

City of Salem Zoning Board of Appeals
Meeting Minutes
October 19, 2022

A special meeting of the Salem Zoning Board of Appeals (“Salem ZBA”) was held on Wednesday, October 19, 2022 at 6:30 pm via remote participation in accordance with a Special Act extending remote participation meetings until March 31, 2023.

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

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

Chair Duffy welcomes back Rosa Ordaz and introduces the newest Board member, Nina Vyedan.

ROLL CALL

Those present were: Mike Duffy (Chair), Peter Copelas, Rosa Ordaz Paul Viccica, Nina Vyedan, and Steven Smalley. Also in attendance were Daniel Laroe – Staff Planner, and Jonathan Pinto – Recording Clerk. Those absent were: Carly McClain

Mr. Viccica indicates he will need to recuse himself for the item concerning 9 Cambridge Street. The Board discusses voting, noting that Ms. Ordaz will not vote on continuances this meeting.

CONTINUANCES

- Location: **70 Proctor Street (Map 15, Lot 386) (R1 Zoning District)**
- Applicant: **George Lambos**
- Project: A continuance of a public hearing for all persons interested in the petition of GEORGE LAMBOS at 70 PROCTOR STREET (Map 15, Lot 386) (R1 Zoning District), for a Special Permit per Section 3.3.5 Non-conforming Single- and Two-Family Residential Structures of the Salem Zoning Ordinance to convert a two (2) family dwelling into a three (3) family dwelling by constructing the third (3rd) dwelling in the basement.

Documents and Exhibitions

- Application date-stamped April 27, 2022 and supporting documentation

Chair Duffy introduces the petition.

Darguin Fortuna introduces himself on behalf of the petitioner, and summarizes the relief requested to turn an existing two-family home to a three-family home. Mr. Fortuna suggests the request meets the special permit criteria, and responds to concerns previously raised by the Board. Mr. Fortuna presents the parking layout, and states that the four existing spots which are tandem spaces serve the existing two units. Mr. Fortuna contends that the four existing spots are grandfathered into the calculation of parking requirements, and that the proposed additional space will service the new unit. Mr. Fortuna states he has a letter from building commissioner Tom St. Pierre regarding his opinion

on grandfathered parking spaces. Mr. Fortuna also suggests alternatively, if the Board were to disagree with his interpretation, continuing to the next meeting and seeking a variance to add one additional space rather than the required 1.5 spaces per unit. Mr. Fortuna suggests that Mr. St. Pierre's letter could be interpreted many ways. He states the Board could consider the existing units never having any parking or parking requirements since they existed before zoning, and also suggests that even if the total amount of legal parking were to be considered three spaces, two could be grandfathered in (while still being utilized to fit four cars), and the the new space would provide three legal spaces for the three units. Mr. Fortuna runs through his presentation for the Board.

Mr. Copelas asks for clarification as to whether the petitioner is seeking to withdraw, ask for a continuance and re-advertise as a variance request, or something else. He notes that if the plan is to seek a variance, the discussion cannot continue tonight without notice. Chair Duffy asks Mr. Fortuna, and he confirms that he does not want to request a variance. Mr. Lambos, the petitioner, also confirms.

Chair Duffy notes the question is whether this can be permitted by special permit, and whether the parking that is being added is sufficient to comply with bylaws.

Mr. Copelas indicates that the petitioner has presented several interpretations, but seems to infer that they are the only possibilities. Mr. Copelas asks Mr. St. Pierre to provide his opinion or clarification, but that his understanding is that the two legal spots which currently accommodate four cars is an existing nonconformity. As such, the the request to add an additional unit does not mean that all three units need legal spots, but rather that only the new unit must meet the requirement of 1.5 spaces per unit, which rounds up to two spaces. Mr. St. Pierre states he believes Mr. Copelas has interpreted his letter correctly, and that the alternative scenarios contemplated by the petitioner, while creative, do not seem to make sense.

Mr. Fortuna contends that the proposal keeps cars off of the streets, and that the proposal is not more detrimental to the neighborhood than existing conditions. He notes that there was no parking originally, and that the existing driveway was created after the fact. He maintains that the petition is only adding one unit. Mr. Copelas states that while it is just one unit, there is only one parking spot which does not meet the requirement. Mr. Fortuna reiterates his arguments, and Chair Duffy confirms that the requirement amount of spaces would be two rounding up from 1.5 parking spaces. Chair Duffy clarifies that the Board does not have the authority to grant one parking space for a new unit by special permit, and that a variance is needed. He asks how the petitioner would like to proceed.

Mr. Laroe indicates a man came to the office with a question regarding this petition and the property lines in the survey, noting there appears to be disagreement between surveys and site plans. Mr. Copelas asks if this concerns the six foot strip on the right of the property, and Mr. Laroe confirms.

