

City of Salem Zoning Board of Appeals
Meeting Minutes
February 17, 2021

A meeting of the Salem Zoning Board of Appeals (“Salem ZBA”) was held on Wednesday, February 17, 2021 at 6:30 pm via remote participation.

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

Chair Duffy explains that pursuant to Governor Baker’s March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §18, and the Governor’s March 15, 2020 Order imposing strict limitations on the number of people that may gather in one place, the Zoning Board of Appeals meeting scheduled for Wednesday, February 17th at 6:30 pm is being held remotely via Zoom. Chair Duffy explains that instructions to participate remotely can be found on the Salem website. Chair Duffy also explains the rules regarding public comment.

ROLL CALL

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

Chair Duffy notes that as there are only four (4) Board members present, which is a quorum to conduct business, applicants will need unanimous votes for approval. In such circumstances the Board allows applicants the opportunity to continue to the next regularly scheduled meeting if they choose.

REGULAR AGENDA

- Location: **5 Harbor Street (Map 34, Lot 411) (B5 Zoning District)**
- Applicant: **Leoncio Vizcaino**
- Project: **Note: The applicant has requested to withdraw without prejudice.** A continuation of a public hearing for all persons interested in the petition of LEONCIO VIZCAINO for a special permit per Section 3.3.2 Nonconforming Uses of the Salem Zoning Ordinance to construct a five-story extension to an existing one-story structure, and a variance from Section 5.1.9 Central Development (B5) District to provide the required off-street parking by use of parking facilities more than 1,000 feet away from the property at 5 HARBOR STREET (Map 34, Lot 411).

Documents and Exhibitions

- Application date-stamped December 22, 2020 and supporting documentation

Chair Duffy introduces the petition, and notes the applicant requested to withdraw without prejudice.

Attorney Bill Quinn introduces himself on behalf of the applicant, and explains that the applicant originally submitted plans for a five story addition with ten units that would be taller than neighboring buildings. Mr. Quinn indicates the Board has received negative comments concerning the height of the proposal and lack of off street parking. Mr. Quinn contends the applicant attempted to find parking in good faith but was unable to. He maintains the applicant intends to

return with a better application for a four-story building with eight units once designated annual parking for tenants within a reasonable distance can be secured. Mr. Quinn anticipates it may take some time, and so rather than continue the petition the applicant seeks to withdraw without prejudice. If successful in their efforts, the applicant will come back in the future with a new revised proposal.

Motion and Vote: Mr. Viccica motions to approve the request to withdraw without prejudice for the petition of LEONCIO VIZCAINO seeking a special permit per Section 3.3.2 Nonconforming Uses of the Salem Zoning Ordinance to construct a five-story extension to an existing one-story structure, and a variance from Section 5.1.9 Central Development (B5) District to provide the required off-street parking by use of parking facilities more than 1,000 feet away from the property at 5 HARBOR STREET (Map 34, Lot 411).

Mr. Smalley seconds the motion. **The vote is four (4) in favor (Mike Duffy (Chair), Carly McClain, Paul Viccica, and Steven Smalley) and none (0) opposed. The motion passes.**

Location: **1 Florence Street (Map 34, Lot 273) (R3 Zoning District)**

Applicant: **Anthony J. Picariello, Jr.**

Project: **Note: The applicant has requested to continue to the next regularly scheduled meeting on March 17, 2021.** A public hearing for all persons interested in the petition of ANTHONY J. PICARIELLO, JR. for a special permit per Section 3.3.2 *Nonconforming Uses* of the Salem Zoning Ordinance to allow the operation of a firearms retail business at 1 FLORENCE STREET (Map 34, Lot 273) (R3 Zoning District).

Documents and Exhibitions

- Application date-stamped January 27, 2021 and supporting documentation

Chair Duffy introduces the petition, and notes the applicant has requested to continue to the next regularly scheduled meeting of the Zoning Board of Appeals on March 17, 2021.

