between the North Shore CDC and North Shore Community Health to be located on the corner of Lafayette and Derby Street, including a parking lot around the corner on Peabody Street. Mr. Grover indicates the property is on the edges of the downtown and urban renewal

districts. Mr. Grover also notes there are representatives present this evening from the CDC, North Shore Community Health, Mass Design, Rich Engineering, and Fort Point Associates.

Mr. Grover explains the property was purchased from North Shore Bank, and that the proposal is to construct a new landmark building to house a facility for North Shore Community Health and allow it to move from its current location at Shetland Park. The proposal also includes 47 units of affordable housing that are age-restricted for the growing elderly population. Mr. Grover notes the location is on Lafayette, along with a new building proposed on the Peabody Street lot. He explains that North Shore Bank will remain a tenant, and that there will be new commercial tenants on the Lafayette Street side of the first floor. Mr. Grover indicates there will be an extensive review and scope for the project, including ZBA, SRA, Design Review Board, Planning Board, Historical Commission, Conservation Commission, and MassDEP approval. The project is complex, an being permitted locally as a planned unit development or "PUD". Mr. Grover explains that medical clinics require special permits in the B5 zone, and as such the Board must first allow that use before the PUD process can proceed. Mr. Grover emphasizes that the relief before the Board is limited to a special permit for a medical clinic use. Importantly, Mr. Grover states that a special permit would be required in any zoning district in the City as a medical clinic is not allowed in any district without a special permit. Mr. Grover suggests relief could be granted under Section 9.4 of the zoning ordinance, under a finding that the beneficial impacts will outweigh any negative ones. Mr. Grover discusses the factors that must be considered, including community needs which would be met through a modern accessible health facility and affordable elderly housing. Regarding parking and traffic flow, Mr. Grover states there will be a total of 29 parking spaces in the open area behind Lafayette and Derby Street and the new building at 9 Peabody. Mr. Grover notes that in the B5 district there is no onsite parking requirement for commercial uses. Further, although new housing requires 1.5 spaces per unit under the ordinance, Mr. Grover argues that the majority of low income older residents that would reside in the units would not own vehicles. He also notes there is an obscure provision in the ordinance that recognizes the limited parking demands by this demographic, and allows for units built by the housing authority to provide only 1/3 parking space per unit. Under this standard, the required number of spaces would be sixteen. With respect to adequacy of utilities, Mr. Grover indicates this will be part of the extensive review process by City engineering and outside consultants, but that he anticipates there will be necessary upgrades and the petitioner is aware they will need to make them. Mr. Grover maintains the proposed buildings are consistent in scale with those on the opposite three corners and that the applicant is not seeking relief for height, and therefore is fitting with the neighborhood character. Regarding the impact on natural environment, Mr. Grover suggests the site improvements will have no negative impact, and that existing conditions will be improved by the redevelopment. Addressing the economic and fiscal impact, Mr. Grover avers there will be an increase in tax revenue, new jobs, housing opportunities, and new commercial space. Mr. Grover opines that the benefits of this project far outweigh any limited adverse effects.

Omar Santiago, a practicing nurse at North Shore Community Health "NSCH", introduces himself and discusses the operations of NSCH. He notes he is speaking on behalf of the CEO who could not attend this evening. NSCH has three locations in Salem, Peabody, and Gloucester, offering 13,000 patients primary care, behavioral health, dental health, and comprehensive care. Mr. Santiago indicates that most patients, approximately 86 percent, live in those three towns and Beverly. NSCH is also embedded into the Salem High School, with school based services in Salem and Peabody including behavioral health. Mr. Santiago describes the care provided as compassionate and comprehensive, noting that care is not denied to anyone regardless of ability to pay or status. He

adds that among staff there are 11 languages spoken, with 97 dedicated staff members including physicians, nurse practitioners, registered nurses, physician assistants, LICSWs, psychiatrists, dentists, and hygienists. Eighty percent of patients are on Medicaid or on Mass Health, and NSCH serves a diverse population.

Jonathan Evans of Mass Design introduces himself and discusses the project design, emphasizing its ability to stitch the downtown and Point neighborhoods together. Mr. Evans presents an aerial rendering and discusses the stakeholder engagement process. As a result of feedback, the bulk of the housing was moved to the Peabody Street parcel and the heights of the buildings were scaled down. He next presents renderings of the façade, as well as floor plans of the health center. Additional renderings of public amenities on the water front are shown. Mr. Evans explains that the intent is for staff parking to be handled in the municipal garages, and that team analysis confirms there is ample space. Mr. Evans indicates that mobility study results indicate there are no traffic mitigation requirements. Regarding parking, Mr. Evans explains there will be 15 spaces on the Lafayette and Derby side, and 14 spaces at the Peabody Street parcel for residents.

Sierra Bainbridge of Mass Design introduces herself and discusses the site approach. She states the intent is to complement the program and services offered within the building through the landscape, with a focus on art, health, and ecology. Ms. Bainbridge indicates the proposal creates three main gateways connecting the site and Riverwalk to the heart of Salem. There are boardwalk north improvements, as well as more landscaping, seating and spaces for small scale events. Additional renderings, including the gallery space and river front are shown.

Mickey Northcutt of the North Shore CDC introduces himself. Regarding parking issues, he explains that upon discovering the zoning provision allowing for senior housing in a commercial zone developed by the Salem Housing Authority to only have 0.3 spaces per unit, he reached out to find out more information. He discovered they have four developments this size or larger downtown with .3 space per unit at each. Mr. Northcutt indicates the applications ask if individuals have a car registered in their name, and that the housing authority has stated they have just enough parking for their tenant population. Mr. Northcutt explains that the mix of apartments would be limited to 30 and 60 percent of median income. Additional research revealed there is a property in Beverly with a similar population in a similar downtown walkable area with .4 spaces per apartment. Mr. Northcutt reveals that only one third of those 43 units have vehicles. Mr. Northcutt envisions that the parking behind Lafayette (currently six spaces, proposed to be 15) would be for visitors to the bank and health center and remain publicly accessible parking.