Chair Duffy opens the floor to public comment.

John Gillilo introduces himself as the gentleman who came to Mr. Laroe and dropped off documentation challenging the petitioners presentation regarding the size of the property and location of the property line. While the petitioner claims the frontage to be 60 feet, Mr. Gillilo states it is actually 54 feet. Mr. Fortuna suggests getting the surveyor he used on the phone or meeting. Chair Duffy asks if the allegations are true if that means that the existing parking encroaches on the

neighboring property. Mr. Gillilo states that is the case. Mr. Copelas notes that in the Board's documents there is a mortgage inspection showing 66 feet across, but also shows a bituminous drive extending into the abutting lot. Mr. Laroe presents the mortgage inspection for the Board. Chair Duffy indicates that the dimensions being in question now raises additional concerns and issues. He reiterates that the proposal also does not provide necessary parking as presented. Mr. Copelas agrees and states that if the petitioner has no objection he is ready to make a motion in the affirmative for the Board to vote.

Chair Duffy explains the consequences of voting and the petition being denied, which includes a waiting period of two years before the petitioner may come back with a new proposal. Mr. Fortuna states he would like to continue to the next meeting with a readvertising seeking a variance. Chair Duffy asks if the petitioner would like to continue to the November meeting or the December meeting, and they agree on the December meeting.

Motion and Vote: Mr. Viccica motions to continue the petition of GEORGE LAMBOS at 70 PROCTOR STREET(Map 15, Lot 386) (R1 Zoning District), for a Special Permit per Section 3.3.5 Non-conforming Single- and Two-Family Residential Structures of the Salem Zoning Ordinance to convert a two (2) family dwelling into a three (3) family dwelling by constructing the third (3rd) dwelling in the basement to the regularly scheduled meeting of the ZBA on December 14, 2022:

Mr. Copelas seconds the motion. **The vote is five (5) in favor (Mike Duffy (Chair), Peter Copelas, Paul Viccica, Steven Smalley, and Nina Vyedin) and none (0) opposed. The motion passes.**

Location: **9 Cambridge Street (Map 25, Lot 564) (R2 Zoning District)**

Applicant: **Elisa Hofmeester**

Project: A continuance of a public hearing for all persons interested in the petition of ELISA HOFMEESTER at 9 CAMBRIDGE STREET(Map 25, Lot 564) (R2 Zoning District), for a Special Permit per Section 3.3.5 Nonconforming Single- and Two-Family Residential Structures of the Salem Zoning Ordinance to demolish a two-story (2) addition and construct a new fifteen (15) ft by twenty (20) ft two-story (2) addition at the rear of the dwelling. The proposed side yard set back will be 2.3 feet.

Documents and Exhibitions

- Application date-stamped May 16, 2022 and supporting documentation

Chair Duffy introduces the petition.

Mr. Viccica states he is recusing himself from this petition.

Helen Sides introduces herself on behalf of Elisa and Nico Hofmeester, and indicates the property is next door to Hamilton Hall. Ms. Sides explains the petitioners have been before the Historic al Commission and have received their approval. She presents a site survey demonstrating existing and proposed conditions. Ms. Sides explains the the petitioners are seeking a special permit to continue

the line back on the side yard setback after demolishing the existing addition which is in poor condition. She notes the existing addition was poorly build with no foundation, and that the new addition will provide a more functional kitchen, mud room entry, and half bathroom on the first floor, and a full bathroom on the second floor. Ms. Sides presents elevations of all sides of the property, as well as photographs of existing conditions. There are no new windows being proposed close to the abutter.

Chair Duffy states the petition seems to be straight forward, and notes there is a letter on file from the owners of 13 Chestnut Street, which is the property at the corner of Cambridge Street. The letter expresses support for the relief requested.

Mr. Copelas indicates he thought he saw letter of support from Hamilton Hall but cannot seem to find it. Ms. Sides confirms that one was submitted. Mr. Laroe presents the letter from Hamilton Hall in support.

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

Chair Duffy discusses the special permit criteria and how they have been met by the applicant.

Motion and Vote: Mr. Copelas motions to approve the petition of ELISA HOFMEEESTER at 9 CAMBRIDGE STREET (Map 25, Lot 564) (R2 Zoning District), for a Special Permit per Section 3.3.5 Nonconforming Single- and Two-Family Residential Structures of the Salem Zoning Ordinance to demolish a two-story (2) addition and construct a new fifteen (15) ft by twenty (20) ft two-story (2) addition at the rear of the dwelling 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. A Certificate of Inspection is to be obtained.
8. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board.
9. All construction shall be done per the plans and dimension submitted to and approved by this Board. Any modification to the plans and dimensions must be approved by the Board of Appeals unless such changes are deemed a minor field change by the Building Commissioner in consultation with the Chair of the Board of Appeals.
10. Petitioner shall schedule Assessing Department inspections of the property, at least annually, to project completion and a final inspection upon project completion.