Attorney Phillip Moran introduces himself on behalf of the applicant, and states he is requesting a continuance to the next regularly scheduled meeting. Mr. Moran explains that the applicant assumed that due to the proposed location of Florence Street, that there would be no concerns regarding the proposal to operate a firearms retail business. Mr. Moran states the assumption was based on the applicant's perception that most people do not know where Florence Street is located. Mr. Moran goes on to explain that the applicant has since learned from an article in Salem News, as well as other sources, that there are in fact concerns from residents. Mr. Moran states the applicant would like to continue in order to have an opportunity to meet with concerned residents to discuss their concerns, and convey to them that the proposal would not be a detriment to the neighborhood or City. Mr. Moran requests to continue to the March 17, 2021 meeting to address the concerns from residents and Councilor Turiel.

Motion and Vote: Ms. McClain motions to continue the petition of ANTHONY J. PICARIELLO, JR. for a special permit per Section 3.3.2 *Nonconforming Uses* of the Salem Zoning Ordinance to allow the

operation of a firearms retail business at 1 FLORENCE STREET (Map 34, Lot 273) (R3 Zoning District) to the next regularly scheduled meeting on March 17, 2021.

Mr. Smalley seconds the motion. **The vote is four (4) in favor (Carly McClain, Mike Duffy (Chair), Paul Viccica, and Steven Smalley) and none (0) opposed. The motion passes.**

Location: **157 Boston Street (Map 16, Lot 66) (B2 and ECOD Zoning Districts)**
Applicant: **Josh Chmara**
Project: **Note: The applicant has requested to continue to the next regularly scheduled meeting on March 17, 2021.** A continuation of a public hearing for all persons interested in the petition of JOSH CHMARA for a special permit per Section 3.3.2 Nonconforming Uses of the Salem Zoning Ordinance to change from one non-conforming use (single-family dwelling) to another (two-family dwelling), and a variance from Section 5.1.8 Table of Required Parking Spaces to construct two parking spaces instead of the required three spaces at 157 BOSTON STREET (Map 16, Lot 66) (B2 and ECOD Zoning Districts).

Documents and Exhibitions

- Application date-stamped January 7, 2021 and supporting documentation

Chair Duffy introduces the petition and notes the applicant has requested to continue to the next regularly scheduled meeting on March 17, 2021.

Josh Chmara introduces himself and explains that he received his certified survey approximately a week ago, and needs to gather a few more materials to make his application whole pursuant to discussions with the Planning Board. Mr. Chmara states he would like to request to continue in order to complete his application for next month.

Motion and Vote: Mr. Viccica motions to continue the petition of JOSH CHMARA for a special permit per Section 3.3.2 Nonconforming Uses of the Salem Zoning Ordinance to change from one non-conforming use (single-family dwelling) to another (two-family dwelling), and a variance from Section 5.1.8 Table of Required Parking Spaces to construct two parking spaces instead of the required three spaces at 157 BOSTON STREET (Map 16, Lot 66) (B2 and ECOD Zoning Districts) until the next regularly scheduled meeting on March 17, 2021.

Mr. Viccica seconds the motion. **The vote is four (4) in favor (Mike Duffy (Chair), Paul Viccica, Carly McClain, and Steven Smalley) and none (0) opposed. The motion passes.**

Location: **10 Barton Street (Map 36, Lot 409) (R2 Zoning District)**
Applicant: **Beth Tobin**
Project: A continuation of a public hearing for all persons interested in the petition of BETH TOBIN for a special permit per Section 3.3.5 Nonconforming Single- and Two-Family Residential Structures of the Salem Zoning Ordinance from maximum height of buildings

(stories) to expand a nonconforming two-family home by adding a dormer at 10 BARTON STREET (Map 36, Lot 409) (R2 Zoning District).

Documents and Exhibitions

- Application date-stamped December 11, 2020 and supporting documentation

Chair Duffy introduces the petition.