Mr. Copelas suggests the Board focus on the responsibilities here, and that while this is a very big project for the City, the ZBA has a small but important role to play. Mr. Copelas suggests it could be easy to get lost in the weeds of this larger complex process, but ultimately many other City boards and commissions will carry a lot of the weight. What is strictly before the Board, according to Mr. Copelas, is a request for a special permit to allow a health center to operate. Chair Duffy agrees.

Ms. Ordaz asks about staff and patient volumes for the health center and how they relate to the parking needs. Mr. Evans indicates models have been changing with the pandemic and how healthcare is delivered, so the project is trying to achieve the right size for its needs. For staff parking, Mr. Evans suggests the municipal lots should be sufficient for the potentially need of 60 staff parking spaces, but that he does not have knowledge about the number of patients. Mr. Santiago confirms that operations have adjusted due to the pandemic, and that half of patient

City of Salem Zoning Board of Appeals  
September 22, 2021 Meeting Minutes

volume is now done through telehealth, with the other half still onsite. Mr. Santiago contends that in the future those ratios will likely persist.

Ms. Ordaz notes the Church Street garage was mentioned, and that the study indicated sufficient parking for 60 staff members. Ms. Ordaz asks if those results could be discussed more, including the hours and days the study was conducted and the hours of the health center noting that as a tourist city we often see more traffic and demand. Mr. Evans states the hours of the health center would be 9AM to 5PM or 6PM on weekdays, with an urgent care clinic open six days a week from 8AM to 8PM. Mr.

Bryan Zimolka introduces himself and explains that the parking study was conducted during three peak periods, with a focus on the midday operations. The results showed peak demand during midday, however, the study showed five surrounding lots in the area, including the museum garage parking, that were underutilized. Within the nearby garages, Mr. Zimolka contends there is sufficient occupancy to accommodate the 60 employees and any anticipated patients. Given the patient demographic, Mr. Zimolka argues there will be a lower percentage of vehicle use.

Mickey Northcutt states 70 percent of NSCH patients are below the federal poverty level, and that there is a distinction between NSCH and the medical offices off route one many folks might be familiar with. One benefit and important aspect of the project is the ability for NSCH to remain in the neighborhood they currently exist in and serve according to Mr. Northcutt. He notes that the Point location is crucial because so many patients walk or take the bus to the health center, and that the proposed location is just two blocks away from the existing one. The project is conveniently located on bus lines and within walking distance to the community and train station. Mr. Northcutt explains that the design team included two drop-off zones, one on-site in the back of the building with the waiting areas, and another on Lafayette Street right outside the residential entry and urgent care entry.

Chair Duffy opens the floor to public comment.

Jane Levesque of 72 Pierpont Street introduces herself as a long-time Salem resident. Ms. Levesque asks that the project avoid repurposes bricks, as they present difficulties for people with mobility issues, particularly those likely being served by the proposal.

Jone Sienkiewitz of 51 Lafayette Street (Derby Lofts) introduces herself, and thanks Mr. Northcutt for the updates, noting they address some of her concerns. Ms. Sienkiewitz notes, however, that the drop-off zone is a new addition that raises further concerns, as that is a busy intersection that already includes a fire station and the route in and out of Marblehead. With the new construction as well, anything that stops traffic there would be dangerous suggests Ms. Sienkiewitz. Regarding the parking studies, Ms. Sienkiewitz states she parks in the museum place garage and that it is not underutilized in her experience. In fact, Ms. Sienkiewitz claims that she has already towed three people out of her reserved space, and not just during October. While she states she is happy that some parking is being added for tenants, her main concerns surround parking for those coming to the health center. Ms. Sienkiewitz expresses worry that the Board will allow this petitioner, or some other developer, to build something so big and ignore the fact that there is no real parking in the area. Ms. Sienkiewitz argues there are general regulations for professional offices and guidelines for the amount of parking required, and that this request for a special permit flies in the face of those standards. While some people do walk to urgent care, Ms. Sienkiewitz contends many will get in

City of Salem Zoning Board of Appeals  
September 22, 2021 Meeting Minutes

their cars, particularly if they are coming from Beverly. Ms. Sienkiewitz suggests an urgent care in downtown Salem should not be allowed, and states that she opposes the special permit until more considerations can be given toward parking.

Polly Wilbert of 7 Cedar Street introduces herself as a member of the South Salem Neighborhood Association. Ms. Wilbert states the focus should be on the medical clinic and the special permit request. Ms. Wilbert argues there will be a negative impact that must be considered, particularly relating to insufficient parking. Ms. Wilbert contends that long established businesses on lower Lafayette could struggle to survive if parking becomes more scarce as people search for additional parking for the health center. Ms. Wilbert suggests that people will disobey rules and regulations, park longer than they are allowed, park in prohibited spaces, and double park, all leading to worse traffic. Ms. Wilbert asks when the parking study was done, as if it was during the pandemic it should not be considered valid. The goal for the country according to Ms. Wilbert is to get back to where we were prior to COVID, and perhaps beyond. She adds that the parking struggle is ongoing. An additional concern raised by Ms. Wilbert is that parking meters have been replaced by a parking app, which some people have used to extend parking beyond the permitted number of hours.

Grace Chiou of 17 Daniels Street introduces herself as an employee of NSCH, and states she walks to work and would continue to walk to this building location. Ms. Chiou speaks in favor of the proposal, noting there are additional lots and areas for parking nearby. She notes that other colleagues also walk to work rather than drive, as both staff and patients are local, and that parking concerns may be exaggerated. Ms. Chiou suggests this proposal would be a great addition to the community.

