

**City of Salem Board of Appeals**  
**Meeting Minutes**  
**Wednesday, July 15, 2015**

A meeting of the Salem Board of Appeals (“Salem BOA”) was held on Wednesday, July 15, 2015 in the third floor conference room at 120 Washington Street, Salem, Massachusetts at 6:30 p.m.

**Mr. Copelas calls the meeting to order at 6:30 p.m.**

**ROLL CALL**

Those present were: Peter A. Copelas (Vice-Chair), James Tsitsinos, Tom Watkins, Mike Duffy, Jim Hacker (alternate), Paul Viccica (alternate). Also in attendance –Thomas St. Pierre, Building Commissioner, and Erin Schaeffer, Staff Planner

**REGULAR AGENDA**

Project	A public hearing for a petition seeking a Special Permit requesting relief from Sec. 3.0 <i>Table of Principal and Accessory Use Regulations</i> of the Salem Zoning Ordinance to allow a change of use from a motor vehicle light service garage to a motor vehicle body repair shop.
Applicant	HIPOLITO L. MADERA
Location	4 FLORENCE (Map 34 Lot 103) (I Zoning District)

Documents and Exhibitions

- Application dated June 22, 2015 and supporting documentation

Mr. Madera and Mr. LaPointe present the petition. The petitioner is seeking a Special Permit for a change of use to allow the construction of a self –contained spray booth that would occupy about 240 square feet of space. The petitioner states that the proposed installation would be done in strict accordance with state and local codes.

Mr. Watkins – asks the petitioner for clarification on what services are currently provided on the property.

Mr. LaPointe states that the current shop is an automotive repair shop and the petitioner would like to install a spray booth to paint cars with plastic bumpers.

Mr. Copelas- opens the public comment portion of the discussion.

Anthony J. Piccolo, 1 Florence Street- Opposition to the proposal due to concerns about cars associated with the automotive repair shop parked and left in and around the business with particular concern for fire access and safety. There are too many dealers in there now. Mr. Piccolo shows the Board pictures of existing cars parked in and around 4 Florence Street. Do the other guys with little garages have permits to operate?

Mr. Copelas- asks Mr. Piccolo to clarify the location of his building.

Mr. Piccolo states that his business is located in 1 Florence Street Piccolo Machine Inc. Mr. Piccolo states that his business has been located here for thirty-five (35) years.

Mr. Copelas clarifies that Mr. Piccolo's business is located across the street from the petitioner's business.

Mr. Piccolo states that he cannot back out of his business because there are too many cars parked in and around J & G Transmission Auto Repair (4 Florence Street). Mr. Piccolo has contacted the Fire Department and the Building Commissioner and nothing has been done. Cars with no plates have been parked for months and months.

Mr. Copelas states that this is not the issue that is in front of the Board.

Mr. Piccolo states that he is paying taxes and cannot park on the street in the winter time. It's a disaster down there. I don't know if these other guys have permits to run these little garages. Plus the car wash in front. That's all street.

Mr. Copelas- I understand your concerns and frustration regarding a number of issues on the street. Tonight the issue is the petition is in front of the Board. I sympathize with your feelings, however if there are other permit issues regarding other residence on the street, this is not issue for the Board today.

Mr. Copelas- states that he was at the location of 4 Florence Street and saw the congestion on the street. The issue before the Board is the application for a Special Permit for a change in use from a motor vehicle light service garage to a motor vehicle body repair shop. From the application, it looks like the petitioner is not proposing an expansion of the use, but a change of use from the current permitted application.

Mr. Piccolo- asks the Board whether the J & G Transmission Auto Repair (4 Florence Street) has a permit to operate in this location. The car wash guy does not own the building.

Mr. Copelas- states that the Board is not here to discuss the car wash.

Mr. Duffy -asks Mr. St. Pierre whether the current automotive repair shop has a permit to operate in this location or if it is a light vehicle service garage.

Mr. St. Pierre, Zoning Enforcement Officer- states that he does not know whether the business has a special permit. In accordance with the Industrial Zoning District, a light vehicle service garage and motor vehicle service are allowable uses by right. A motor vehicle general and body repair requires a Special Permit.

Mr. Copelas – asks the public whether there are any additional comments.

Patrick Osgood-Osgood Construction 15 Robes Street- concerned about the density of industrial uses in this location including the auto body shop, fabrication shop and other businesses. Mr.

Osgood also states concerns regarding cars parked associated with the auto body shop blocking neighboring businesses.

Mr. J. Piccolo - restates concerns about parking and safety.

Shawn O' Brien -21, 23 and 25 Cedar Street- States that the neighbors have fought this type of project for years. It seems that every five (5) years or someone wants to increase the use. Some of the noise that the fabrication and auto shops produce echoes up through the residential neighborhood on Cedar and Cherry Street. If there is an exhaust fan for an auto body shop, it may stop some of the dust, but it will not completely stop the fumes from the spray painting and lacquers. Right now Cherry Street has the most kids that Mr. O'Brien has seen in years. Who is breathing all of that stuff? The kids. Mr. O'Brien states that he has worked in chemical plants, power plant, and leather tanneries and knows what it's like. The proposed auto body shop is located on Bridge Street, [geographically] below Cherry Street. Unless, the auto body shop proposes to have an exhaust tower at least 150 feet tall, to get rid of the exhaust it will impact the residential neighborhood. The neighborhood has gone along with allowing light duty auto repair shops, but has always fought auto body repair shops. Mr. O' Brien restates concerned about neighborhood impacts of health and wellbeing of neighbors with particular concerns regarding spray paint and lacquer fumes exhausted from the proposed spray paint and impacting children in the neighborhood. Mr. O' Brien states that other neighbors were not able to come to the meeting, but are also opposed to the proposal.

Mr. Copelas- states that public comment from members who are present or have submitted a letter in writing will have their comment entered into the record and heard by the Board.

Mr. J. Piccolo- asks the Board whether Mr. Madera has a permit to operate in this location.

Mr. Copelas- states that Mr. St. Pierre answered this question and motor vehicle light service and motor vehicle service are allowable uses by-right and do not require a special permit from the Zoning Board. The issue before the Board is a proposed change of use from a motor vehicle light service to an auto body shop.

Mr. Demalis, 22 Willow Ave. – Mr. Demalis states that Mr. Madera has been operating J & G Transmission Auto Repair for about four and a half years (4.5). When he moved in there were 3 (three) auto repair shops in this building. Now there are two auto repair shops. There used to be all kinds of parking [with 2 auto repair shops] and now there is no parking.

Mr. O'Brien- states that many of the auto repair shops have probably moved out after neighborhood opposition to extra permits for auto body shops.

Mr. LaPointe, representative for the petitioner - stated that parking has been an issue on this site long before Mr. Madera began operating an auto repair shop four (4) years ago.

Mr. Copelas asks for additional comments from the public.

Mr. Watkins- asks the applicant to clarify how the proposed exhaust vent associated with the proposed internal spray paint booth works and to describe the proposed location of the vent.

Mr. Madera, petitioner- states that the exhaust vent would sit on top of the roof. The vapors and fumes from the paint are filtered and exhausted.

Mr. Demalis – states that the property at 663 has an auto body shop with four (4) spray booths with a vent that is approximately 15 feet high. The stack will not capture all of the fumes. Expresses opposition to the proposal.

Mr. O'Brien- restates opposition to the project with particular concerns about neighborhood health regarding exhaust from the proposed auto body shop.

Mr. Demalis- asks Mr. St. Pierre, Zoning Enforcement Officer, whether this property is located in the R3 zoning district.

Mr. St. Pierre- states that the property of 4 Florence Street is located in the Industrial Zoning District.

Mr. Demalis- states that this location was a tough area and it has been cleaned up well in recent years. Mr. Demalis restates opposition to the proposed spray booth.

Mr. Copelas-close the public comment and opens deliberation to the Board.

Mr. Duffy- It sounds like there are issues of parking and traffic flow in this area that pertains to the application. What is the expected increase in the number of cars, do more cars need to be parked here because of this proposed change of use? With respect to the self-contained spray booth and ventilation scrubber, does this have to be approved or have a license to be installed?