Attorney Neil Tobin introduces himself on behalf of the applicant, and explains the property is a family home (in the family since 1947) that his sister has owned for the last ten years. Mr. Tobin states the proposal would allow her to have two full sized bedrooms in the attic. The two rooms currently exist, but are limited in use due to the slanted roof. Mr. Tobin presents elevations and notes that the applicant has worked with Mr. St. Pierre.

Chair Duffy notes that the elevations are the updates the Board sought at the prior meeting, and opens the floor to comments and questions from the Board.

Ms. McClain thanks the applicant for providing the elevations, as it is helpful for review.

Mr. St. Pierre notes that Ms. Tobin came to see him the day after last month's meeting, got the elevations done, and explain the reveal on either side of the dormers which will be in line with neighborhood character.

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

Chair Duffy discusses the special permit criteria and explains how they are met by the proposal.

Motion and Vote: Mr. Viccicia motions to approve the petition of BETH TOBIN for a special permit per Section 3.3.5 Nonconforming Single- and Two-Family Residential Structures of the Salem Zoning Ordinance from maximum height of buildings (stories) to expand a nonconforming two-family home by adding a dormer at 10 BARTON STREET (Map 36, Lot 409) (R2 Zoning District) subject to the following standard conditions:

1. Petitioner shall comply with all city and state statutes, ordinances, codes, and regulations.
2. All construction shall be done as per the plans and dimensions submitted to and approved by the Building Commissioner.
3. All requirements of the Salem Fire Department relative to smoke and fire safety shall be strictly adhered to.
4. Petitioner shall obtain a building permit prior to beginning any construction.
5. Exterior finishes of the new construction shall be in harmony with the existing structure.
6. A Certificate of Occupancy is to be obtained.
7. 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. No change, extension, material corrections, additions, substitutions, alterations, and/or modifications to an approval by this Board shall be permitted without the approval of this Board, unless such change has been deemed a minor field change by the Building Commissioner in consultation with the Chair of the Board of Appeals.

And the following special condition:

1. The property will remain a two-family residential dwelling.

Mr. Smalley seconds the motion. **The vote is four (4) in favor (Paul Viccica, Steven Smalley, Carly McClain, and Mike Duffy (Chair)) and none (0) opposed. The motion passes.**

Location: **140 Highland Avenue (Map 14, Lot 264) (R1 and ECOD Zoning Districts)**
Applicant: **Johnny Polanco**
Project: A continuation of a public hearing for all persons interested in the petition of JOHNNY POLANCO for a special permit per Section 8.2.4 *Entrance Corridor Overlay District: Fences* to allow a six-foot tall decorative concrete wall at the single-family house at 140 HIGHLAND AVENUE (Map 14, Lot 264) (R1 and ECOD Zoning Districts).

Documents and Exhibitions

- Application date-stamped November 4, 2021 and supporting documentation

Chair Duffy introduces the petition.

Attorney Vincent Phelan introduces himself on behalf of applicant, and explains that he has been before the Board a few times. Mr. Phelan discusses the history of the proposal and the need to continue for multiple months, most recently to attempt to speak to the abutting neighbor to reach a resolution. Mr. Phelan states the applicant, Mr. Polanco, would be willing to change the wall one of two ways: to lower the corner of the wall that borders the properties to four feet, while installing a metal bar structure “safety fence” above to six feet that would allow for some visibility while still protecting the property from projectiles; or alternatively to cut the corner of the wall at an angle, with the corner posts brought back a bit for additional visibility. Mr. Phelan contends that the applicant attempted to speak to the neighbor, without much success, through Councilor Flynn and hand delivered mail.

Johnny Polanco introduces himself and explains that he concluded that he needed to work on this issue with his neighbor. Mr. Polanco states he would be willing to do one of the two options mentioned by Mr. Phelan, but asks the Board to take into consideration that he and his wife spent a lot of money on the wall. Mr. Polanco presents renderings of the two suggested solutions. Came to conclusion that neighbor and him needed to work on this

Mr. Phelan opines that the suggested options are fair and provide safety for both residences and families. Mr. Phelan again states Mr. Polanco tried to reach out to the neighbor but she respectfully declined, and that there have been no other alternatives presented.