Lev McClain of 22 Albion Street introduces himself, and states that the proposal is rather compelling. Mr. McClain suggests the design, location, and considerations of the surrounding area make sense, and he acknowledges there is a clear need for affordable elderly housing, as well as medical services. Mr. McClain states that when the conversation surrounding affordable housing occurs in Salem, often the elderly population is not considered. This project allows elderly residents to downsize while remaining in their community. Mr. McClain contends that the parking issue is a fair concern, and asks about how many of the patients are coming in by appointment versus drop-ins. Mr. McClain says he would also be interested to know if the project would be willing to help with way-finding to help direct people to parking services that are underutilized. Mr. McClain suggests underutilization of parking lots or garages may be due to people not knowing how to get to and from them easily. Mr. McClain also asks if there are any additional conditions attached to the special provision allowing .3 parking spaces per unit.

Marion Winfrey of 3D Russel Drive introduces herself and states she has submitted two letters in support of the project. Ms. Winfrey suggests the discussion refocus on the need and ability to expand healthcare services to the entire city of Salem. Ms. Winfrey states NSCH is embedded in the neighborhood and school system, and plays a vital role in the community. Moreover, Ms. Winfrey suggests that anything proposed in downtown will have an impact on parking, but that here we should focus on the greater good and community needs. She argues the only way to avoid additional impacts on parking would be to have a helicopter service in the City, which would then run into noise abatement issues. Ms. Winfrey emphasizes that most of the patients are on Medicare and Medicaid, and therefore there will not likely be a line of cars coming in and out. She notes that Salem Hospital cannot address all the community needs on its own, and asks that the discussion refocus on creating the healthiest possible city that provides care to as many individuals as possible.

Bryan Zimolka introduces himself as the project traffic engineer and attempts to address some of the traffic concerns. While the counts were completed during the pandemic, Mr. Zimolka states adjustment factors were utilized and additional research was conducted to see how the parking levels compared with pre-pandemic conditions. Based on 2010 data, Mr. Zimolka states that several lots were still underutilized despite having a higher demand for parking. In five garages there are a total of 654 spaces available according to Mr. Zimolka.

Mr. Grover notes there is no parking requirement for non-residential uses in the B5 zoning district, and that therefore the proposal not only complies with the requirement, but goes beyond by providing 15 on-site parking spaces for non-residential use. Mr. Grover suggests it is unfair to hold this project to a standard no other business use in the zone has to comply with. He responds to Mr. McClain explaining there are no conditions relating to the .3 parking spaces per unit in the B5 district.

Mr. Copelas references Ms. Winfrey's comments and suggests that keeping the greater good in mind is important. Healthcare and elderly housing are two of Salem's largest needs, and therefore Mr. Copelas claims it should be given serious consideration. He agrees with Mr. McClain's characterization of the project as compelling, and emphasizes the point made that any proposal would have an impact on parking and traffic. Mr. Copelas indicates compromises need to be made, and that the compromises proffered by this project appear to be well thought out.

Chair Duffy notes that what is before the Board is a request for a special permit to allow a particular use. Therefore, the Board is not addressing designs, plans, other elements that have been carefully considered for the Board's benefit, but will require further input from various other boards, commissions, and departments before any final approval. Mr. Duffy states the issue of parking has received much scrutiny, but reminds all that some additional parking is being provided, despite it not being required in the district. Chair Duffy discusses the special permit criteria and how they are met by the applicant.

**Motion and Vote:** Mr. Viccica motions to approve the petition of NORTH SHORE COMMUNITY DEVELOPMENT COALITION, INC. for a special permit per Section 3.1.2 *Special Permit: Zoning Board of Appeals* of the Salem Zoning Ordinance to operate a Medical Clinic at 73 LAFAYETTE STREET (Map 34, Lot 411) (B5 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 shall obtain street number from the City of Salem Assessor's Office and shall display said number so as to be visible from the street.
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 dimension submitted to and approved by this Board. Any modification to the plans and dimensions must be approved by the Board of Appeals unless such changes are deemed a minor field change by the Building Commissioner in consultation with the Chair of the Board of Appeals.

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

**Location: 23 River Street (Map 26, Lot 644) (R2 Zoning District)**  
**Applicant: John H. Carr, Jr.**  
**Project:** A continuation of a public hearing for all persons interested in the petition of JOHN H. CARR, JR. to appeal a decision of the Building Inspector per M.G.L ch.40A sections 8 and 15. The petitioner is appealing the Building Inspector's decision that 23 RIVER STREET is a lawfully existing non-conforming lot containing a lawfully existing non-confirming structure.

#### Documents and Exhibitions

- Application date-stamped June 18, 2021 and supporting documentation

Chair Duffy introduces the petition.

John Carr introduces himself and states the he and his wife have resided at 7 River Street for 48 years. Mr. Carr contends he has had intimate firsthand knowledge of the property at 23 River Street for all of those 48 years, and that claims that for well over two years prior to the most recent purchase of 23 River Street in February 2021, the building was completely abandoned. Mr. Carr suggests that the two-year requirement for a loss of a prior nonconforming use should not even be a question here. Mr. Carr maintains the burden of proof should not be on the neighbors to demonstrate that the nonconforming use has been discontinued for two or more years, but rather the burden is that of the proponent, Mr. St. Pierre. Regardless of who bears the burden, Mr. Carr states there can be no credible claim that 23 River Street has not been completely empty and unused for more than two years prior to the purchase of the property by Pascal Corrigan. Mr. Carr argues the reasons cited by Mr. St. Pierre to support his opinion are specious on their face. The reasons being that the bank had foreclosed on the mortgage but continued to pay real estate taxes, the bank did not turn off heat and maintained a minimum water connection with the City, and the bank paid for a site cleanup of an unspecified scope on an unspecified date, costing an unspecified amount. Mr. Carr contends that none of those reasons have anything to do with use, and that no hardship is present in this case. Mr. Carr suggests if the property were developed as a single family it would have less overhead and likely make money. Mr. Carr states that before the two-family use of the property was discontinued it was a source of continuous problems. Mr. Carr adds that the proposal must comply with Historical Commission requirements, and states that the commission unanimously denied this petition on grounds of appropriateness. Mr. Carr asks that the Board affirm his appeal of the May 10, 2021 opinion of the building inspector. Mr. Carr warns that this will matter is headed for the court, and that part of the process will involve exhausting all administrative remedies. He states he is happy to do this pro bono for his neighbors, and asks that the Board act on what is a clear set of facts.