Mr. St. Pierre- states that it is our understanding that DEP issues a permit for installation. This came up on Franklin Street and the neighbors continued to be frustrated because one of the comments was “if you live next to a bread factory you are going to smell bread and if you live next to a paint shop, you are going to smell paint. There is going to be a certain amount of organic materials that comes out you will smell paint. Some level of paint comes out and no filter catches it all.” This was a comment from the neighbor to DEP. Air quality may meet the DEP requirements and guidelines, but neighbors notice the smell.

Mr. Viccica- Is that determined after the installation? Can we see a specification for that particular exhaust fan before making a decision?

Mr. St. Pierre- The DEP has guidelines and if there is a complaint, DEP does a testing or monitoring of the system. The systems are supposed to meet the DEP guidelines, but it is also based on using the system correctly, keeping the doors closed and maintenance.

Mr. Viccica- since the change of use is predicated on the exhaust system being adequate is it right to ask to see the system and approve the system?

Ms. Schaeffer- states that for a special permit the Board needs to consider the impacts on the following: a) Social, economic, or community needs served by the proposal b) traffic flow and safety, including parking and loading c) adequacy of utilities and other public services d) impacts on the natural environment, including drainage e) neighborhood character f) potential fiscal impact,

including impact on the City tax base and employment. Specifically, the Board needs to find that the adverse effects of the proposed use will not outweigh its beneficial impacts to the City or the neighborhood.

Mr. Tsitsinos- is there a requirement for a specific amount of space between any exhaust and a residential neighborhood?

Mr. St. Pierre- not that I am aware, not in the building code. The DEP regulates an exhaust from this type of proposed use.

Mr. Copelas- we have to assume that state and federal regulations will be followed in regard to installation and performance of the proposed exhaust mechanism. It is our job to determine that the change of use will not have adverse effects on the following: a) Social, economic, or community needs served by the proposal b) traffic flow and safety, including parking and loading c) adequacy of utilities and other public services d) impacts on the natural environment, including drainage e) neighborhood character f) potential fiscal impact, including impact on the City tax base and employment.

Mr. Tsitsinos- How far away is the proposed ventilation system from the residential neighborhood?

Mr. St. Pierre- the problem we have had in the past with shops down there is that the residential neighborhood sits at a higher elevation than the industrial use below so anything that happens below tends to carry up toward the residential neighborhood.

Mr. Copelas- nonetheless, we need to deal with the zoning of this particular address regardless of how close it may be to a residential address right?

Mr. St. Pierre –states that the residential addresses are abutters of the proposal and impacts of the proposed project on the neighborhood/residential neighborhood need to be considered.

Mr. Watkins- Parking does not concern me as much as the proposal to have a spray booth may help the parking at this location in that the applicant currently sends cars out to other locations for auto body repairs. Mr. Watkins' central concern is with the possible paint and chemical fumes and increased noise from the operation of an exhaust fan associated with the proposed spray paint booth that may affect the Cherry Street neighborhood.

Mr. Viccica- the trouble is how do we know whether the applicant will comply with state and federal standards for a spray booth and associated ventilation system?

Mr. St. Pierre- the problem with this kind of this is that there is no regular sampling and testing of body shops unless there is a complaint from residents to DEP. There are requirements that that applicant is supposed to meet legally, but unless a complaint goes to DEP, it will not be looked into.

Mr. Tsitsinos- visited the location of the project and expresses concern about the negative impacts on the neighborhood including the impacts of the installation of an exhaust fan from the proposed paint booth including noise and fumes on the neighborhood.

Mr. Copelas asks the Board whether there are any additional comments.

**Motion and Vote:** Mr. Duffy makes a motion to approve the petition seeking a Special Permit requesting relief from Sec. 3.0 *Table of Principal and Accessory Use Regulations* to allow a change of use from a motor vehicle light service garage to a motor vehicle body repair shop subject to six (6) standard conditions. The motion is seconded by Mr. Tsitsinos. The vote was unanimous with five (5) opposed (Peter A. Copelas (Vice-Chair), James Tsitsinos, Tom Watkins, Mike Duffy, Paul Viccica (alternate)).

Project	A public hearing for a petition of seeking Variances requesting relief from 4.1.1 <i>Table of Dimensional Requirements</i> from minimum lot area, minimum lot area per dwelling unit, and minimum rear setback requirement to allow for the construction of a two-family residence with garage parking underneath.
Applicant	GREGORY INVESTMENT GROUP LLC,
Location	2 ATLANTIC STREET (AKA 17 LUSSIER STREET) (Map 32 Lot 189) (R2 Zoning District)

#### Documents and Exhibitions

- Application dated June 22, 2015 and supporting documentation

Attorney Quinn- on behalf of Mr. Darius Gregory, presents the petition. Here with a small developer wanting to build a two (2) family with three (3) bedrooms each on an undersized lot. The developer, a long-time Salem State employee, intends to develop the property to provide housing for Salem State faculty/staff and their families. The location of the proposed development is a vacant lot on the corner of Atlantic Street and Lussier Street. The lot does not conform to current zoning dimensional requirements in terms of lot size as the property is a little over 5,000 square feet. Mr. Gregory is proposing to place a 2.5 story house and underground parking on the property with two rear decks.

Attorney Quinn states- In 1995, this lot was before the Zoning Board of Appeals for a similar project and was approved unanimously. The project was never built and Variances from the Board lapsed. At about the same time, the applicant came before the Planning Board for an Approval Not Required plan to create the lot on the corner of Lussier Street and Atlantic Street. The Planning Board approved the creation of this lot and is still legally affective. In 2009, the lot came back before the Zoning Board of Appeals for a two-family house with tandem parking and again the Board approved the Variances. The project was not built and the Variances lapsed. The current applicant is before the Board wanting to build a two (2) family home with parking underneath.

The applicant is asking for dimensional variances requesting relief from minimum lot area, minimum lot area per dwelling unit and minimum rear setback requirements.

Without a Variance, nothing can be physically built here. Only a 5 foot wide house could be legally built on a site like this. The size and shape prevent any development in a zoning that is residential. The neighborhood has been development for many years and the current zoning allows for 2- family residential, which will provide good housing in the neighborhood.

Mr. Copelas- asks a question regarding the specific relief required. It appears that there are four (4) dimensional variances needed rather than the requested three (3) variances. It appears that lot area coverage is insufficient as the requirement is 30% and the proposed lot area is 35%.

Attorney Quinn- states that it is the other way around. The applicant proposes to cover 30% of the lot and the allowable amount is 35%.

Mr. Viccica- On the submitted elevation plans there is no definition of the ground plane and relative height of the proposed building. Mr. Viccica asks the applicant to show these calculations before the Board approves the petition.

Attorney Quinn- states that the lot is flat and there is no change in topography.

Mr. Viccica- states that the height from the average grade is not shown.

Mr. St. Pierre- states that the drawing is to scale and can be measured.

Mr. Viccica- states that the building proposed building is a three (3) story structure and not two and a half (2.5) as allowed as the garage underneath the building.

Mr. St. Pierre, Building Inspector- concurs with this concern.

Attorney Quinn – states that the architect is present and can speak to this concern.

Architect- Make sure that the building meets the 35 foot height requirement.

Attorney Quinn- asks the architect whether the proposed number of stories is two and a half (2.5) or three (3) stories.

Architect- I don't believe it is a two and a half (2.5) stories, but I would have to look at the drawings.

Attorney Quinn – as long as the building meets the building requirements, I would ask the Board to consider granting the Variances. Is the issue a strict building code issue? [Question directed to Mr. St. Pierre]

Mr. St. Pierre- the zoning requirement allows 2.5 stories by right. The question is whether the Variance request for number of stories has been advertised.

Mr. Copelas- the specific nature of 2.5 stories or 3 stories needs to be clarified for the Board to consider.

Attorney Quinn- asks for the Board to consider granting a continuation of the petition to allow the petitioner to provide more information regarding the proposed height and number of stories proposed.

\*The public hearing was no opened at this meeting and members of the public may continue to submit comments to the Board.