Chair Duffy asks the Board if they have any comments or questions.

Ms. McClain asks to see the video submitted by Councilor Flynn of him driving to exit the neighbor’s driveway. Ms. McClain states she appreciates the efforts taken to reach out to the neighbor and the discussion of options that can provide safety for both families. Mr. McCarthy

shows the video of exiting the driveway. Ms. McClain asks the applicant to explain how the proposed modifications would change the view in the video. Mr. Phelan explains how cutting the corner at a 45 degree angle would provide more visibility. Mr. Polanco explains the decorative bar proposal a bit more, noting the vertical bars would be about four inches apart and extend up to the six foot mark.

Mr. Smalley asks the applicant about potentially extending the decorative bars farther a bit to the next post, and Mr. Phelan says they would be willing to discuss this with the neighbor.

Ms. McClain asks if the metal bars would actually keep projectiles and debris out, and Mr. Phelan indicates while it would not stop everything, the hope is that it would stop a lot. He adds that the wall has already prevented many items from coming into the yard and that Mr. and Ms. Polanco clean up outside the wall regularly.

Mr. St. Pierre suggests that the second proposal with the 45 degree angle could drastically improve the line of sight if the posts are brought back far enough, but defers to Mr. Viccica as a design professional.

Mr. Viccica agrees with Mr. St. Pierre, but states he still has some concerns. Mr. Viccica asks Mr. St. Pierre if the Board is neglecting to look at this as a permanent structure that sits on the property line, as a fence would not have a permanent footing but this wall does. Mr. Viccica suggests while the safety issue is very important, it would be important to examine an issues related to having a permanent structure on a property boundary line. Mr. St. Pierre states that zoning code allows for a wall or a fence to abut the property line as long as it does not extend over the property line. He notes that with respect to footings, the planning department would need to see drawings from Mr. Polanco.

Mr. St. Pierre again suggests having the post brought back a few feet from the corner and cutting the wall at a 45 degree angle would make a big difference for visibility. Mr. Viccica agrees, and Ms. McClain thanks Mr. St. Pierre and Mr. Viccica for the input.

Mr. Polanco states the base and foundation of the wall were made with rebar and concrete. He again states he is willing to work toward a solution, as he does not want to be responsible for anything happening and that he has been thinking about it a lot more recently. Mr. Polanco acknowledges he made a mistake.

Chair Duffy opens the floor to public comment.

Jeff Cohen of 12 Hancock Street introduces himself, and states that he is attending the meeting to provide comments on the application of 1 Florence Street. Mr. Cohen asks the Board why the floor was not opened for public comment when the application was presented earlier. Chair Duffy states he can address Mr. Cohen's concerns after the Board finishes with the current application.

Barbara Peckham of 142 Highland Avenue introduces herself and thanks the Board for paying so much attention to this issue. Regarding reaching out, Ms. Peckham states on the 12th of the month she received three letters in her mailbox, two of which were certified and one hand delivered. Ms. Peckham maintains the letters only contained the option with the metal decorative/protective bars, and that this is the first time she

has seen the option of angling the wall off at the corner. Ms. Peckham suggests the solution with the bars is inadequate to address the safety concerns. She notes that Mr. Polanco has two ways of getting out of his driveway, and does not need to exit his property onto Highland Avenue, which can be dangerous as is without the visibility issues now with the wall. Ms. Peckham states she does not want to hit anyone, and recalls a close call, as well as an instance where she stopped her car and exited to look beyond the wall for pedestrians and walked into someone to both of their surprise. Ms. Peckham states the 45 degree angle option might be a viable solution if the posts are brought back far enough, perhaps four feet. As is, she states the situation is not safe.