Ms. Vyedin seconds the motion. **The vote is four (4) in favor (Mike Duffy (Chair), Peter Copelas, Steven Smally, and Nina Vyedin) and none (0) opposed . The motion passes.**

Location: **25 Warren Street (Map 25, Lot 270) (R2 Zoning District)**

Applicant: **Megan Nentwich**

Project: A continuance of public hearing for all persons interested in the petition of MEGAN NENTWICH at 25 WARREN STREET (Map 25, Lot 270) (R2 Zoning District), for a Special Permit per Section 3.3.5 Nonconforming Single- and Two-Family Residential Structures of the Salem Zoning Ordinance to demolish a one-story porch and add a three (3) story addition to the rear of the property. The additions will be 8' x 13' feet and will be used as bathrooms. The rear yard setback will be reduced from two (2) feet to one (1) foot.

Documents and Exhibitions

- Application date-stamped June 29, 2022 and supporting documentation

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

Motion and Vote: Mr. Copelas motions to approve the request to withdraw without prejudice the petition of MEGAN NENTWICH at 25 WARREN STREET (Map 25, Lot 270) (R2 Zoning District), for a Special Permit per Section 3.3.5 Nonconforming Single- and Two-Family Residential Structures of the Salem Zoning Ordinance to demolish a one-story porch and add a three (3) story addition to the rear of the property.

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

Location: **1 and 2 Leefort Terrace (Map 41, Lot 242) (R2 Zoning District)**

Applicant: **BC Leefort Terrace Lane Communities, LLC**

Project: A continuance of a public hearing for all persons interested in the petition of BC LEEFORT TERRACE LANE COMMUNITIES, LLC at 1 LEEFORT TERRACE LANE (Map 41, Lot 249) and at 2 LEEFORT TERRACE LANE (Map 41, Lot 242) (R2 Zoning District), for a Comprehensive Permit pursuant to M.G.L. Chapter 40B, to construct one hundred twenty-four (124) new units, Fifty (50) of those units will be replacing the current units at Leefort Terrace.

Documents and Exhibitions

- Application date-stamped April 11, 2022 and supporting documentation

Chair Duffy introduces the petition. He explains that there will be a special meeting on October 24th for this petition, and that they are seeking to continue tonight. Mr. Laroe confirms.

Motion and Vote: Ms. Ordaz motions to continue the petition of BC LEEFORT TERRACE LANE COMMUNITIES, LLC at 1 LEEFORT TERRACE LANE(Map 41, Lot 249) and at 2 LEEFORT TERRACE LANE(Map 41, Lot 242) (R2 Zoning District), for a Comprehensive Permit pursuant to M.G.L. Chapter 40B, to construct one hundred twenty-four (124) new units, Fifty (50) of those units will be replacing the current units at Leefort Terrace to the special meeting of the ZBA on October 24, 2022.

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

Location: **10 Osborne Street (Map 27, Lot 314) (R2 Zoning District)**

Applicant: **Atlantic Coast Homes**

Project: A continuance of a public hearing for all persons interested in the petition of ATLANTIC COAST HOMES at 10 OSBORNE STREET(Map 27, Lot 314) (R2, B1 Zoning District), for a Special Permit per Section 3.3.5 Nonconforming Single- and Two-Family Residential Structures of the Salem Zoning Ordinance to renovate and expand the existing third floor dormer in the existing house for two (2) townhome units and a rear addition with garage parking below. The addition would have three (3) townhome units. This proposal would create a total of five (5) townhome units and eight (8) parking spaces. The existing lot and building are nonconforming in lot area, frontage and front and side setbacks.

Documents and Exhibitions

- Application date-stamped August 2, 2022 and supporting documentation

Chair Duffy introduces the petition.

Attorney Bill Quinn introduces himself on behalf of the petitioner, explaining that he represents Mike Becker, who contracted to purchase the property from the current owners and is seeking to add additional housing units. Mr. Quinn indicates they appeared before the Board last month and there were a number of questions and concerns from some neighbors and others. Mr. Quinn explains that the proposal has been modified and reduced from five to four units, and states the petitioner is seeking approval of the revised plans. The existing home would be a one family under the new proposal rather than being subdivided, and the proposed dormer and additional height have been eliminated. Mr. Quinn states that after discussions with neighbors there have been some letters of support. Mr. Quinn contends with the four unit proposal the density would be almost 1,800 square feet of lot area per dwelling. He adds that 14 of the neighboring properties of lot area per dwelling units of less than 1,791 square feet, which is what is proposed here. Mr. Quinn asks if there will be five Board members voting, and Mr. Laroe confirms there will.