Chair Duffy asks if the property owner or Mr. St. Pierre wish to speak.

Paschal Corrigan introduces himself as the property owner, and states Mr. Carr's assertion that the Historic Commission ruled against the proposal is inaccurate. Rather, Mr. Corrigan explains that they did not make a decision and that the petition was continued, with him needing to return with a proper set of plans to achieve approval. Mr. Corrigan also challenges Mr. Carr by stating that a bank-owned property cannot be abandoned.

Mr. Copelas states the crux of the matter is the notion of abandonment of use, and suggests that not having a tenant does not necessarily indicate abandonment of use and nonconformity, but that he is willing to listen to any further arguments proffered by Attorney Carr.

Mr. Carr explains that the prior test was "abandonment", but that because of the very issues raised, the legislature changed it to a simple factual issue of use 20 years ago. Mr. Carr states the owner is not entitled by right to operate a two-family home, particularly when parking and other issues have not been complied with. Mr. Carr maintains the property has not been continuously used as a two-family without interruption for two years or more. He adds that he has a brief written and ready to go, but hopes that effort will not be necessary. Mr. Carr asserts that Mr. Corrigan has no firsthand knowledge of the property, and that the Historical Commission denied his petition without prejudice.

Mr. Copelas asks if Mr. Carr is familiar with the concept of tolling, which is a legal doctrine that allows for the pausing or delaying of the running of the period of time set forth by a statute of limitations. Mr. Copelas asks if Mr. Carr believes that when a project is in bank ownership, that would not suspend the timeframe.

Mr. Carr states the courts can only go by what was written in the May 10, 2021 opinion of the building inspector. While the bank did foreclose on the property, Mr. Carr argues the property was used as a single family prior to that. Mr. Carr reiterates that regardless, the burden of proof is on Mr. St. Pierre. Mr. Carr suggests this is not even a close question, that there are no tolling complications whatsoever, and that the City Solicitor should be consulted for an opinion if necessary.

Mr. Corrigan accuses Mr. Carr of telling lies, and states that a house cannot be abandoned if owned by a bank. Mr. Corrigan suggests that by Mr. Carr's logic, we should just get rid of all the two-family homes in Salem. Mr. Carr characterizes Mr. Corrigan's comments as eloquent.

Mr. St. Pierre explains that the decision was not made in a vacuum, and that he consulted with the City Solicitor and outside counsel as well. The decision is backed up by legal advice according to Mr. St. Pierre, and he suggests Mr. Carr has a simplistic view of abandonment. He adds that there is more to Section 40A than non-use, and that the law goes toward intent.

Mr. Carr suggests that none of that information is in the May 10, 2021 letter, and that such information must be in writing so that people and courts have an adequate basis to respond.

Mr. Viccica states there are many opinions being offered that do not go to the core of what this is about, and that all discussions should go through the Chair. Mr. Viccica asks that the parties maintain some civility.

Chair Duffy asks if Board members have any additional questions.

Chair Duffy opens the floor to public comment.

Justin Whittier of 10 River Street introduces himself and echoes Mr. Carr's concerns. Mr. Whittier explains he has personal knowledge of the building and that it has been sitting empty for many years. Mr. Whittier indicates his cat went missing in 2017 and that he entered the property to search as it was unlocked and unsecured. The property was squalid and in poor condition even back then according to Mr. Whittier. He states there is no question that the use was discontinued, and that the argument that the bank made minimum payments on utilities should be irrelevant as that is the same thing they would do if it were a single family home, and so it is not a valid reason to support the continued use as a two-family.

Jeremiah Jennings of 18 River Street introduces himself and states he has lived 95 feet away from 23 River Street for 33 years. Mr. Jennings agrees with previous commenters, and states that while the bank repossessed the building a couple years ago, it has been abandoned for four or more years. Mr. Jennings notes that the two units were never totally separate, as both units were occupied by relatives, and that renting it as a two-family to strangers would have never worked. Mr. Jennings disagrees with the opinion that two years of bank ownership protect the property status from being discontinued, and states that the property was not used as a two-family home for more than six years.

Lisa Spense of 17.5 River Street introduces herself. Ms. Spense recalls the family that lived at the property, and states it was one family the whole time. She also recalls the property being abandoned when her son was in junior high, and now he is a freshman in college. Fred Beavis, Ms. Spense's husband, introduces himself, and concurs that the home was abandoned for some time. Mr. Beavis questions why the property could not be rented as a two-family during bank ownership, and suggests the two-family use was certainly discontinued.

Daniel Madigan of 14 River Street introduces himself and explains he and his wife have lived here since May 2001. Mr. Madigan confirms the facts stated by his neighbors and Mr. Carr, stating that the house has been vacant for at least five years. Mr. Madigan states he had interactions with the family that lived there, and that even though at the time it may have been a two-family home on paper, everyone was related. He reiterates that the property has been vacant for quite some time now.

Carol Carr of 7 River Street introduces herself and states she agrees with the previous commenters. She states she drive by the property multiple times a day and that the house has been vacant for five years or more. Ms. Carr indicates she does not understand how the issue of nonconforming use being abandoned could be misinterpreted. Ms. Carr asks that the Board do the correct thing and interpret the issue correctly.