**Motion and Vote:** Mr. Duffy makes a motion to a continue the petition seeking Variances requesting relief from Sec. 4.1.1 Table of Dimensional Requirements from minimum lot area, minimum lot area per dwelling unit, and minimum rear setback requirements to allow for the

**construction of a two-family residence with garage parking underneath. The motion is seconded by Mr. Watkins. The vote was unanimous with five (5) in favor (Peter A. Copelas (Vice-Chair), Jimmy Tsitsinos, Mike Duffy, Tom Watkins, Jim Hacker (alternate)) and none (0) opposed to continue the petition to the next regularly scheduled meeting on Wednesday, August 19, 2015.**

Project	A public hearing for a petition requesting a Special Permit per Sec. 3.3.3 (2) of the Salem Zoning Ordinance to alter an existing non-conforming structure for a substantially different purpose to restore the first floor of 105 CONGRESS STREET from a residential unit to a commercial space for retail or a restaurant and a Variance per Sec. 5.1.8 <i>Table of Required Parking Spaces</i> specifically from off-street parking requirements for retail or restaurant space to allow seven (7) off-site parking spaces & on-street parking.
Applicant	CONGRESS & DOW LLC of the NORTH SHORE COMMUNITY DEVELOPMENT COALITION, INC.
Location	105-109 & 111 CONGRESS STREET (Map 34, Lot 169) (B1 Zoning District)

#### Documents and Exhibitions

- Application dated June 23, 2015 and supporting documentation

Attorney Grover- presents the petition on behalf of the North Shore Community Development Center (CDC). Also present are- Mickey Northcutt, Chief Executive Officer of North Shore CDC and David Valecillos, Project Manager.

Attorney Grover- 105 -109 and & 111 Congress Street located close to the end of Palmer Cove on the left had side. The property is located in the B-1 Zoning District. There are two- buildings on one lot and currently have eight (8) residential units per building with seven (7) existing parking spaces. The CDC is proposing to renovate all of the residential units at 105 Congress Street and convert the two (2) first floor residential units to commercial space.

Attorney Grover-presents the architectural plans and appearance of the building will be a substantial improvement. The buildings are non-conforming and to alter the purpose of a non-conforming in a substantial way requires a Special Permit from the Zoning Board of Appeals. The first part of the petition is a request for a Special permit to alter a non-conforming building for a substantially different purpose. The uses of a commercial retail store or a restaurant with no alcohol are allowed in a B-1 Zoning District by right. The other part of this petition is parking. There is no new parking proposed. The seven (7) existing parking spaces on-site are not restricted for the proposed commercial space, but are available for the commercial space to use. Due to the size of the existing buildings on this lot, whatever the commercial use may be, there is not sufficient parking to meet the requirements of the Zoning Ordinance. The second part of the relief requested is a Variance from the off-site parking requirements. In terms of the finding is that this is not substantially more detrimental to the neighborhood. As the application states the proposed first floor commercial space is more consistent with what the neighborhood has identified as a priority for the Point Vision Neighborhood Plan.

Not only is the proposal less detrimental, but is consistent with what the neighborhood would like to see. The commercial space will improve the tax base. There will be no negative impacts on the natural features of the lot. There is unrestricted on-street parking that would be able to service the commercial space. It is also expected that residents will access commercial space by walking. The second part of the petition request is for a Variance for relief from off-street parking requirements. There is no place to physically expand the parking. Without the Variance it is not possible to convert the residence to commercial use. The revenue from the commercial use is what supports the rehabilitation of the property. The literal enforcement of the parking requirements of the Zoning Ordinance would be able to have a commercial use or finance the rehabilitation of the building.

Mickey Northcutt, North Shore CDC- CDC has worked with the Mayor's Office, Department of Planning and Community Development and the neighborhood association to develop a couple of different plans to bring investment to the Point Neighborhood. Last year in 2014, the City commissioned the Salem Point Neighborhood Commercial Corridors Revitalization Plan with MAPC to look at infrastructure investments to targeting key properties to improve walkability/livability in the Point Neighborhood. North Shore CDC purchased 105-109 & 111 Congress Street after this plan was developed. From the planning process, residents wanted to see more retail available.

Mr. Northcutt- presents historic photos of 105 Congress Street to show the historic first floor commercial space and architectural detail of the building. At one time, someone enclosed the first floor retail space and converted it into two (2) residential units. North Shore CDC is working to secure financing to rehabilitate seven (7) buildings in the area. All seven (7) of the buildings are eligible for state and federal tax credits as they are located in a National Historic District. All rehabilitation cannot detract from the historic character. For example windows and fixtures need to be replaced with more historically accurate materials. It is the goal to mimic, as close as possible, the historic character of the original building.

Mr. Copelas – confirms with the applicant that the current use of the buildings at this location are eight (8) residential units in each building for a total of sixteen (16) units. The space on the ground floor would eliminate two (2) residential units to replace the space with a single commercial use.

Mr. St. Pierre- asks the applicant whether there is a possibility of having two (2) smaller commercial spaces rather than one large one.

Mr. Northcutt- states that the apartments are about 900 square feet each. The total square footage is about 2,067 square feet.

Mr. Copelas- Confirms it is the intention of the applicant to replace the façade as close to the historic picture presented.

Mr. Watkins- asks whether the opposite side of the street to this location is a convenience store. Mr. Watkin's also asks for clarification on whether the seven (7) parking spaces will be first come first serve for residents and the commercial space.

Attorney Grover- clarifies that the on-site parking spaces are not specifically reserved for either residential or commercial use.

Mr. Northcutt- states that the on-site parking spaces are currently gravel and not designated. CDC will pave, stripe and landscape the parking area.

Peter Hackmeister- 55 Perkins Street- presents the Board with images of alternative restaurant locations and expresses opposition to the petition due to concerns about competition among restaurants and parking availability.

Mr. Copelas- states whether a restaurant can succeed is not within the purview of the Zoning Board of Appeals.

Attorney Quinn- states that the intended use of the space is for a commercial tenant or a restaurant that does not serve alcohol. For example a possible restaurant use might be a coffee shop.

Mr. Copelas- Closes the public comment portion of the hearing and opens Board deliberation.

Mr. Tsitsinos- expresses support for the project because it will clean up the block and be a great project for the neighborhood.

Mr. Copelas- states that there will not be a tremendously greater burden on parking above and beyond the existing residential use with the small commercial use as proposed. The proposed use fits with the vision of the City and neighborhood and is an appropriate use to consider.

Mr. Watkins- concurs with Mr. Tsitsinos and Mr. Copelas. The community needs will be served by the proposal; traffic flow, parking and safety will not be impacted; the proposal is in line with neighborhood character and will have a significant positive fiscal impact. States support for the application.

Mr. Copelas- Variance findings are a higher burden, but nonetheless in the application and testimony regarding the need for commercial development in order to redevelop the entire building meets the hardship requirement.

#### Special Permit Findings:

1. There are significant social, economic and community need served by the proposal
2. No significant impact to the traffic flow and safety compared to the existing conditions including the parking and loading on the site.
3. Public services and utilities are sufficient
4. There are no negative impacts on the natural environment.
5. Proposal fits with the existing neighborhood character
6. Positive fiscal impact on the City's tax due to the rehabilitation of the residential and commercial spaces.

#### Findings for Variance:

Statement of Hardship – existing building size, location and density consumes entire lot and is not possible to physically meet the off-site parking needs required. Not allowing the variance would prevent the applicant from using the building for any other use and as presented would prevent the owner from making renovations and provide the opportunity to rehabilitate low income housing that is needed in the community in this location. These statements meet all requirements for Variances including the following: 1) There are special conditions and circumstances generally affecting the

land, building and structure generally not affecting other lands, buildings and structures in the same district; literal enforcement of the provisions of the Ordinance for off-street parking would involve substantial hardship to the applicant 3) desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent of the district or the purpose of the ordinance.

Mr. Duffy – states that there is congested parking as it exists and there is not sufficient parking for the current use. By not allowing the Variance for parking significantly deprives the community of the opportunity for redevelopment and low-income housing. Not having the opportunity for rehabilitation and low-income housing may be more of a detriment to the community if the Board does not grant the Variance.