Mr. Copelas notes that Ms. Ordaz and Ms. Vyedín would have to have been present for prior presentations to vote. Ms. Vyedín indicates while she was not yet a Board member, she was present. Mr. Copelas states she can vote if she is willing to sign a Mullins affidavit indicating she has reviewed the materials and is familiar with the facts and evidence presented during prior meetings. Ms. Vyedín states she is comfortable signing the affidavit and voting.

Mr. Quinn states the petition adds needed housing units to a mixed use neighborhood, and also notes the property straddles the zoning line between B1 and R2 districts, which allow the proposed use. He maintains the petitioner is seeking an allowed use by special permit to increase from a one- to a four-family property and explains the petition will still have eight parking spaces. Mr. Quinn states there have been certain conditions promised to the neighbor on Foster Street, Diane Robishow, who is downhill from the property and raised concerns about drainage. Mr. Quinn indicates Mr. Becker met at length with her and that he has agreed to certain conditions to abate her concerns. The conditions are to provide storm water management and drainage for roof runoff with the new construction, to keep paving at least eight feet from the property line, and to remove invasive bamboo, which will be replaced by six foot arborvitae trees for shelter and privacy. Regarding prior concerns raised by Mr. Copelas related to ownership of the property, Mr. Quinn states an amendment to the purchase and sale agreement was submitted that calls out the rights and consent of the owner and that the applicant is seeking the petition on her behalf.

Mr. Copelas acknowledges that with two legal spaces per unit proposed the requirements are more than met. Mr. Becker adds that each unit will have at least one garage spot, and that there will be two spaces in the back for guest parking. Mr. Copelas states that the allocation of parking is at the owners discretion.

Chair Duffy acknowledges several letters of support, including those from residents of 11 Foster Street, 8 Osborne Street, 12 Osborne Street, and from Ahmed Real Estate.

Ms. Vyedyn asks if the original building will be redone completely. Becker states the roof is recent, and that original details with any historic value will be maintained when gutting the interior.

Mr. Copelas asks if going from five units to four changes any of the restrictions or requirements, particularly with respect to sprinklers. Mr. Becker indicates there will be sprinklers in the original and new units to meet NFP requirements. Mr. Ricciarelli confirms it is required for anything over three units.

Chair Duffy opens the floor to public comment.

Victoria Picadillo of 5 Foster Street introduces herself and states she is Diane Robishow's neighbor, who she contends will be most affected by the proposed development. Ms. Picadillo indicates Ms. Robishow is sick today, but that she met with her and that Ms. Robishow is not in agreement with anything at this point. Ms. Picadillo adds that one of Ms. Robishow's daughters is also on her way over to provide comment. She suggests delaying the petition until Ms. Robishow is better. Ms. Picadillo states Ms. Robishow would prefer to see two units on Osborne Street and only two units in the rear of the property, and that she is also displeased that the rear units will be only thirty feet from her property line. Ms. Picadillo suggests it is ludicrous to stick units essentially in an existing home's backyard and characterizes the rear units as landlocked. Ms. Picadillo asks what would happen if there was a fire in one of the new units only thirty feet away, and also expresses concern as to whether emergency vehicles will be able to turn around.

Mr. Quinn states Ms. Picadillo must have misunderstood as he contends he did not say that Ms. Robishow and Mr. Becker were in full agreement. Ms. Picadillo reiterates her and Ms. Robishow's concerns and states they would like to see the rear units closer to fifty feet from the property line.

Michelle Robishow introduces herself as Diane Robishow's daughter and explains that her mother has been ill for two days and is unable to comment, but that she came on her behalf. She indicates her mother appreciates that Mr. Becker reached out to discuss her concerns, but that she is still dissatisfied with having three townhouses in the back as she feels it is too dense. Ms. Robishow states she and her mother would prefer to see two units in the rear and two in the existing building. She contends that thirty feet is a little too close, and explains that her mother has lived in the home for 56 years and that it would not be fair to have three units abutting her property.

Chair Duffy asks if Mr. Becker would like to address any comments. Mr. Becker presents an overhead map showing an aerial view of the properties, points out the existing pool and other features. He states he does not wish to minimize any concerns, but indicates the buildings will be sprinklered to code and that from the back of Ms. Robishow's home to the lot line it is over 25 feet, so he suggests the 30 foot mentioned is a mischaracterization. Mr. Ricciarelli clarifies that Ms. Robishow's home is actually 60 feet from her property line, and the rear addition would be approximately 30 feet from that. He also confirms the plan for sprinklers and adherence to safety requirements.

Mr. Viccica asks about the building height, and Mr. Ricciarelli indicates it is 29.1 feet to the ridge as measured from the street, and 31.6 feet in the back, both of which are under the 35 foot limit.