Mr. Corrigan claims he spoke to the prior owner who confirmed it was always a two-family when she resided there. Mr. Corrigan suggests that most neighbors do not even know or could not say her name, but that this was a person who lived in the home with her husband, had family move in to try to afford the place, and ultimately died of cancer. Mr. Corrigan suggests the neighbors just want

City of Salem Zoning Board of Appeals  
September 22, 2021 Meeting Minutes

a single family instead of a two-family, and that their arguments are based on hearsay rather than proof.

Mr. Copelas suggests that the concept of use may be more nuanced than suggested. Mr. Copelas notes that in his ten years on the Board Mr. St. Pierre has been very thoughtful in his decisions, and the fact that he consulted town and outside counsel to reach his decision shows it was not made in haste or without consideration. Mr. Copelas does not deny the petitioner's right to appeal further if so desired, but states he is predisposed to support the building inspector's decision because he has not been convinced that the decision needs to be overturned.

Mr. Carr says he is unsure what nuances Mr. Copelas is referring to, but that the ordinance is clear and unambiguous. Mr. Carr contends that not only was the property not used during bank ownership, it was already abandoned prior to that for some time. Mr. Carr states that any decision must be in writing and supported by findings and conclusions, and that the May 10<sup>th</sup> letter fails to meet that standard. Mr. Carr counters Mr. Copelas' characterization of Mr. St. Pierre as thoughtful by indicating he filed a complaint with Mr. St. Pierre's office on October 1, 2020 regarding 6 River Street, along with several other filings, and never received a response ten months later. Chair Duffy states that property is not on the docket. Mr. Carr explains he is simply refuting the claim that Mr. St. Pierre is a thoughtful inspector, and suggests Mr. St. Pierre may have something personally against him. Chair Duffy interrupts Mr. Carr to state that there will be no character assassinations, and that if there is no further information concerning facts, then perhaps the public hearing should be closed and the Board should discuss the matter.

Ms. McClain asks if the bank was paying water for two meters and taxes on a two-family home. Mr. St. Pierre states that taxes were paid on the value of the home, and that he is unsure about the meters.

Ms. McClain moves to end public hearing portion of the discussion. Ms. Ordaz seconds the motion. A roll call vote with all (5) in favor concludes the public hearing portion.

Chair Duffy discusses the zoning ordinance language, and states that the person responsible for interpreting the ordinance provisions is Mr. St. Pierre. Chair Duffy indicates Mr. St. Pierre consulted with City counsel concerning the issue. Chair Duffy suggests that abandonment requires something more than just non-use, and that there must be some volitional act to affirmatively abandon the property. Chair Duffy agrees with Mr. Copelas' comments and also defers to Mr. St. Pierre's interpretation of the provision. Chair Duffy says that while it is clear this issue will go to court, it is not so clear that Mr. St. Pierre's decision was incorrect.

**Motion and Vote:** Mr. Viccica motions to approve the petition of JOHN H. CARR, JR. to appeal a decision of the Building Inspector per M.G.L. ch.40A sections 8 and 15. The petitioner is appealing the Building Inspector's decision that 23 RIVER STREET is a lawfully existing non-conforming lot containing a lawfully existing non-confirming structure.

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

Location: **2 Bridge Street (Map 37, Lot 58) (B2 and ECOD Zoning Districts)**  
Applicant: **2 Bridge, LLC**  
Project: **\*Note: The applicant has requested to withdraw without prejudice the request for parking variances to enable operation of a restaurant portion in a portion of the existing structure at 2 Bridge Street. The applicant intends to proceed with the special permit request.** A public hearing for all persons interested in the petition of 2 BRIDGE LLC, for a special permit per Section 6.10.4 *Special Permit Required* and Section 6.10.12 *Requirements Specific to Marijuana Retailer Establishments* of the Salem Zoning Ordinance to operate a licensed marijuana retail establishment in a portion of the existing structure, and variances from provisions of Section 5.1.8 *Table of Required Parking Spaces* and Section 8.2.5 *Parking Areas* to operate a restaurant with service of food and alcoholic beverages seating up to 100 customers in the remainder of the existing structure with fewer than the required number of off-street parking spaces and without all required parking lot landscaping at 2 BRIDGE STREET (Map 37, Lot 58) (B2 and ECOD Zoning Districts).

#### Documents and Exhibitions

- Application date-stamped July 28, 2021 and supporting documentation

Chair Duffy introduces the petition.

Mr. McCarthy says the Board must first vote on the request for withdrawal of variance because of how the proposal was advertised.

**Motion and Vote:** Ms. Ordaz motions to withdraw without prejudice the petition of 2 BRIDGE LLC, for variances from provisions of Section 5.1.8 *Table of Required Parking Spaces* and Section 8.2.5 *Parking Areas* to operate a restaurant with service of food and alcoholic beverages seating up to 100 customers in the remainder of the existing structure with fewer than the required number of off-street parking spaces and without all required parking lot landscaping at 2 BRIDGE STREET.

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

Attorney Bill Quinn introduces himself on behalf of the applicant, and explains that property owner Timothy Haig applied for, and obtained, a marijuana retail license on Jefferson Avenue. The proposal was approved at all levels, but the real estate negotiations did not work out and the project was never developed, with the permit having a two-year life span which expired. Mr. Quinn states that the Assistant City Solicitor was consulted, and that the license and use agreement use at Jefferson Avenue would be acceptable here. Mr. Quinn presents a GIS map of the area and discusses the grading of the parcel. He explains the location is at the end of Bridge Street, with a park and some businesses nearby. The area is isolated by the onramp to the new Salem-Beverly bridge. Mr. Quinn suggests that since DPW took 21,269 square feet of the property to gain access to the new bridge, few temporary use opportunities have been available, and that the property has been abandoned for a while. As the applicant received the special permit before, they have complied with requirements and have a letter from the fire marshal approving the emergency response plan, as well as a letter from the police chief approving the security plans.

