

**City of Salem ZBA of Appeals**  
**Meeting Minutes**  
**Wednesday, November 15, 2017**

A meeting of the Salem ZBA of Appeals (“Salem ZBA”) was held on Wednesday, September 20, 2017 in the third floor conference room at 120 Washington Street, Salem, Massachusetts at 6:30 p.m.

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

**ROLL CALL**

Those present were: Chair Rebecca Curran, Peter Copelas, Tom Watkins, Mike Duffy, James Hacker (Alternate), and Paul Viccica. Those not present were: Jimmy Tsitsinos and Tom St. Pierre, Building Commissioner. Also in attendance: Steve Cummings – Assistant Building Inspector, Erin Schaeffer - Staff Planner, and Colleen Brewster – Recorder.

**REGULAR AGENDA**

**\* THIS PETITIONER HAS REQUESTED TO WITHDRAW WITHOUT PREJUDICE \***

Project            A continuation of a public hearing for a Special permit per *Sec. 3.3.3 Non-conforming Structures* to allow two (2) residential dwelling units and variances per *Sec. 4.1.1 Table of Dimensional Requirements* to allow less than the required lot area per dwelling unit and number of parking spaces.

Applicant        **CHANEL DESJARDINS, TRUSEE, 2 CABOT STREET REALTY TRUST**

Location        **2 CABOT STREET (Map 34 Lot 79)**

**Motion and Vote: Mr. Duffy makes a motion to accept the petitioners request to withdrawal their petition without prejudice. The motion is seconded by Mr. Watkins. The vote was unanimous with six (6) in favor and none (0) opposed.**

**\* THIS PETITIONER HAS REQUESTED TO CONTINUE TO THE NEXT REGULARLY SCHEDULED MEETING ON DECEMBER 20<sup>TH</sup> 2017 \***

Project            A public hearing for a special permit per *Sec. 3.3.2 Nonconforming Uses*, to allow a change from a service station and storage facility to four (4) new dwelling units and variances from the provisions of *Sec. 4.1.1 Table of Dimensional Requirements* to exceed the minimum lot area per dwelling unit, minimum rear yard setback, maximum height requirements. The petitioner is also requesting a variance from the provisions of *Sec. 8.2 Entrance Corridor Overlay District* to exceed the number of curbcuts.

Applicant        **HARTS HILLS LLC**

Location        **111 HIGHLAND AVE. (Map 14 Lot 199) (R-2 Zoning District)**

**Motion and Vote: Mr. Duffy makes a motion to approve the petitioners request to continue to the next regularly scheduled meeting on December 20<sup>th</sup> with no evidence taken. The motion is seconded by Mr. Watkins. The vote was unanimous with five (5) in favor and none (0) opposed.**

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Project            A continuation of a public hearing for a petition requesting a Special Permit per Sec. 3.3.5 Nonconforming Structures, to add a 24' x 24' garage to the rear of the existing residential structure, remove exiting garage, and relocate R.O.W.

Applicant        **MATTHEW KEANE**

Location         **414 LAFAYETTE STREET (Map 32, Lot 169)(R-1 Zoning District)**

**Documents and Exhibitions**

- **Application dated June 27, 2017 and supporting documentation**

Mr. Keane, owner, was present to discuss the project.

Mr. Keane stated that he was unable to provide the information requested and he requested a continuance to the next regular meeting.

**Motion and Vote: Mr. Duffy makes a motion to continue to the next regularly scheduled meeting on December 20<sup>th</sup>. The motion is seconded by Mr. Watkins. The vote was unanimous with five (5) in favor and none (0) opposed.**

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Project            A continuation of a public hearing for a petition requesting a Variance for relief from the provisions of *Sec. 5.1.1 (c) Parking Design*, to exceed the maximum allowable curbcut width.

Applicant        **MICHAEL and ANGELA DIRUZZA**

Location         **13 GREENLAWN AVE. (Map 8 Lot 113)(R-1 Zoning District)**

Mr. and Mrs. Diruzza were present to discuss the project.

Mr. Diruzza stated that he was requesting to remove a 6-foot section of curb to extend the width of his driveway. He presented a petition of neighbors in favor of this request.

Chair Curran asked if the current proposed plan had changed since the previous meeting. Mr. Diruzza replied no. Chair Curran stated that the ZBA requested that the project be reviewed for

hardship and to see if an alternative plan could be submitted, because most of ZBA believe there wasn't a sufficient reason for a variance. The current driveway might not be convenient but there was room to create an alternative angled entrance without extending the curb cut.