Ms. Vyedin asks about conversations with neighbors about sight lines, and Mr. Becker says he met with the neighbor across the street who had initial concerns, and that is part of why he is keeping the existing roof lines. He also indicates he provided additional letters of support signed by five individuals. Chair Duffy acknowledges the letter in support signed by residents at 130 North Street, 130.5 North Street, 9 Upham Street, 116 North Street, and 5 Osborne Street.

Mr. Viccica clarifies that only one of the originally proposed dormers has been removed, not all three, and Mr. Becker states that is correct. Mr. Ricciarelli states they eliminated the dormer on the new unit closes to the existing house. Mr. Viccica notes that the letter seems to indicate the resident at 12 Osborne Street did not understand that the entire length of dormers was not being eliminated. Mr. Viccica adds that the dormers will look into his upper floor, and that he doubts that removing one set of dormers would have complied with the request for privacy. Mr. Becker states he attempted to follow up with the resident but was unable to. He indicates he would not object to removing the next dormer as well, as he would not want anyone to feel misled. Mr. Viccica suggests the plot plans and elevations do not show context, and reiterates his concerns about the dormers. Mr. Viccica suggests that all dormers on the Osborne Street side be eliminated from the proposal, noting that the other side is the southwestern side which will provide plenty of light for the family room. Mr. Becker indicates he is comfortable with the modification.

Mr. Copelas clarifies special conditions in anticipation of a motion. One will require the petitioner to meet current stormwater management requirements and prevent water infiltration to abutting properties as approved by the City Engineering Department, another will restrict any paving within eight feet of the property line, and the bamboo will be removed and replaced with six foot arborvitae. Mr. Copelas also states the current plan will be amended to remove all dormers facing 12 Osborne Street. Mr. Quinn states his client will accept those conditions. Mr. Viccica provides suggestions to refine the condition language.

Motion and Vote: Mr. Copelas motions to approve the petition of ATLANTIC COAST HOMES at 10 OSBORNE STREET(Map 27, Lot 314) (R2, B1 Zoning District), for a Special Permit per Section 3.3.5 Nonconforming Single- and Two-Family Residential Structures of the Salem Zoning Ordinance to renovate the existing third floor dormer in the existing house for one (1) townhome unit and a rear addition with garage parking below, where the addition would have three (3) townhome units, for a total of four (4) townhome units and eight (8) parking spaces, 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. A Certificate of Inspection is to be obtained.
8. Petitioner shall obtain street numbering from the City of Salem Assessor's Office and shall display said number so as to be visible from the street.
9. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board.
10. All construction shall be done per the plans and dimension submitted to and approved by this Board. Any modification to the plans and dimensions must be approved by the Board of Appeals unless such changes are deemed a minor field change by the Building Commissioner in consultation with the Chair of the Board of Appeals.
11. Petitioner shall schedule Assessing Department inspections of the property, at least annually, to project completion and a final inspection upon project completion.

And the following special conditions:

1. Petitioner will provide stormwater management plans to prevent water infiltration to abutting properties to be approved by the City Engineering Department.
2. No paving within eight (8) feet of the rear property line.
3. All dormers facing 12 Osborne Street in the original plans will be removed.
4. Petitioner shall provide landscaping improvements to ensure privacy to abutters and remove all invasive plantings.

Mr. Viccica seconds the motion. **The vote is five (5) in favor (Mike Duffy (Chair), Peter Copelas, Paul Viccica, Nina Vyedin, and Steven Smalley) and none (0) opposed . The motion passes.**

REGULAR AGENDA

Location: **20 Commercial Street (Map 26, Lot 50) (NRCC Zoning District)**

Applicant: **Stacey Correia**

Project: A public hearing for all persons interested in the petition of STACEY CORREIA at 20 COMMERCIAL STREET(Map 26, Lot 50) (NRCC Zoning District), for a Variance per Section 4.1.1 Dimensional Requirements and 5.0 General Regulations of the Salem Zoning Ordinance to make a 100 (one hundred) foot curb cut where a 30 (thirty) feet maximum curb cut is allowed.

Documents and Exhibitions

- Application date-stamped July 25, 2022 and supporting documentation

Chair Duffy introduces the petition.

Stacey Correia introduces herself on behalf of veterinarians and business owners Dr. Dixon and Dr. Hezekiah. Ms. Correia presents a diagram of the proposed parking changes and explains they are seeking a 100 foot curb cut in total, where the 27 foot curb and 45 foot curb on either side would be eliminated to enable more clients to park by pulling straight in to spots. Currently this small parking area can only accommodate four spots, and the variance seeks to allow 10 cars to fit. Ms. Correia indicates the petitioners are seeking a variance.