Mr. Quinn shows the retail space and parking, with six spaces required based on the calculation of 884 square feet, and with the exclusion of 133 square feet for a vault, reduces the need to five spaces by law. Currently there are 20 parking spaces on the property which are largely nonconforming to current standards, but have existed and been used for a while. Mr. Quinn suggest there is ample room to play with the configuration to come up with the required legal spaces, and that with a ramp and two accessible parking spaces, the project engineer has determined 15 legal spaces could fit on site, with nine spaces remaining for the restaurant use. The petitioner spent time and effort searching for additional parking, but was unable to find any and therefore is withdrawing the request for the restaurant use at this time and is only seeking to open a retail marijuana store. Mr. Quinn discusses the traffic impact assessment, noting no significant impact during the weekday evening and Saturday peak hours. Safety improvements have been suggested, and Mr. Quinn indicates the applicant is happy to implement them all. Eliminating the restaurant use reduces the need for half of the anticipated parking in the initial report and eliminates half of the expected traffic. Mr. Quinn states he is encouraged by the City's response to this location, and notes that the impact to the area has been small from other retail facilities, and expects this will be no different. Mr. Quinn maintains the existing retail facilities do not have double parking, lines, or other related issues, as these have turned out to be rather quiet businesses. Mr. Quinn notes that no negative comments have been submitted, and Mr. McCarthy confirms there were two written comments provided, both positive.

Chair Duffy opens the discussion to the Board.

Mr. Copelas asks about the square footage and split between retail and restaurant space and how much will be left for future consideration. Mr. Quinn explains the total is approximately 4,000 square feet, with about 884 square feet or 25 percent being devoted to the proposed retail space, leaving about 3,000 square feet left.

Ms. McClain states she appreciation the location and parking considerations, and that she recognizes Mr. Haigh as a local business owner with a good relationship with the community. Ms. McClain commends the applicant for being ready with letters of support and plans, and that she does not see a downside to the proposal currently.

Chair Duffy opens the floor to public comment.

Gretchen Buckley of 3 Scary Street Court introduces herself as a member of the Bridge Street Neck community for over twenty years. Ms. Buckley states that while she would like to support a local business owner in the community, she does not think this request for a marijuana retail shop in the neighborhood is what residents had envisioned for the area. Over the course of many planning meetings, Ms. Buckley says at no point in time did she or others think a shop selling tobacco-like products or recreational marijuana was an option. While licenses are still available, she argues that this area is not the way to go. Ms. Buckley contends that many people go through the area, and several park there to enjoy the park. She expresses concern regarding the proximity to the park as it is an area with small children and that some people already have difficulty parking. Ms. Buckley suggests this is not the greatest good for the community, and that while the reports look good, the area is a treacherous corner and the thought of people stopping more quickly coming down the bridge makes her nervous. Ms. Buckley also indicates she is concerned about people coming and going and being under the influence, as the CCC has determined they cannot prove one way or another if people are somewhat intoxicated on marijuana when driving or engaging in violent acts, and that she does not want this in her community.

Richard Smith of 8 Thorndike Street introduces himself and echoes Ms. Buckley's concerns, noting that the park gets quite a bit of use despite the limited number of parking spaces available. Mr. Smith states he is leery about putting in a cannabis facility with the potential for parking overflow and use of products from the shop at the park where kids play. Mr. Smith states that he has done his own research on the impact of crime in areas with marijuana shops, and that while it is unclear how long crime statistics could stay low in the area, he asks why anyone would want to risk seeing an increase in crime related to marijuana if it could just be avoided by not allowing it in the area. Mr. Smith indicates that there have been positive changes to Bridge Street regarding lessening traffic and making it more user friendly, and questions why anyone would want to increase use of the area. Mr. Smith says he is unsure what people will do once they leave the facility, and therefore asks the Board to deny the request.

Melinda Baker of 6 Scary Street introduces herself and echoes the concerns raised by the other commenters. Ms. Baker states this is not the right place for a marijuana retail facility as it is a residential area in close proximity to a park with small children. She asks that the Board deny the request.

Mr. Quinn clarifies that the location is actually an industrial zone, and that there are no residential uses on the property or nearby, as this is a more isolated part of Bridge Street. Mr. Quinn states that the City in its wisdom has allowed retail marijuana establishments in this district by special permit, which is what is being sought. He believes it is an excellent proposal and area. Mr. Quinn explains that the City maintains 16 public two-hour parking spaces adjacent to the park, and states that customers will not park near the park if there will be spots in front of the shop. Mr. Quinn states he understands that commenters are acting in good faith, but suggests that this sounds a lot like what was heard three years ago when people had initial fears about crime and possible disasters, all concerns which have turned out to be unfounded. Salem has three marijuana establishments in town and Mr. Quinn indicates he has not heard of a single issue to date. He maintains it is an accepted business approved by the state and that it is regulated similar to alcohol.

Chair Duffy asks the petitioner to address what controls are anticipated to prevent any onsite use. Mr. Quinn refers to the security expert present, Art Crowe. Mr. Crowe explains that Massachusetts adult use guidelines have specific language prohibiting consumption of marijuana on a retail establishment or property. Customers are screened upon entry, and just like a bartender one must determine if the customer is already intoxicated or not. Mr. Crowe indicates staff are required to go through marijuana agent training and other requirements, and that rules forbid consumption of the product onsite. Mr. Crowe also confirms that the chief of police has indicated there have been no increases in crime in the vicinity of the existing retail establishments.