Chair Duffy asks Ms. Peckham if she received an invitation from Councilor Flynn to engage in a dialogue regarding a solution. She indicates she did, but that this had been after so much back and forth and so much information being misrepresented and misconstrued, and that as a result she did not want to meet with Mr. Polanco again, but would need anything in writing. Ms. Peckham contends she does not shake hands and that due to arthritis she has not shaken hands since 2013, so that any suggestion of a handshake agreement is false. Ms. Peckham also takes issue and states she was insulted by Mr. Phelan's previous suggestion that she was taking advantage of someone whose first language was not English.

Mr. Polanco states he has been in this country for almost eight years and that he has a record of doing good in his life. Mr. Polanco indicates he has never visited a police station in his life, and suggests that if Ms. Peckham ever needed help he would be the first person over the wall to assist. He states he always has and always will consider her his neighbor. Mr. Polanco maintains if the 45 degree angled proposal works for everyone he would be willing to do it.

Chair Duffy asks the Board if they have further comments or questions.

Mr. St. Pierre and Mr. Viccica discuss the angled proposal and note that the corners would need to be brought back an appropriate length in order for the visibility issue to be solved. Distances of eight and ten feet are suggested and considered. Mr. Viccica states if it is a reasonable solution as a negotiated fix, the distance in feet would be a condition for approval.

Mr. Polanco notes that there is a drain system connected to the City system behind the corner of the wall that would not allow the wall to be brought back too far, and that ten feet would be too far. Mr. Viccica states the drain can be outside the wall, in which case the distance the corner would be brought back could just be greater, perhaps twelve or fifteen feet.

Mr. Viccica explains he is having a difficult time because if Mr. Polanco came before the Board earlier seeking a special permit, there would be a path to grant it with some modifications to what was built. Mr. Viccica also expresses concern regarding the transient nature of everything that has come up, and the suggestion of things that can or cannot be done to alleviate the safety issue. Mr. Viccica notes that one of the five criteria for approval is that a proposal not be substantially more detrimental, and what he has heard from Mr. Polanco is that he is only willing to entertain minor modifications to address the problem. As such, Mr. Viccica indicates he is leaning toward denying the approval of the special permit. He adds that the ordinance is clear that both aesthetic and safety are important, and aesthetics aside, the safety issue is problematic and not just for the neighbor. Mr. Viccica suggests the applicant has offered a modest solution to a significant problem, and that if there is to be a solution it should be dramatically safer for the neighbor as well as those on the sidewalk.

Ms. McClain states she has been waiting for a solution for the last three meetings, and acknowledges a need to negotiate and come up with a solution for both parties. Ms. McClain notes that at a prior meeting other neighbors spoke to the safety and aesthetic benefits of the wall in the neighborhood, primarily due to the lighting Mr. Polanco installed. Ms. McClain states she is concerned about the neighbor's safety issue, but that she is trying to weigh that against the safety benefits touted by neighbor's who live on Crowdis Street, and the benefit of Mr. Polanco's daughter being able to play freely in the yard.

Chair Duffy notes that Mr. Viccica may have done some rough calculations of what could be reasonable, and asks if he would suggest a no-less-than condition, noting that if the drain becomes an issue it should be placed outside the wall. Mr. Viccica suggests with the midpoint of an average car being around ten feet, a twelve foot reduction from the existing corner to where the outside face of the angle begins in both directions would be appropriate to allow for a driver to see a pedestrian or biker when pulling out. Regarding the drain structure, he states it would be difficult to opine without a plan and survey. Mr. Viccica asks if the drain is a city drain. Mr. Phelan suggests there is no drain, and Mr. Polanco clarifies that the drain is on his property. Mr. Viccica suggests in that case Mr. Polanco can move the drain as well if its location is an issue. Mr. St. Pierre states that for enforcement purposes, he just needs to know the exact distance the wall will be brought back in each direction from the existing corner, whatever the Board determines is appropriate. Mr. Viccica suggests twelve feet.