Chair Duffy asks for further information regarding traffic, parking, and turning with existing conditions. Ms. Correia notes there is a parking lot to the left as well and that there have been no issues entering and existing there, and that she cannot force any issues coming out of the lot with the proposed changes. Dr. Hezekiah adds that there is minimal traffic on Commercial Street, and that the only people driving down are mostly clients of the veterinarian clinic, as the only property past the clinic is National Lumber. Ms. Vyeidin asks about the building to the right of the clinic, and Dr. Hezekiah explains it became a Knights of Columbus, and that they do not have a curb so cars pull straight in and out all the time. She explains the dynamics and conditions of the streets in more detail noting minimal issues and traffic.

Mr. Copelas states that when seeking a variance a petitioner must demonstrate a particular hardship, and that so far there has been no mention of a shortage of parking. Mr. Copelas suggests the parking lot on the left seems like the space could be better utilized, and contends the curb cut proposed is a big lift despite what might be the case on the rest of the street. He asks if the left hand parking lot has been examined carefully, and suggests the proposal seems to be based on convenience rather than a true hardship.

Ms. Correia explains that the left hand parking lot has handicap accessible parking and five spaces along the building, and that in addition do several doctors there are often five or six clients at the clinic at a time, sometimes more. She adds that the business has grown, as have the number of employees, and at this point there is not enough parking to accommodate the needs of the business. Dr. Hezekiah further notes that sometimes there can be up to 13 staff members present at a time as there are appointments, surgeries, and lots of emergencies lately.

Mr. Viccica suggests it may be good to remind Board members that when approving the Knights of Columbus, they approved it with zero or minimum parking with the understanding that street parking would be an accommodation, and that a recent project at the end of the street was approved with no parking. He maintains that this section of Commercial Street is akin to the wild west of Salem parking, and that the petitioner's business was at one point fledgling but has become successful in treating many of the towns pets. Mr. Viccica states that if there is not enough land to provide parking for the public and those serving the public, that would be reason enough for him to vote to approve the petition. Mr. Viccica notes there are no curb cuts on any other building on the street except this one, and to hold this property to a standard no one else is held to on the street seems to be outside the boundary of common sense.

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

Chair Duffy states no written comments were filed, and summarizes the variance standard. Chair Duffy suggests the conditions of the land are unique and not indicative of the entire district, such that enforcing strict compliance would present a hardship on this particular property. This property is unique in being the only one on the street with a curb and curb cut, and Chair Duffy acknowledges that the business has been successful and the parking needs are now in excess of what it has been able to supply.

Ms. Vyedín indicates she went to the veterinary clinic today to bring her pet and that she had difficulty parking, so she can support the applicant's claims.

Motion and Vote: Mr. Viccica motions to approve the petition of STACEY CORREIA at 20 COMMERCIAL STREET (Map 26, Lot 50) (NRCC Zoning District), for a Variance per Section 4.1.1 Dimensional Requirements and 5.0 General Regulations of the Salem Zoning Ordinance to make a 100 (one hundred) foot curb cut where a 30 (thirty) feet maximum curb cut is allowed, 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. A Certificate of Inspection is to be obtained
5. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board.
6. All construction shall be done per the plans and dimension submitted to and approved by this Board. Any modification to the plans and dimensions must be approved by the Board of Appeals unless such changes are deemed a minor field change by the Building Commissioner in consultation with the Chair of the Board of Appeals.
7. Petitioner shall schedule Assessing Department inspections of the property, at least annually, to project completion and a final inspection upon project completion.

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

Location: **198 Loring Avenue (Map 31, Lot 31) (R1 Zoning District)**

Applicant: **Francisco Gomez**

Project: A public hearing for all persons interested in the petition of FRANCISCO GOMEZ at 198 LORING AVENUE (Map 31, Lot 31) (R1 Zoning District), for a Special Permit per Section 3.3.2 Nonconforming Uses of the Salem Zoning Ordinance to construct and open a barbershop at the location of 198 LORING AVENUE.

Documents and Exhibitions

- Application date-stamped September 1, 2022 and supporting documentation

Chair Duffy introduces the petition.

Frank Gomez, Sr. introduces himself and his son Francisco Gomez, Jr., and states his son is a licensed barber who graduated from the New England Hair Academy and Salem High School. Mr. Gomez states the location used to be a barbershop at some point in time, and that when seeking out inspection services he was informed he had to come before the Board to obtain a special permit to reopen a barbershop at the location, which is why he is before the Board today.

Chair Duffy asks what the space will look like on the inside, and asks for details regarding clients, parking, and hours.