**Motion and Vote:** Mr. Watkins makes a motion to approve the petition seeking a Special Permit per Sec. 3.3.3 (2) of the Salem Zoning Ordinance to alter an existing non-conforming structure for a substantially different purpose to restore the first floor of 105 CONGRESS STREET from a residential unit to a commercial space for retail or a restaurant and a Variance per Sec. 5.1.8 *Table of Required Parking Spaces* specifically from off-street parking requirements for retail or restaurant space to allow seven (7) off-site parking spaces & on-street parking subject to eight (8) standard conditions. The motion is seconded by Mr. Tsitsinos. The vote was five (5) in favor (Peter A. Copelas (Vice-Chair), Jimmy Tsitsinos, Mike Duffy, Tom Watkins, Paul Viccica) and none (0) opposed.

Project           A public hearing for a petition seeking a Special Permit per Sec. 3.3.2 *Nonconforming Uses* and 3.3.3 *Nonconforming Structures* to alter a nonconforming structure and extend a nonconforming use to allow the reconstruction of an existing storage shed. The applicant also requests Variances per Sec. 4.1.1 *Table of Dimensional Requirements* of the Salem Zoning Ordinance from the maximum lot coverage and minimum distance between buildings.

Applicant       FRED J. DION YACHT YARD, INC.  
Location       23 GLENDALE STREET (Map 33 Lot 646) (R1 Zoning District)

#### Documents and Exhibitions

- Application dated June 23, 2015 and supporting documentation

Attorney Atkins- presents the petition. The location is off of Lafayette Street and Summer Avenue. The Fred J. Dion Yacht Yard was founded in 1914 and in its 101 year of continued use and operation. The petitioner proposes to demolish a portion of an existing storage shed in the center of the property and build a new storage shed on the same location. The height of the proposed storage shed is 26 feet high and will provide additional storage and a place to work on boats. As a result, there will be a reduction in traffic as the boats are currently brought back and forth to/from Canal Street for maintenance.

There will be no change in the operation and function of the yacht yard as a result of the new boat storage. The yacht yard does not have customers come to work on boats. This is full service boat

yard and customers do not work on their own boats at this location. Traffic will not be negatively impacted as a result of the proposed storage shed.

The petitioner was before the Zoning Board of Appeals with a similar application last year, but the neighbor concerns about preserving views of Salem Harbor. As a result the applicant went back to the drawing board for an alternative project to provide additional on-site storage.

The petitioner is before the Zoning Board of Appeals requesting variances for minimum distance between buildings and maximum lot coverage. The Variance for maximum lot coverage was requested to avoid any future misinterpretation about whether flats or upland is used in the calculation of lot coverage. Do you use the flats or just the upland for this calculation. The distance between buildings is slightly changed due to the proposed reconstruction and expansion of the existing storage shed. Therefore, the petitioner technically requests a dimensional variance for relief from the minimum distance between buildings. The petitioner is also requesting a Special Permit for an expansion of a non-conforming structure to extend a nonconforming use to allow the storage shed.

Mr. Copelas- Please address the statement of hardship for the requested Variances.

Attorney Atkins- minimal dimensional variances are requested. The existence of 200,000 square feet of land would not require a Variance. The hardship is that the structure is the heart of the facility and is an important economic base for the community. There are eighteen (18) employees that work here and the inability to operate would harm the community.

Mr. Copelas- concurs with the statement of hardship presented.

Mr. Copelas- Opens comment to the public.

Roger Amodeo, 15 Glendale Street-in support of the petition and states that there looks like there will be no negative impacts.

Thomas Demarcus, 22 Willow Ave. – asks clarification question on where the proposed shed will be located.

Attorney Atkins- clarifies that the proposed shed will be located in the center of the property and presents the plot plan to the public.

Mr. Copelas closes public comment portion.

No further Board comment.

#### **Findings for Special Permit:**

1. The proposed project will serve the social, economic and community needs.
2. There are no traffic flow and safety impacts including parking and loading.
3. Utilities and public services are adequate.
4. There are no significant impacts on the natural environment, including drainage.
5. The proposal fits with the neighborhood character.

6. The potential fiscal impact, including the impact on the City tax base and employment is positive.

**Findings for Variance:**

- 1) Special conditions and circumstances that especially affect the land, building or structure involved, generally not affecting other lands, buildings, and structures in the same district is that although the deed shows the acreage of the property is 200,000 square feet a significant portion of the property is tidal. If the tidal flats were included in the calculation for maximum lot coverage, the Variance would not have been necessary in the first place.
- 2) Literal enforcement of the provisions of the Ordinance would involve substantial hardship to the applicant in that without the expansion there would be an economic hardship and there is a need to expand to support the employment of eighteen (18) employees.
- 3) Desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent of the district or the purpose of the ordinance.

**Motion and Vote:** Mr. Watkins makes a motion to approve the petition seeking a Special Permit per Sec. 3.3.2 *Nonconforming Uses* and 3.3.3 *Nonconforming Structures* to alter a nonconforming structure and extend a nonconforming use to allow the reconstruction of an existing storage shed. The applicant also requests Variances per Sec. 4.1.1 *Table of Dimensional Requirements* of the Salem Zoning Ordinance from the maximum lot coverage and minimum distance between buildings subject to seven (7) standard conditions and one special condition that the new building on the property be labeled or numbered in such a way as to assist the Fire Department. The motion is seconded by Mr. Hacker. The vote was unanimous with five (5) in favor (Peter A. Copelas (Vice-Chair), Jimmy Tsitsinos, Mike Duffy, Tom Watkins, James Hacker (Alternate)) and none (0) opposed.

Project	A public hearing for a petition seeking a Special Permit per Sec. 3.3.2 <i>Nonconforming Uses</i> of the Salem Zoning Ordinance to allow a partial change of a nonconforming use to another nonconforming use to allow the first floor to be converted from office space to an art gallery with an accessory gift shop.
Applicant	SIXTY FOUR BRIDGE LLC
Location	64 BRIDGE STREET (Map 36 Lot 153)( R2 Zoning District)

Documents and Exhibitions

- Application dated June 23, 2015 and supporting documentation

Attorney Atkins- presents the petition on behalf of the applicant, Cevin Soling of Sixty Four Bridge LLC and Doug Mesco, the tenant of the proposed art gallery and gift shop. The current use of the building is office space and the second story is a rental unit for a therapist. The plot plan shows a total of fifteen (15) parking spaces surrounding the building.

The petitioner proposes a partial change of use to allow an art gallery with an accessory gift shop. The petitioner does not propose any external changes to the outside of the building. The parking

consist of fifteen (15) on-site parking spaces and if this use is categorized as a retail space, the number of parking spaces complies with the parking requirements. The traffic flow and circulation patterns on the property are well marked. The use will not substantially affect the neighbors as some other uses might. This is a non-substantial change of use.

Doug Misico, Somerville, MA- art gallery that does not focus on individual artists, but rather historical and sociological segments of time. For example, Cold War propaganda and popular art produced by the Shakers. The gift shop will help out on costs in general and we will sell prints, books, coffee mugs and t-shirts.

Attorney Atkins- states that the petitioner is asking for a change of one non-conforming use to another non-conforming use that is not substantially more detrimental to the neighborhood.

Mr. Copelas- asks the applicant to confirm that the third floor is attic space that is unfinished.

Attorney Atkins- the attic space is unfinished and will remain unfinished.

Mr. Viccica- asks the applicant to confirm that there will be no modification of interior or exterior.

Mr. Tsitsinos- is the interior wood work going to be changed?

Mr. Soling- states that the interior wood work is stunning and will not be changed.

Mr. Copelas- opens public comment. No members of the public spoke in favor or against the petition.

Mr. Copelas- Closes the public hearing.

Mr. Copelas- states that this property is one of the few properties on Bridge Street with ample parking. It seems that this is a straight forward request.

No additional Board comment.

Change of use is not more substantially detrimental to neighborhood than current use.