Chair Duffy asks what would occur if a customer was in violation by using product onsite. Mr. Haigh states it would be similar to an alcohol establishment where the first action would be to inform and remind the individual of the law and that they cannot consume product outside of a private residence. If the individual were to continue, Mr. Haigh indicates the police department would be called. If customers began using product in the park, Mr. Haigh states he would send security down to let them know and proceed with calling the police if necessary.

Chair Duffy discusses the special permit criteria and statement of grounds, noting how the applicants proposal is consistent with the criteria.

**Motion and Vote:** Ms. McClain motions to approve the petition of 2 BRIDGE LLC, for a special permit per Section 6.10.4 *Special Permit Required* and Section 6.10.12 *Requirements Specific to Marijuana Retailer Establishments* of the Salem Zoning Ordinance to operate a licensed marijuana retail establishment in a portion of the existing structure at 2 BRIDGE STREET (Map 37, Lot 58) (B2 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 beginning any construction.
5. A Certificate of Occupancy is to be obtained.
6. A Certificate of Inspection is to be obtained.
7. Petitioner shall obtain street numbering from the City of Salem Assessor's office and shall display said number so as to be visible from the street.
8. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board.
9. Unless this Decision expressly provides otherwise, any zoning relief granted does not empower or authorize the Petitioner to demolish or reconstruct the structure(s) located on the subject property to an extent of more than fifty percent (50%) of its floor area or more than fifty percent (50%) of its replacement cost at the time of destruction. If the structure is demolished by any means to an extent of more than fifty percent (50%) of its replacement cost or more than fifty percent (50%) of its floor area at the time of destruction, it shall not be reconstructed except in conformity with the provisions of the Ordinance.
10. All construction shall be done per the plans and dimension submitted to and approved by this Board. Any modification to the plans and dimensions must be approved by the Board of Appeals unless such changes are deemed a minor field change by the Building Commissioner in consultation with the Chair of the Board of Appeals.
11. Petitioner shall comply with all Section 6.10.12 *Requirements Specific to Marijuana Retail Establishments*.

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

Location: **31 Calumet Street (Map 10, Lot 57) (R1 Zoning District)**

Applicant: **Roberta Reddy**

Project: A public hearing for all persons interested in the petition of ROBERTA REDDY, for variances from provisions of Section 4.1.1. *Dimensional Requirements* of the Salem Zoning Ordinance for minimum lot area, minimum lot area per dwelling unit, and minimum lot frontage to create four lots at 31 CALUMET STREET (Map 10, Lot 57) (R1 Zoning District).

Documents and Exhibitions



- Application date-stamped July 28, 2021 and supporting documentation

Chair Duffy introduces the petition.

Scott Grover introduces himself on behalf of the applicant, and explains that the property is a large lot (over 35,000 square feet) on the Salem/Peabody line near the Boston Street end. Mr. Grover shows a plot plan, and indicates a small corner of the land is located in Peabody. The property contains a single family dwelling where Ms. Reddy currently lives (her father previously lived there as well). The petitioner seeks to subdivide the lot into four separate lots, where the lot with the existing dwelling would be approximately 10,000 square feet, and the three new lots would be 8,333 square feet with proposed single family dwellings on each. The first lot would have frontage of 100 feet, and the other three would be 83.82 feet. Mr. Grover explains that this is an R1 zoning district, which requires a minimum lot size of 15,000 square feet and frontage/width of 100 feet. The subdivision would require variances from these requirements. Mr. Grover suggests the grounds for approval are based on the significant site development costs, with contracting costs estimates showing site development costing about \$510,000 due to the presence of ledge, need to install sewer lines, etc. By subdividing the lots as proposed, Mr. Grover argues it would support the expense of utility installation and ledge removal, as well as the cost of extending the unbuilt portion of Calumet Street, as it is currently a paper street and not currently fully built out. Mr. Grover contends that if zoning were strictly enforced, only one extra lot could be created, which would be cost prohibitive. Mr. Grover presents an assessor's map to demonstrate the context of existing lots in the area, noting that surrounding lots are much smaller than the property in question. Mr. Grover suggests relief could be granted without detriment to the public good. He states the hardship is the site conditions and cost of bringing in utilities, removing the ledge, and developing the road.

Mr. Copelas suggests the presentation has focused on the options of one lot versus four, where the alternative to create two lots could exist, and that it could be possible perhaps without the extension of the street. Mr. Copelas expresses concern that not only will the three 3 lots be nonconforming, but that the proposal makes the original not nonconforming when that does not need to be the case. Mr. Copelas contends the existing home lot could still be conforming with respect to frontage and square footage, and that reducing the number of lots would cut down on costs. Mr. Copelas notes that the presence of ledge is not unique to this lot, and that the nearby lots have similar general conditions. Mr. Copelas suggests the petitioner has created their own hardship by requiring the street extension and site work required for additional lots that would not be required if it were just two lots.

Mr. Grover acknowledges Mr. Copelas' points, and agrees that two lots could be created as matter of right and likely would not need much of a street extension, depending on house location. He argues, however, that the cost of connecting utilities and developing the site would still be extensive and render the development unfeasible. If the project were modified to just two lots, the earlier \$500,000 figure would be reduced just to \$360,000, according to Mr. Grover. If the lot is valued at \$250,000 with site costs over \$300,000, the project would not work from a financial standpoint.

Phil Reddy introduces himself and explains that the greatest leg of utility installation would be at the next corner of Berkeley Street, and confirms the costs would be around \$360,000.

City of Salem Zoning Board of Appeals  
September 22, 2021 Meeting Minutes

Mr. Copelas states he appreciates the site costs involved, but from a conceptual point of view, he still has concerns with creating a nonconforming lot (with the existing dwelling) where one does not currently exist. With respect to the lot with the existing home, Mr. Copelas maintains that the hardship is self-created.