Francisco Gomez, Jr. introduces himself and explains the business will run as appointment only for the most part. He notes that he has been cutting hair for four years, and that he has built his clientele while working at barbershops at 116 and 156 North Street. Mr. Gomez indicates he will use an app called Booksy to book appointments, and that hours of operation will be Tuesday from 10AM to 5PM, Wednesday through Friday 10AM to 9PM, and Saturday from 9AM to 5PM. The shop will close Sunday and Monday. Mr. Gomez presents a floor plan and shows the interior layout, as well as photos of the parking and exterior conditions. There is a nearby bust stop and four-hour metered parking. Mr. Gomez indicates the landlord allows parking in the driveway off of Pickman Street for employees. Appointments take 45 minutes on average according to Mr. Gomez. He shows a photo from when Gentleman's Choice used to occupy the space. The interior will not be altered just updated, and Mr. Gomez indicates he will have two additional barbers working for him that he has trained for two years.

Mr. Gomez, Sr. states the landlord, Carlos Patrone, is present as well.

Carlos Patrone introduces himself and describes the property history prior to his acquisition, noting that the prior owner had difficulty renting out the spaces. He explains how a barbershop had been in the space for over 20 years previously, but since then had been vacant or used by a real estate firm.

Mr. Viccica asks when the property was acquired, and Mr. Patrone states it was April of this year. Mr. Viccica asks when exactly the space was last used as a barbershop, and Mr. Patrone indicates he is unsure, but that the space has been vacant for two years.

Chair Duffy asks what is in the remainder of the building. Mr. Patrone indicates there is storage, and above the commercial space is one residential unit which he resides in.

Ms. Ordaz asks if there are any proposed changes or construction to the exterior, and the petitioner states there are not.

Mr. Copelas notes that Gentleman's Choice was in business for 40 years and a well regarded Salem barbershop for a long time. Mr. Copelas commends the petitioner going out on his own to start a

business and reinstitute a longstanding use to provide a service for the neighborhood. Given the history of the location, Mr. Copelas states he does not have a problem with the petition.

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

Chair Duffy notes a statement of grounds was provided and summarizes the special permit criteria. He determines the proposal is not more detrimental than the current use, and would be keeping in character of the neighborhood.

Motion and Vote: Mr. Copelas motions to approve the petition of FRANCISCO GOMEZ at 198 LORING AVENUE (Map 31, Lot 31) (R1 Zoning District), for a Special Permit per Section 3.3.2 Nonconforming Uses of the Salem Zoning Ordinance to construct and open a barbershop at the location of 198 LORING AVENUE, subject to the following standard conditions:

1. Petitioner shall comply with all city and state statutes, ordinances, codes, and regulations.
2. All construction shall be done as per the plans and dimensions submitted to and approved by the Building Commissioner.
3. All requirements of the Salem Fire Department relative to smoke and fire safety shall be strictly adhered to.
4. Petitioner shall obtain a building permit prior to beginning any construction.
5. A Certificate of Occupancy is to be obtained.
6. A Certificate of Inspection is to be obtained
7. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board.
8. All construction shall be done per the plans and dimension submitted to and approved by this Board. Any modification to the plans and dimensions must be approved by the Board of Appeals unless such changes are deemed a minor field change by the Building Commissioner in consultation with the Chair of the Board of Appeals.
9. Petitioner shall schedule Assessing Department inspections of the property, at least annually, to project completion and a final inspection upon project completion.

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

Location: **11 Orleans Avenue (Map 8, Lot 36) (R1, B2 Zoning District)**

Applicant: **Scott Charlton**

Project: A public hearing for all persons interested in the petition of SCOTT CHARLTON at 11 Orleans Avenue (Map 8, Lot 36) (R1, B2 Zoning Districts), for a Special Permit per Section 3.3.5 Nonconforming Single- and Two-Family Residential Structures of the Salem Zoning Ordinance to construct a 16' x 18' one story addition. In the R1 Zoning district the side setback is 10'. The project will be within that setback at 7'7".

Documents and Exhibitions

- Application date-stamped September 12, 2022 and supporting documentation

Chair Duffy introduces the petition.

Scott Charlton introduces himself and presents photos of the back of the house. Mr. Charlton explains the new structure would be on the left and go just to the left of the sliding glass door. He next presents a plot plan and shows where the proposed addition will go on the existing deck, and demonstrates the new deck being eight by twelve feet. The addition will be in line with the existing house. Mr. Charlton presents a 3D rendering of the proposal, and notes the existing deck would be demoed.

Mr. Copelas notes that the addition does not seem to increase the encroachment and that there is no issue regarding the rear setback. Mr. Copelas asks why there is a need for a special permit if there is not a greater nonconformity. Mr. St. Pierre states that per Section 3.3.5, there is a two-pronged test that must be met and one is whether the proposed addition conforms to zoning. Mr. Copelas thanks Mr. St. Pierre for the clarification and notes that usually the Board looks at petitions where nonconformities are being increased. He notes the infringement appears to be minor. Mr. St. Pierre and Chair Duffy confirm their understanding of Section 3.3.5 and the requirement for a special permit.