**Motion and Vote:** Mr. Duffy makes a motion to approve the petition seeking a Special Permit per Sec. 3.3.2 *Nonconforming Uses* of the Salem Zoning Ordinance to allow a partial change of a nonconforming use to another nonconforming use to allow the first floor to be converted from office space to an art gallery with an accessory gift shop subject to seven (7) standard conditions. The motion is seconded by Mr. Watkins. The vote was unanimous with five (5) in favor (Peter A. Copelas (Vice-Chair), Jimmy Tsitsinos, Mike Duffy, Tom Watkins, Paul Viccica(alternate) and none (0) opposed.

Project	A public hearing for a petition seeking a Special Permit per Sec. 3.3.2 <i>Nonconforming Uses</i> of the Salem Zoning Ordinance to change from one nonconforming use to another nonconforming use to allow four (4) residential dwelling units. The applicant is also seeking Variances per Sec. 4.1.1 <i>Table of Dimensional Requirements</i> for relief from minimum lot area per dwelling unit and maximum height to allow a new dormer to slightly exceed the thirty-five (35') height limit. The applicant is also seeking Variances per Sec. 5.1.2 <i>Location of Parking</i> to allow two (2) of the required parking spaces to be located off-site and Sec. 5.1.5 <i>Design</i> to allow the one-way use driveway to be less than the required twelve (12) feet wide.
Applicant	161 FEDERAL STREET LLC,
Location	161 FEDERAL STREET (Map 25 Lot 112)(R2 Zoning District)

#### Documents and Exhibitions

- Application dated June 23, 2015 and supporting documentation

Attorney Grover- Presents the petitioner. The building is a former rectory of the St. James Church and had been home for priests for decades. The proposal is to convert the property into four (4) residential dwelling units. The building is over 7,000 square feet and the owner intends to change the use from the rectory to four (4) residential dwelling units. The owner intends to have these residential units be apartments for the first five (5) years to apply for historic tax credits with the intent to sell the apartments as condos after five (5) years. The petitioner proposed to have four (4) parking spaces on the back of the property and two (2) spaces off-site. Since the application was filed with the Zoning Board of Appeals, the petitioner had met with the Federal Street Neighborhood Association and has changed the parking proposal to include all six (6) required parking spaces on the property. The applicant also has six (6) parking spaces off-site at the St. James Church property for continued use. The neighborhood association felt strongly that the petitioner not use the six (6) parking spaces on the St. James Church property for the proposed residential dwelling units. The applicant requests to withdraw the request for a Variance for parking.

The petitioner is requesting a special permit to allow four (4) residential dwelling units. The property is located in an R2 Zoning District and does not permit a multi-family dwelling unit. However, the rectory was an exempt non-conforming use and the applicant can request a special permit from the Zoning Board to consider a special permit for another non-conforming use. The applicant also requests a number of variances including relief from minimum lot area per dwelling unit as the requirement is to have 7,500 per dwelling unit. The lot is only 7,400 +/- square feet and the literal enforcement of the zoning ordinance would not allow the petitioner to have a single dwelling unit without a variance because the property does not meet the minimum lot area requirement. There is no viable use for the property without granting a variance. The other variances requested include a dimensional variance for the height. The petitioner proposes a new dormer to slightly exceed the thirty-five (35') foot height limit to allow the construction of a new dormer to access the attic space. One of the units is proposed to have living space in the attic and in order to make the unit more useable, the plans call for a dormer. As a result the building height will slightly exceed the height limit and is proposed to be thirty-eight (38') feet. The overall building height is already in excess of thirty-eight (38') therefore the dormer will not be above the exiting roof line.

and maximum height to allow a new dormer to slightly exceed the thirty-five (35') height limit. Lastly, the petitioner requests a Variance per Sec. 5.1.5 *Design* to allow the one-way use driveway to be less than the required twelve (12) feet wide. There is a casement window (bay-window) on the side of the building that creates a narrowing of the proposed driveway. At this point the driveway is reduced to 7.8 feet wide and does not meet the twelve (12) feet width requirement.

In terms of meeting the grounds for a special permit to allow four (4) residential dwelling units: The project provides rehabilitation of a historic building and provides a uses that is consistent with the neighborhood character. There are many existing multi-family uses in the area.

The petitioner has gone through a detailed process with the neighborhood to listen to input. When this project was first designed there were originally seven (7) proposed units. After listening to neighborhood input, the developer reduced the number of units to four (4), which is the minimum to have a viable project to support the renovation project. On the plans, there is a small shed along the left side that is proposed to be removed. This was added onto the building to provide access to the basement. The petitioner has also agreed to the following proposed conditions from the Federal Street Neighborhood Association:

1. The petitioner agrees to convert the property to a condominium no later than the expiration of the five (5) year holding period for the historic tax credits associated with the property and to market the units for sale, provided that the petitioner has the discretion to reasonably adjust the time of the sale of units in the event market conditions are not reasonably favorable at the expiration of the said 60 months, provided however the said sale should occur within a reasonable period thereafter. The neighborhood wants homeownership and understands the nature of the historic tax credits.
2. The petitioner acknowledges that the four (4) approved units may not be further subdivided to create any additional units, and that at no time shall there be more than four (4) units at said property.
3. The petitioner shall provide six (6) off-street parking spaces on the premises, plus whatever additional spaces are provided by a formal easement between the petitioner and the Archdiocese of Boston behind the current St. James Church.
4. The petitioner shall remove the brick planter and shrubs at the front of the building and restore the brick sidewalk up to the foundation.
5. The petitioner shall replace the window that has been boarded up on the second floor of the western wall, and should attach matching shutters.
6. All work shall be done in compliance with the plans and elevations submitted to the Zoning Board of Appeals.

Mr. Copelas- asks the petitioner whether the sidewalk is now brick or asphalt.

Attorney- states that the sidewalk is brick.

Mr. Copelas- with all of the square footage in the building, could the petitioner explain why there is a need to add onto the fourth floor or why the fourth floor is needed.

Architect- the attic is wide open and the petitioner would like to make this space useful.

Mr. Copelas- will the top floor be a unit in and of itself or will the space be incorporated into a unit that uses floors below?

Architect- the top floor will be incorporated into a unit that uses floors below.

Mr. Viccica- asks the petitioner to clarify that even with six (6) proposed parking spaces, that there is space for snow storage and the entire backyard space will not be paved over with asphalt.

Attorney Grover- confirms that there will be landscaping in the rear and some large trees will also remain. There is also snow storage and the entire backyard will not be paved over.

Mr. Watkins- will trash collection be curbside?

Attorney Grover- Curbside for four (4) units with storage for bins in the back.

Mr. Watkins- asks about emergency access.

Attorney Grover- states that in addition to Federal Street, Kelleher Way is also a public way to allow for emergency access.

Mr. St. Pierre- suggests that the trade-off would be that Fire Prevention may ask for the building to have sprinklers.

Mr. Copelas- is this something that is up for discussion or will the building have sprinklers?

Mr. St. Pierre- the building will have sprinklers.

Mr. Copelas- opens public hearing for public comment.

Robert Sullivan and Kate Pratt, 165 Federal Street – states concern about driveway width and access to the proposed rear parking spaces and potential damage to the abutting property (165 Federal Street).

Mr. Copelas- is there anything between your property and the petitioner's property like a fence or vegetation along the side.

Mr. Sullivan- no there is no fence or landscaping.

Brief board discussion on proposed width of driveway in relation to abutter's property

Mr. Duffy- what is the snow removal plan?

Attorney Grover- Proposes to use a snowblower or bobcat to remove snow from the driveway.

Mr. Viccica- is there any protection to neighbor property?

The proposed width of the driveway at the narrowest part is 7.8 feet wide to the property line.

Meg Tewy, 122 Federal Street- Expresses concern regarding density and using the basement as a living space and requests that the developer consider one less unit for a total of three (3) units. Also expresses concern regarding construction vehicles parking on the street.

Architect- the building will have sprinklers and there are multiple egresses out of the basement.

Mr. St. Pierre- states that the Building Department would confirm the number of egresses and conduct a code review before issuing a building permit.

Mr. Copelas- asks the petitioner to speak about plans for construction and locating construction vehicles.

Attorney Grover- states that there are six (6) parking spaces across the street at the church and would be willing to require all contractors and construction vehicles to use these spaces during construction. The contractors may load and unload materials from Federal Street, but use park their vehicles across the street at the church parking lot. The property owner has an easement between the convent and the school to be able to walk down from Federal Street to the church parking lot below to access the six (6) parking spaces.