Mr. Grover confirms that the proposal makes the lot with the existing home nonconforming, but argues this was the only way to create enough value to develop the lot, which is far in excess of what zoning requires at 35,000 square feet. Mr. Grover asks the Board if they would be more amenable to leaving the existing lot at 15,000 square feet, and creating two additional lots that require variances, as it could be something the petitioner could consider.

Mr. Copelas speaks to how exceptional variances should be, and states he would love to hear from other members of the Board.

Mr. Reddy states he does not understand how he would be creating a hardship for the first lot, and Mr. Copelas and Chair Duffy explain further. Chair Duffy asks if it could be economical to retain

Chair Duffy opens the floor to public comment.

Jane Levesque of 7 Pierpont Street introduces herself and speaks in favor of the proposal. Ms. Levesque states there is a strong need for starter homes, and that all the homes and lots in the area are on the small side. She states she has seen houses tucked into all kinds of places in Salem where they probably should not be, and asks how that could occur while not allowing this proposal. Ms. Levesque opines that the proposal is a lovely idea.

Kiersten Austin of 4 Aberdeen Street introduces herself as a direct abutter for 17 years. Ms. Austin speaks in opposition of creating three additional lots, expressing concerns regarding density and the fact that the lots would be only 45 percent of the required size. Ms. Austin argues that in the late 1960's the City made a conscious decision to increase lot size requirements, and that it does not make sense to revert back to having smaller lots. She notes that some of the newest housing developments in the neighborhood and on Calumet are all over 15,000 square feet and built around 1997 or later. Ms. Austin also expresses concerns regarding poor drainage in the area, as well as impacts of blasting and drilling in a residential area. She also states concerns regarding how the undeveloped portion of Calumet Street will be handled, as if it is extended it would become a cut-through and have major impacts on Carlton and surrounding streets. Ms. Austin states she likes the applicants, but that she has concerns about the three additional lots being excessive and nonconforming.

Carrie Hark introduces herself as an abutter and states she agrees with Ms. Austin. Ms. Hark explains she has lived here eight years and enjoys the small exclusiveness of the street and the fact that it does not go through. She also expresses concerns regarding drainage and impact to wildlife and the environment in the area.

Brian Turerra of 4 Berkeley Street in Peabody introduces himself and states he lives around the corner six or seven homes away. Mr. Turerra expresses surprise that more information was not provided regarding the impact of the ledge, including the amount, process of removal, and what the neighborhood can expect in terms of externalities. He adds that the whole area has drainage and runoff issues, and that he worries the proposal would exacerbate these problems. Regarding

City of Salem Zoning Board of Appeals  
September 22, 2021 Meeting Minutes

hardship, Mr. Turerra opines that the zoning requirements is not prevention the petitioner from reasonably using their property, but rather preventing them from building homes on their property to make money. Mr. Turerra suggests that a hardship should not be about maximizing profitability. He indicates he has no ill feelings toward the Reddy's, but as a matter of principle he is against granting variances for purely profitability purposes, and that seems to be the motive here.

City Councilor Tim Flynn states he is familiar with the area and has been following the issue closely. He questions the size of the development and how it will effect neighbors on both sides of Calumet Street, as well as those on Aberdeen. Councilor Flynn suggests working with neighbors and abutters to come up with a better plan, and also raises concerns regarding drainage and the traffic ramifications of opening and extending Calumet.

Peter McGinn of 8 Park Street in Peabody introduces himself as the Ward 2 Councilor for the Peabody City Council. Mr. McGinn indicates he was contacted by constituents with many concerns, and he believes the description of hardship seems to fall short.

Mr. Reddy states he spoke with 24 neighbors, of which 22 wished him well with the proposal and only two expressing concerns. Regarding water drainage, Mr. Reddy maintains he spoke to the contractor who suggested the lot improvements would actually lessen runoff.

Chair Duffy asks if the petitioner would be willing to explore other options where the lot with the existing home would remain conforming.

Mr. Copelas notes that the parcel with the existing home would only be accessible from Peabody, and echoes concerns regarding the ramifications of continuing Calumet Street through to Salem. Mr. Copelas states the options and impacts have not been adequately explored. Chair Duffy suggests there may be an option to extend the street but not connect it the whole way. Mr. Grover states the applicant could work with engineering and potentially make it a dead end. Mr. Grover stresses that the proposal is not about profit, but about creating use out of a large parcel of land.

Mr. Copelas also notes the complications regarding the property division between Peabody and Salem.

Chair Duffy suggests it makes sense to continue the application to obtain more information.

The Reddy's thank the Board for their time.

**Motion and Vote:** Mr. Copelas motions to continue the petition of ROBERTA REDDY, for variances from provisions of Section 4.1.1. *Dimensional Requirements* of the Salem Zoning Ordinance for minimum lot area, minimum lot area per dwelling unit, and minimum lot frontage to create four lots at 31 CALUMET STREET (Map 10, Lot 57) (R1 Zoning District) to the next regularly scheduled meeting on October 20, 2021:

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

## MEETING MINUTES

**August 18, 2021**

None of the Board members have any proposed edits or comments regarding the meeting minutes being reviewed.

**Motion and Vote:** Ms. Ordaz motions to approve the Zoning Board of Appeals August 18, 2021 meeting minutes as drafted. Ms. McClain seconds the motion. **The vote is five (5) in favor and none (0) opposed. The motion passes.**

**OLD/NEW BUSINESS**

None

**ADJOURNMENT**

**Motion and Vote:** Ms. Ordaz moves to adjourn the meeting. Ms. McClain seconds the motion. **The vote is five (5) in favor and none (0) opposed. The Motion passes.**

**The meeting ends at 12:05 AM on September 23, 2021.**

*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-2021>

Respectfully submitted,  
Daniel Laroe, Staff Planner