Chair Duffy notes the Board has spent an inordinate amount of time on this application in search of a compromise that allows for safety for all parties, and states he is relatively convinced this is a midpoint that allows for both parties to be satisfied. Ms. McClain and Mr. Smalley agree. Chair Duffy speaks to the importance of coming before the Board seeking special permits prior to beginning project and spending any money.

Motion and Vote: Mr. Viccica motions to approve the petition of JOHNNY POLANCO for a special permit per Section 8.2.4 *Entrance Corridor Overlay District: Fences* to allow a six-foot tall decorative concrete wall at the single-family house at 140 HIGHLAND AVENUE (Map 14, Lot 264) (R1 and ECOD Zoning Districts) subject to the following standard conditions:

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

And the following special condition:

1. From the current intersection of the side lot and front yard, the wall should be brought back 12 feet in each direction, and the new points shall be joined at a 45 degree angle.
2. The area of the property outside of the wall should be maintained and taken care of by the property owner/petitioner.

Ms. McClain seconds the motion. **The vote is four (4) in favor (Paul Viccica, Steven Smalley, Carly McClain, and Mike Duffy (Chair)) and none (0) opposed. The motion passes.**

Chair Duffy refers to Mr. Cohen's earlier comment and objection, and asks if he would like to speak.

Mr. Cohen states he understands the applicant requested to continue, but that he and others were ready to make comments to that point. Mr. Cohen was hoping there could have been comment and debate regarding being able to even continue the petition. Mr. Cohen notes there have been many comments about the project, and that just because the Board can make a decision does not mean it has to. Mr. Cohen states his personal view is that the ZBA does not necessarily have to provide a vehicle for an applicant to fulfill conditions so that they can pass. Mr. Cohen references the comment made by the applicant's counsel that they did not think people in the area would know where Florence Street was, and states it is obviously a well-known area close to Life Bridge and a day care center. Mr. Cohen again states he and others were prepared to comment on whether it was appropriate to continue the petition to the next meeting.

Chair Duffy states he appreciates Mr. Cohen raising his concerns, and explains that the Board typically allows applicants the opportunity to continue in the event that only four Board members are present, and that the Board has done this for many years now. Mr. Duffy notes that public comment was not sought on any of the continuances or withdrawals, but that all public comments will be heard at the March meeting and that the Board also accepts comment in writing. He adds that all comments will be heard and duly weighted against all other information and evidence presented.

Mr. Cohen thanks Chair Duffy for his explanation, but states the issue is not about whether something continues but whether it happens. Mr. Cohen requests that Mr. McCarthy ensure the public is made aware of the meeting Mr. Moran spoke about, and suggests South Salem and the Point Neighborhood Association might want to be involved in the discussion.

Location: **50 Bridge Street (Map 36, Lot 172) (R2 and ECOD Zoning Districts)**
Applicant: **Randy Greenspon & Francesca Sparacio**
Project: A public hearing for all persons interested in the petition of RANDY GREENSPON & FRANCESCA SPARACIO for a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance to remove an existing accessory structure, and extend an existing non-conforming single-family residential structure by adding an attached three-bedroom dwelling unit atop a garage which would create a new nonconformity in minimum lot area per dwelling unit at 50 BRIDGE STREET
(Map 36, Lot 172) (R2 and ECOD Zoning Districts).

Documents and Exhibitions

- Application date-stamped January 25, 2021 and supporting documentation

Chair Duffy introduces the petition.

Brian Stein from BDS Design introduces himself as representing the applicants. Mr. Stein explains the property is an existing nonconforming single-family dwelling on the corner of Bridge and March Streets, with a dilapidated accessory structure on the northwest corner of the property on March

Street. He notes the building inspector at suggested the building needed to come down as it is unsafe. Mr. Stein indicates at that point the property owners asked him to draw up a proposed addition to create an oversized two-car garage with a new dwelling unit above as a way to generate income and provide additional housing for the City. Mr. Stein acknowledges that in this zone 15,000 square are required for two units, and there is just over 8,000 square feet of lot area. Mr. Stein states that with the existing accessory structure there is a little over 31 percent impervious surface, and that the proposed addition would result in 33.5 percent. The new dwelling unit would be a three bedroom apartment above the two car garage. Mr. Stein presents floor plans and explains the overall design, including a gabled roof with similar pitch, trim, and proportions to the existing house. The addition would line up with the north face of the house. Mr. Stein explains there will be additional parking on the northwest side of the property for the additional dwelling. There is an existing curb cut that runs along and over the property line for both the applicant's property and the abutting neighbor which would be utilized for parking. Mr. Stein presents elevations from both March and Bridge Street, and discusses the neighboring properties and landscape.