Mr. Botwinik- there are also three (3) on-street parking spaces that were designated as rectory parking that will be given back to the community. The curb was painted yellow to reserve these spaces for the rectory.

Louis Sirianni, 6 Botts Court- opposed petition due to concerns of density, proposed architectural changes to the roof with a dormer, and interior location of living space in the attic and basement. Mr. Sirianni would like to see single family or two-family without allowing a living unit in the basement or attic space.

Attorney Grover- in terms of the size of the units, the neighborhood association felt strongly about providing large units and that is why the developer decreased the number of units from seven (7) to four (4) units. The petitioner proposes to use the basement and attic space to provide very large living spaces for people to stay and provide enough space for families to live in. The basement was always used as living space for the priests and is finished living space. The basement will not be changed to become living space as it always has been used as living space.

Mr. Copelas- Asked the staff planner if we had written public comment that was submitted from the Federal Street Neighborhood Association.

Ms. Schaeffer- no written public comment had been received.

Attorney Grover- states that according to Mr. Carr, the Federal Street Neighborhood Association voted unanimously to support the petition.

Many neighbors in the audience in disagreement with the statement of support from the Neighborhood Association

Mr. Copelas- states clearly that this opinion is not a matter of public record as there is no written statement from the Federal Street Neighborhood Association or Mr. Carr stating that the neighborhood association supported the petition.

Jane Arlander, 93 Federal Street-opposed to petition with concerns regarding potential changes to the neighborhood character including architectural changes to the building with the proposed dormer, concerns about parking, and density.

Mr. Copelas- states concern to Attorney Grover that he and the applicant have met with the neighbors, but there does not seem to be a consensus from the comments in terms of neighborhood support that one would expect.

Attorney Grover- states that the conditions that were read to the Board came out of the neighborhood meetings and was told that the neighborhood conditions were acceptable and the neighborhood association was in support of the project.

Mr. Copelas- I am confused as to why the neighborhood association is in opposition after having agreed upon a list of conditions with the petitioner. It certainly does not sound that the neighborhood, despite the agreed upon conditions from the neighborhood association, is in agreement.

Mr. Wallace, 172 Federal Street, Member of FSNA- states that there were twenty (20) or so neighbors that met and voted to approve the project with these conditions. Mr. Wallace states support for the proposed project with the proposed conditions from the Federal Street Neighborhood Association.

Mr. Copelas- opens board deliberation.

Mr. Viccica- very concerned about the Variance for driveway and potential impacts to the neighbor's property as there is no proposed barrier between the driveway and the neighbor's house. This is a difficult Variance to consider given the winter we had. Not in a position to suggest an alternative.

Attorney Grover- suggests bollards.

Mr. Viccica- states that the bollards cannot be on the neighbor's property and if they are proposed to be on the petitioner's property, the width of the driveway will be even smaller.

Mr. Watkins- Shares the same concern as Mr. Viccia and asks whether there is something formal from the Federal Street Neighborhood Association.

Mr. Copelas- shares concern with the public in regard to the proposed dormer. Is there a need for a dormer and what is the hardship? The building is massive. There is an understanding that having a dormer would add value to the space, but doing something that may be architecturally inappropriate and requires a variance is confusing.

Attorney Grover- states that the building is subject to the jurisdiction of the historic commission and would have to hear the petition to approve the dormer. The proposed dormer is located in a way that is not visible from the street. If the Board feels strongly that dormer is inappropriate, the petitioner can withdraw the request and still have a viable project.

Mr. Copelas- this is appreciated, but still does not address some of the concerns from the public and the Board. There needs to be more collaboration with the neighborhood association for something of this magnitude, this kind of development does not come along very often. Understanding that it may not be possible to get unanimity with the neighborhood association, but the Board would feel more comfortable if more people were in support of the project.

Attorney Grover- states that it may not be possible to have more unanimity with the neighborhood association. Not sure if the petitioner will ever get to a point with the neighborhood association ever voting in favor (again).

Mr. Copelas –states that it is up to the applicant to make a choice to ask for the Board to take a vote.

Attorney Grover- states that the petitioner will go back to the neighborhood association and try to have further discussion on the project to garner additional support.

Mr. Tsitsinos- states concern with living space in the basement. Why does the basement need to be used? How many square feet is each unit?

Architect- states that each floor is about 2,500 square feet.

Attorney Grover- states that the intent was to have large three-bedroom units for families.

Mr. Viccica- whether the basement can be used is a building code issue and may not be the purview of the Zoning Board.

Attorney Grover- states that the Zoning Board does not regulate the interior of buildings.

Mr. Copelas- confirms that the petitioner would like to continue the request to approve the petition at the next regularly scheduled meeting on August 19.

**Motion and Vote:** Mr. Duffy makes a motion to approve the continuation of the petition seeking a Special Permit per Sec. 3.3.2 *Nonconforming Uses* of the Salem Zoning Ordinance to change from one nonconforming use to another nonconforming use to allow four (4) residential dwelling units. The applicant is also seeking Variances per Sec. 4.1.1 *Table of Dimensional Requirements* for relief from minimum lot area per dwelling unit and maximum height to allow a new dormer to slightly exceed the thirty-five (35') height limit. The applicant is also seeking Variances per Sec. 5.1.2 *Location of Parking* to allow two (2) of the required parking to be located off-site and Sec. 5.1.5 *Design* to allow the one-way use driveway to be less than the required twelve (12) feet wide. The motion is seconded by Mr. Tsitsinos. The vote was unanimous with five (5) in favor (Peter A. Copelas (Vice-Chair), Jimmy Tsitsinos, Mike Duffy, Tom Watkins, Paul Viccica) and none (0) opposed.

Project	A public hearing for a petition of seeking a Special Permit per Sec. 3.3.3 <i>Nonconforming Structure</i> to reconstruct, extend, alter or change a nonconforming structure to construct an addition on an existing two-family (2) residential unit. The applicant is also seeking Variances per Sec. 4.1.1 <i>Table of Dimensional Requirements</i> of the Salem Zoning Ordinance for relief from rear and side-yard setbacks, minimum lot area per dwelling unit and minimum lot area to construct a rear addition.
Applicant	WILLIAM PETERSON
Location	4 WATSON STREET (Map 16 Lot 176) (R2 Zoning District).

#### Documents and Exhibitions

- Application dated June 23, 2015 and supporting documentation

The petitioners, Bill Peterson and Alexandra Peterson, present the petition. The building is currently a single-family home and has a rear stairwell that is not wide enough for a compliant stairwell. The petitioner proposes to remove an existing back deck and construct a 2.5 story rear addition to provide for a code compliant stairwell. The petitioner also proposes to convert the existing family home to a two (2) family structure that is an allowable use by right in an R2 Zoning District. Special Permit per Sec. 3.3.3 *Nonconforming Structure* to reconstruct, extend, alter or change a nonconforming structure to construct an addition on an existing two-family (2) residential unit. The applicant is also seeking Variances per Sec. 4.1.1 *Table of Dimensional Requirements* of the Salem Zoning Ordinance for relief from rear and side-yard setbacks, minimum lot area per dwelling unit and minimum lot area to construct a rear addition.

Petitioner presents a neighborhood petition in support of the project.

The petitioner states that the attic space was uses as an apartment without serviceable plumbing and gas lines. The space is not currently being occupied.

Mr. Copelas- has the attic space ever been occupied?

Mr. Peterson- states that the attic was potentially uses as an apartment as there is plumbing, electrical and gas, but does not know because they are new owners of the property.

Mr. St. Pierre- legally no. Mr. St. Pierre confirms that the attic space was an illegal apartment unit.

Mr. Copelas- states that with egress issues to the attic, the attic space could not be legally occupied as a second unit.

Mr. Viccica- There are two internally structured stairs. Do the proposed stairs meet the building code?

Mr. Peterson- There is a front stair that goes from the first floor to the second floor. There is also a rear stairwell on the back of the building that is a winding staircase that provides access from the attic to the basement.