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

Chair Duffy speaks to the minimal nature of the relief requested, and summarizes the petition.

Motion and Vote: Mr. Viccica motions to approve the petition of SCOTT CHARLTON at 11 Orleans Avenue (Map 8, Lot 36) (R1,B2 Zoning Districts), for a Special Permit per Section 3.3.5 Nonconforming Single- and Two-Family Residential Structures of the Salem Zoning Ordinance to construct a 16' x 18' one story addition, 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. Any modification to the plans and dimensions must be approved by the Board of Appeals unless such changes are deemed a minor field change by the Building Commissioner in consultation with the Chair of the Board of Appeals.
9. Petitioner shall schedule Assessing Department inspections of the property, at least annually, to project completion and a final inspection upon project completion.

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

Location: **181 Marlborough Road (Map 10, Lot 16) (R1 Zoning District)**

Applicant: **William Craig**

Project: A public hearing for all persons interested in the petition of WILLIAM CRAIG at 181 MARLBOROUGH ROAD (Map 10, Lot 16) (R1 Zoning District), for a Special Permit per Section 3.3.5 Nonconforming Single- and Two-Family Residential Structures of the Salem Zoning Ordinance to demolish the second floor and construct a new second and third floor of the property. All construction will stay within the existing footprint of the structure. Relief is requested for three (3) stories, where two and half (2.5) stories is allowed.

Documents and Exhibitions

- Application date-stamped September 12, 2022 and supporting documentation

Chair Duffy introduces the petition.

William Craig introduces himself and explains he is proposing to remove the second story of the property and rebuild it, while also adding an additional third story by adding dormers. He presents plans and elevations. Mr. Craig states he will not be changing the footprint, but simply making more living space for him and his growing family.

Chair Duffy requests to see plot plans. Mr. Craig indicates the plans are identical to the ones submitted and approved by the Board in 2019, but that the project was never started because of the pandemic and the special permit timed out.

Mr. St. Pierre asks if anything has changed from the previously approved 2019 petition, and Mr. Craig indicates nothing has. Chair Duffy acknowledges the Board previously approved the petitioner's request.

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

Chair Duffy discusses the special permit criteria, and notes the Board entertained the same inquiry before. He summarizes the proposal, and concludes it is not substantially more detrimental than the existing nonconformity.

Motion and Vote: Mr. Viccica motions to approve the petition of WILLIAM CRAIG at 181 MARLBOROUGH ROAD (Map 10, Lot 16) (R1 Zoning District), for a Special Permit per Section 3.3.5 Nonconforming Single- and Two-Family Residential Structures of the Salem Zoning Ordinance to demolish the second floor and construct a new second and third floor of the property, where all construction will stay within the existing footprint of the structure, and relief for three (3) stories, where two and a half (2.5) stories is allowed, 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. Unless this Decision expressly provides otherwise, any zoning relief granted does not empower or authorize the Petitioner to demolish or reconstruct the structure(s) located on the subject property to an extent of more than fifty percent (50%) of its floor area or more than fifty percent (50%) of its replacement cost at the time of destruction. If the structure is demolished by any means to an extent of more than fifty percent (50%) of its replacement cost or more than fifty percent (50%) of its floor area at the time of destruction, it shall not be reconstructed except in conformity with the provisions of the ordinance.
9. All construction shall be done per the plans and dimension submitted to and approved by this Board. Any modification to the plans and dimensions must be approved by the Board of Appeals unless such changes are deemed a minor field change by the Building Commissioner in consultation with the Chair of the Board of Appeals.
10. Petitioner shall schedule Assessing Department inspections of the property, at least annually, to project completion and a final inspection upon project completion.

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

MEETING MINUTES

None.

OLD/NEW BUSINESS

Chair Duffy explains that his term as Chair expires in November, and that he has been talking to the City about stepping back from the Board to focus on other commitments in his life. He states it has been a pleasure to work alongside such committed Salem citizens, and that the special meeting in October will be his last.

ADJOURNMENT

Motion and Vote: Mr. Copelas motions to adjourn the meeting. Mr. Viccica seconds the motion. **The vote is all in favor. The motion passes.**

The meeting ends at 9:20 PM on October 19, 2022.

For actions where the decisions have not been fully written into these minutes, copies of the Decisions have been posted separately by address or project at:

<https://www.salem.com/zoning-board-appeals/pages/zoning-board-appeals-decisions-2022>

City of Salem Zoning Board of Appeals
October 19, 2022 Meeting Minutes

Respectfully submitted,
Daniel Laroe, Staff Planner