Mr. Viccica asks to see the sight survey and Mr. McCarthy presents it for the Board and public. Mr. Viccica asks about the additional parking and where it can be seen. Mr. Stein states it is not on the survey, but attempts to explain where it would be. Mr. Viccica and Mr. Stein discuss the curb cut, and Mr. Viccica asks if it will need to be widened. Mr. Stein indicates it will, and Mr. Viccica states a dimension will be required. Mr. St. Pierre notes that the aggregate distance for a curb cut serving more than one property is 20 feet in total for a residential property. Mr. Stein states that may be the existing dimension, but will need to confirm.

Mr. St. Pierre asks if the applicants have applied for a waiver from demolition for the existing accessory structure as per City ordinance. Mr. Stein says he is not sure, but Mr. Greenspon confirms they have not yet obtained a waiver. Mr. St. Pierre indicates it is recommended as any building over 50 years old has to go to the Historic Commission and would give them an opportunity to raise any issues or if any action needs to be taken. Mr. St. Pierre suggests getting started on the process. Mr. Viccica indicates it can be added as a special condition.

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

Chair Duffy discusses the special permit criteria and how it is met by the applicant's proposal.

Motion and Vote: Ms. McClain motions to approve the petition of RANDY GREENSPON & FRANCESCA SPARACIO for a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance to remove an existing accessory structure, and extend an existing non-conforming single-family residential structure by adding an attached three-bedroom dwelling unit atop a garage which would create a new nonconformity in minimum lot area per dwelling unit at 50 BRIDGE STREET (Map 36, Lot 172) (R2 and ECOD Zoning Districts) subject to the following standard conditions:

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

5. Exterior finishes of the new construction shall be in harmony with the existing structure.
6. A Certificate of Occupancy is to be obtained.
7. 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. No change, extension, material corrections, additions, substitutions, alterations, and/or modifications to an approval by this Board shall be permitted without the approval of this Board, unless such change has been deemed a minor field change by the Building Commissioner in consultation with the Chair of the Board of Appeals.

And the following special condition:

1. A waiver of demolition must be granted prior to demolition of the existing accessory structure.

Mr. Smalley seconds the motion. **The vote is four (4) in favor (Steven Smalley, Paul Viccica, Mike Duffy (Chair), and Carly McClain) and none (0) opposed. The motion passes.**

MEETING MINUTES

January 20, 2021

Chair Duffy indicates he has read the minutes but has no suggested edits.

Motion and Vote: Mr. Viccica motions to approve the minutes for the January 20, 2021 ZBA meeting as presented. Mr. Smalley seconds the motion. **The vote is four (4) in favor, and none (0) opposed. The motion passes.**

OLD/NEW BUSINESS

None

Mr. Viccica asks Mr. McCarthy to review the 11th condition to suggest more grammatical and less verbose language. Mr. McCarthy states he will come up with a draft and run it by Mr. St. Pierre.

ADJOURNMENT

Motion and Vote: Ms. McClain moves to adjourn the meeting. Mr. Viccica seconds the motion. **The vote is four (4) in favor and none (0) opposed. The Motion passes.**

The meeting ends at 8:05 PM.

For actions where the decisions have not been fully written into these minutes, copies of the

City of Salem Zoning Board of Appeals
January 20, 2021 Meeting Minutes

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,
Lev McCarthy, Staff Planner

Approved by the Board on April 21, 2021