Mr. Viccia- asks the applicant whether there are two (2) separate stairwells in the house. It appears there are two egresses proposed that are on the same side of the building for the proposed second unit. Does this meet building code to have two (2) means of egress side by side?

Mr. St. Pierre- Not sure that this meets the building code. The language in the building code is to have two (2) means of egress to be located as “remote as possible” from one another.

Mr. Viccia- states that there may be dimensional requirements for the distance between two (2) means of egress.

Mr. Peterson- states that there are no dimensional requirements. The code does not even state that the egresses should be separate, but there should be two (2) means of egress. Mr. Peterson states that that several sets of plans have been reviewed by the building inspectors. This is the third (3<sup>rd</sup>) draft of the plan.

Mr. St. Pierre- In the previous addition of the Massachusetts State building code there was a dimensional requirement for the distance between two (2) means of egress. Do not know if the most current addition of the building code from memory has a specified distance and the code would need to be reviewed. However, Mr. St. Pierre is confident that the building code states that two (2) means of egress are to be located as “remote as possible” from one another.

Mr. Peterson- states that a second means of egress is not physically possible to construct on any of the other sides of the house. There is a restriction in terms of where a second egress can be located.

Mr. Viccia- expresses understanding of this. This is a matter of whether a second egress is required and if the proposed location meets building code.

Mr. St. Pierre- states that the building inspectors expressed concerns regarding the proposal.

Mr. Peterson- the two (2) means of egress side- by -side are obviously not ideal, but is the most feasible and most safe option.

Mr. Peterson and Mr. St. Pierre- back and forth on code.

Mr. Copelas- states that the Building Commissioner ultimately needs to approve a building plan. Does it make sense for the Board to go forward with a decision as opposed to request additional information.

Mr. Peterson- requests a continuation to the next regularly scheduled meeting.

Mr. Copelas- opens public comment period. A petition of four (4) members of the public signed a petition of approval for the proposed petition. No members of the public spoke in person at the public meeting.

**Motion and Vote:** Mr. Duffy makes a motion to continue the petition seeking a Special Permit per Sec. 3.3.3 *Nonconforming Structure* to reconstruct, extend, alter or change a nonconforming structure to construct an addition on an existing two-family (2) residential unit. The applicant is also seeking Variances per Sec. 4.1.1 *Table of Dimensional Requirements* of the Salem Zoning Ordinance for relief from rear and side-yard setbacks, minimum lot area per dwelling unit and minimum lot area to construct a rear addition. The motion is seconded by Mr. Watkins. The vote was unanimous with five (5) in favor (Peter A. Copelas (Vice-Chair), Jimmy Tsitsinos, Mike Duffy, Tom Watkins, Paul Viccica) and none (0) opposed.

Project	A public hearing a petition of seeking a Variance from the provisions of Sec. 8.2.6 <i>Entrance Corridor Overlay District Signage</i> of the Salem Zoning Ordinance to allow an internally illuminated blade sign faced with Jimmy John's logo.
Applicant	JIMMY JOHN'S,
Location	135 LAFAYETTE STREET (Map 34 Lot 307)(R3 Zoning District)

#### Documents and Exhibitions

- Application dated June 23, 2015 and supporting documentation

Lauren Cronin- Viewpoint Sign & Awning Northborough, MA- presents the petition on behalf of the applicant Bendsen Signs & Graphics to secure permits on behalf of Jimmy John's located at 135 Lafayette Street. The applicant is requesting a Variance for an internally illuminated blade sign to be manufactured and installed at 135 Lafayette Street. The bracket and logo are standard to Jimmy John's locations and are consistent with corporate identification and branding including internal illumination. The proposed location of the sign is on a new building and is appropriate to the style of this building as this location is not a historic building. There are residences above the apartments and a sign will help identify the entrance to the restaurant.

David Liddell, Jimmy John's franchise owner- Jimmy John's is an up and coming national franchise with approximately 100 new restaurants in the greater Boston area. This location at 135 Lafayette is a family owned business and is their first restaurant. A lot of business comes through walk-by or brand recognition. There is a park in front of the business. There are no homes directly in front of the business. It is not anticipated that the sign will affect any residences. The proposed location is on a new modern building and the sign will not detract from the character of the building.

Mr. Copelas- one of the requirements of submitting a petition is to have a written statement of hardship for a Variance request.

Ms. Cronin- states that the cover letter addresses the hardship. The restaurant is a unique brand and the business would like to gain as much recognition as possible. There is a wall sign that is permitted for the building, but the business feels that there will be more recognition with a projecting blade sign.

Mr. Copelas- asks the applicant whether they are aware that the Board has received a letter from the Department of Planning and Community Development in opposition to the proposed internally illuminated projecting blade sign.

Ms. Cronin- Andrew Shapiro, Economic Development Planner, reviewed drawings of the proposed internally illuminated sign and referred the applicant to the City Design Review Guidelines. Mr. Cronin states that the guidelines are guidelines rather than requirements. With this particular sign, the majority of the face is blacked out vinyl. The parts of the sign with illumination are the white letters that are small text around the edge and the text around the edges. The sign is associated with the corporate image.

Mr. Copelas- asks the applicant whether there are other examples of this brand having externally illuminated lighting. It is difficult to justify ignoring the Entrance Corridor Overlay District design review guidelines particularly for a new building.

Mr. Viccica- asks the Chair to clarify the scope of the petition in that the Board is only discussing the proposed blade sign. Why is there a picture of a wall sign?

Ms. Cronin- states that the wall sign was permitted through the City.

Mr. St. Pierre- the internally illumination portion of the sign is not allowed.

Mr. Liddell- states that the business was concern about the possibility of gooseneck lighting detracting from the building than an internally illuminated sign. Mr. Liddell states that he and his family hope to open more than one (1) Jimmy John's and will provide jobs in the City.

Mr. St. Pierre- asks the applicant for images of Jimmy John's in Boston for examples of alternative signage.

Ms. Cronin- states that there are no images of alternative Jimmy John's signs to present to the Board.

Mr. St. Pierre- asks the petitioner whether it was possible to bring images of alternative signs for the Board to see at the next Zoning Board of Appeal meeting or would this request prohibit you from moving forward in the timeframe that is needed by the applicant.

Ms. Cronin- states that the applicant was hoping to install the signs at the end of August and it takes about three (3) to four (4) weeks to make the sign.

Mr. Copelas- states that within the corporation that there may be a way to have a different.

Mr. Copelas- opens the hearing for public comment.

Councillor Legault- Councillor at Large- expresses opposition to illuminated sign and concerns with disturbance of surrounding residence and states examples of franchise business signs that are able to conform to local sign ordinances.

Mr. Copelas- no other members of the public spoke in opposition to or in favor of the petition.

Mr. Copelas- Closes public comment portion.

Mr. Duffy- States understanding that there are some constraints here and there is a strong effort being made to meet the needs of the franchise. There are examples of externally illuminated signs for Jimmy John's associated with a letter from the Department of Planning and Community Development that fit the Entrance Corridor Overlay District design guidelines. Jimmy John's will not rely solely on the external signage to become well known and attract business. With the standards and high burden that needs to be shown by the applicant for the request for a Variance, it is not demonstrated that there is a substantial hardship.

Mr. Hacker the sign does not make the business. If you have a good spot and product you will do well.

**Motion and Vote:** Mr. Duffy makes a motion to approve the petition seeking a Variance from the provisions of Sec. 8.2.6 *Entrance Corridor Overlay District Signage* of the Salem Zoning Ordinance to allow an internally illuminated blade sign faced with Jimmy John's logo subject to six (6) standard conditions. The motion is seconded by Mr. Watkins. The vote was none (0) in favor and five (5) opposed (Peter A. Copelas (Vice-Chair), Jimmy Tsitsinos, Mike Duffy, Tom Watkins, and James Hacker (alternate)).

Project	A public hearing or a petition seeking a Variance from the maximum building height to allow an increase in building height from the existing thirty-feet (30') to thirty-five feet (35') and a Special Permit requesting relief from <i>Sec. 3.3.3 Nonconforming Structures</i> of the Salem Zoning Ordinance, to extend the existing non-conforming structure to allow a 182 square foot addition.
Applicant	MARC TRANOS
Location	87 BRIDGE STREET (Map 36 Lot 373)( B1 Zoning District)

#### Documents and Exhibitions

- Application dated June 23, 2015 and supporting documentation

Attorney Correnti- presents the petition on behalf of the applicant. The building has three (3) residential and one commercial unit that has had various tenants over the years. The building is a mix of different additions and roof lines over the years. There is also a garage in the back of the building and the proposal is to remove the garage and rehab the building into four (4) residential units instead of three (3) residential units and one (1) commercial unit.

The proposal is for townhouse style units to be built as condominiums to be sold to homeowners on Bridge Street. This neighborhood is desirable with young professionals and within walking distance from the train station and downtown. The petitioner proposes to tear down an existing garage and add on-site parking with a total of six (6) parking spaces with one (1) parking space on the side of the building and five (5) parking spaces in the rear.

The petitioner is requesting a Variance from dimensional requirements of the Salem Zoning Ordinance from the maximum building height to allow an increase in building height from the existing thirty-feet (30') to thirty-five feet (35'). The building is located in a small strip of B-1 Zoning District with dimensional regulations for maximum building height of thirty (30) feet. The petitioner proposes a building height of 35' feet, which is the maximum building height for residential buildings. Attorney Correnti requests that the Board consider that the zoning where the building is located is an anomaly as this is a small strip of B-1 Zoning District surrounded by an R-2 Zoning District.

The five (5) feet allows the petitioner to do the townhouse style development. The building next door is a large residential structure that exceeds thirty-five (35) feet. The proposed building would be in conformance with the existing neighborhood character. The petitioner also requests that the building be squared-off on the right rear corner where there is an existing stair well. This special permit will allow the petitioner to build the townhouse style apartments. The special permit is required for extension of a non-conforming structure.

Attorney Correnti- presents public comment of support from two (2) abutters including residents of 4 Barton Street and 99 Bridge Street.

Mr. Copelas- Asks the applicant whether a mixed use building with keeping street level commercial was considered.

Mr. Tranos, developer- states that it is harder to find commercial tenants than occupants for residential units.

Mr. Viccica- clarifies that the number of proposed units is a total of four (4) residential units.

Attorney Correnti- confirms.

Mr. Copelas- opens discussion for public comment.

Michael Sosnowski, past City Councilor – opposes the petition and opposes an increase in density and concerned about Bridge Street parking. Mr. Sosnowski is in favor of fixing the eyesore, but concerned about the quality of the neighborhood for parking and density.

Mr. Copelas-states that in many cases the Zoning Board of Appeals needs consider parking; this proposal has enough parking spaces proposed to meet the zoning requirements.

Attorney Correnti- states that the parking spaces will be deeded parking spaces as part of the units. Maybe this will be incentive for future property owners of the proposed condominiums to park on-site.

Michael Becker, Real Estate Agent for owner- if the building was 25% commercial and 75% residential it would be an issue for financing. Having residential units vastly improves the architectural style and is in keeping with the neighborhood character than what currently exists.

William LeGault, Councilor At Large- Bridge Street is a zoning mess with business built in residential zones. This project is a win for the neighborhood. Density aside some of the improvements have been very positive for the neighborhood. The project proposes to take a non-usable space and

turning it into something positive for the neighborhood. Councilor LeGault supports with qualifications that it will create some negative and positive aspects, but the positives outweigh the negatives.

Mike Sosnowski, past City Councilor- asks whether a condition of owner occupied can be a condition.

Attorney Correnti- states that the residential units will be sold as condominiums and assumed to be owner occupied. The parking spaces will be deeded with the condominiums.

Mr. Copelas- states that the Board understands that even though the residential units will be sold as condominiums, that it may not be the case that they will be owner occupied.

Attorney Correnti- states that the applicant will not take a condition stating that the residential units will be owner occupied and states that it is beyond the jurisdiction of the Zoning Board to require the applicant to do so with a request for a height variance. Understand the concerns and what is trying to be protected.

Mr. Duffy- if there is deeded parking it seems that the incentive would be to park in spaces. Can the Board condition that it prefers that occupants park in their own parking spaces rather than in a public parking space on the street?

Mr. St. Pierre- states that this would be difficult to enforce.

Mr. Tsitsinos- states discontent with this suggestion.

Mr. Watkins- also expresses disagreement with the suggested condition.

Mr. Copelas- reads two (2) petitions of support from 4 Barton Street and 99 Bridge Street into the record.

Mr. Copelas closes the public hearing.

**Motion and Vote:** Mr. Duffy makes a motion to approve the petition seeking a Variance from the maximum building height to allow an increase in building height from the existing thirty-feet (30') to thirty-five feet (35') and a Special Permit requesting relief from Sec.

*3.3.3 Nonconforming Structures* of the Salem Zoning Ordinance, to extend the existing non-conforming structure to allow a 182 square foot addition subject to nine (9) standard conditions. The motion is seconded by Mr. Watkins. The vote was unanimous with five (5) in favor (Peter A. Copelas (Vice-Chair), Jimmy Tsitsinos, Mike Duffy, Tom Watkins, Paul Viccica) and none (0) opposed.



Project	Request for a six (6) month extension for exercise of rights granted by the September 9, 2014 Variances from the provisions of Section 4.0 Dimensional Requirements of the Salem Zoning Ordinance, to allow less than the required 100-foot minimum lot frontage and less than the required 100-foot minimum lot width for two proposed lots. The proposed lots will take their frontage from a shared driveway off of Marlborough Road.
Applicant	ANTHONY JERMYN & RICHARD JERMYN
Location	148 MARLBOROUGH RD (R1 Zoning District)(Map 9 Lot 21)

#### Documents and Exhibitions

- Application dated June 23, 2015 and supporting documentation

Attorney Correnti presents the petition and requests a six (6) month extension to exercise rights granted by the September 9, 2014 Variance from the provisions of Section 4.0 Dimensional Requirements of the Salem Zoning Ordinance, to allow less than the required 100-foot minimum lot frontage and less than the required 100-foot minimum lot width for two proposed lots. The proposed lots will take their frontage from a shared driveway off of Marlborough Road.

**Motion and Vote:** Mr. Watkins makes a motion to approve the petition requesting a six (6) month extension for exercise of rights granted by the September 9, 2014 Variances from the provisions of Section 4.0 Dimensional Requirements of the Salem Zoning Ordinance, to allow less than the required 100-foot minimum lot frontage and less than the required 100-foot minimum lot width for two proposed lots. The proposed lots will take their frontage from a shared driveway off of Marlborough Road. The motion is seconded by Mr. Tsitsinos. The vote was five (5) in favor (Peter A. Copelas (Vice-Chair), Jimmy Tsitsinos, Mike Duffy, Tom Watkins, Paul Viccica) and none (0) opposed.

#### **APPROVAL OF MEETING MINUTES**

June 17, 2015 meeting minutes were approved.

**Motion and Vote:** Mr. Copelas makes a motion to approve the minutes as printed, seconded by Mr. Duffy. The vote was with five (5) (Peter A. Copelas (Vice-Chair), Jimmy Tsitsinos, Mike Duffy, Tom Watkins, James Hacker) in favor and none (0) opposed.

#### **OLD/NEW BUSINESS**

*None*

#### **ADJOURNMENT**

Mr. Watkins motioned for adjournment of the July 15, 2015 regular meeting of the Salem Board of Appeals at 10:30pm.

**Motion and Vote:** Mr. Watkins made a motion to adjourn the July 15, 2015 regular meeting of the Salem Board of Appeals, seconded by Mr. Tistsinos, and the vote is unanimous with five

(5) in favor (Peter A. Copelas (Vice-Chair), Jimmy Tsitsinos, Mike Duffy, Tom Watkins, James Hacker) and none (0) opposed.

*For actions where the decisions have not been fully written into these minutes, copies of the decisions have been posted separately by address or project at:  
[http://salem.com/Pages/SalemMA\\_ZoningAppealsMin/](http://salem.com/Pages/SalemMA_ZoningAppealsMin/)*

Respectfully submitted,  
Erin Schaeffer, Staff Planner