Chair Curran asked for the existing driveway. Mr. Diruzza replied 20 feet wide by 26 feet deep and the existing curb cut is 20 feet wide.

Chair Curran read the petition signed by the neighbors that reside at 11, 12, 14, 15, 16, 17, 18, & 19 Greenlawn Avenue.

Chair Curran opens public comment.

No one in the assembly wished to speak.

Chair Curran closes public comment.

Chair Curran noted that there still is no hardship or obstruction to support this request, it is for convenience only. Mr. Copelas noted that his opinion from the previous meeting hasn't changed and none of the criteria to satisfy a variance have been satisfied. Chair Curran noted that a driveway with a steep grade would be a hardship. Variance requirements are specific although the opinion of the neighbors is helpful.

Chair Curran read the statement of hardship from petitioner which noted that emergency vehicles and delivery trucks have trouble driving down the street. On street parking doesn't create a dangerous condition.

**Motion and Vote: Mr. Viccica makes a motion to approve. The motion is seconded by Mr. Duffy. The vote was unanimous with none (0) in favor and Rebecca Curran (Chair), Peter Copelas (Vice-Chair), Tom Watkins, Mike Duffy, and five (5) opposed. The motion did not carry.**

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Project	<i>A public hearing for a variance from Sec. 5.1.5 (c) to exceed the maximum allowable curbcut width.</i>
Applicant	<b>ELLEN TALKOWSKY-DUBINSKY</b>
Location	<b>3 DEVEREAUX AVE (Map 16 Lot 382) (R-2 Zoning District)</b>

Ms. Ellen Talkowsky—Dubinsky was present to discuss the project.

Ms. Talkowsky-Dubinsky stated that her family has owned the property for 75 years. The existing structure has a garage under the house and the orientation of the structure on the land has the

structure on left and retaining wall on right. She noted that a site plan and photographs were submitted. The driveway has very little depth so the car extends over onto the sidewalk. There is room on the side yard next to that structure but the curbcut cut would need to exceed to make it work. At the right side of the house there is a mature tree located close to the street. The left side is the only accessible portion of land that she can access the property to park a vehicle. Her property is on a corner so no street parking would be eliminated by extending this curbcut.

Chair Curran noted that the existing driveway is approximately 12 feet long and the retaining wall on the right side makes the space narrow. Ms. Talkowsky-Dubinsky added that after discussions with Building Department it was decided that the existing curbcut should remain as is and the new driveway; although the portion in front of the garage would no longer be used as a driveway, and the new driveway should be further away from the corner. Chair Curran suggested two separate curbcuts. Ms. Talkowsky-Dubinsky stated that the existing curbcut is 17 feet and this new cut would become a 12 foot extension of the existing. She originally requested a new 12' curb cut but the Building Department felt that continuing what was existing would be best.

Chair Curran opens public comment.

Elizabeth LeClerk of 2 Japonica Avenue. She is in favor of this petition, Ms. Talkowky-Dubinsky has been a good neighbor, and she needs parking.

No one else in the assembly wished to speak.

Chair Curran closes public comment.

Chair Curran stated that the existing driveway can't be extended 3 feet because of the structure in front of it and the fact that the driveway is not deep enough. Mr. Watkins added that the existing driveway not being deep enough is a good example of how an existing building condition create a hardship that warrants the granting of a variance.

**Motion and Vote: Mr. Watkins makes a motion to approve a variance from *Sec. 5.1.5 (c) to exceed the maximum allowable curbcut width* with added standard condition that the applicant obtain a building permit prior to the start of construction. The motion is seconded by Mr. Duffy. The vote was unanimous with five (5) Rebecca Curran (Chair), Peter Copelas (Vice-Chair), Tom Watkins, Mike Duffy, Jim Hacker in favor and none (0) opposed.**

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Project            A public hearing for a special permit per *Sec. 3.3.3 Nonconforming Structures* to allow a two-family dwelling unit and a variance from *Sec. 5.0 Off-Street Parking* to allow less than the required parking spaces.

Applicant        **MICHAEL DIGIROLAMO**

Location         **4 PHELPS STREET (Map 25 Lot 351) (R-2 Zoning District)**

Mr. Copelas recuses himself as an abutter to an abutter.

Michael Digirolamo of 22 Venice Ave. was present to discuss the project.

Mr. Digirolamo stated that he wanted a special permit and variance for parking. He doesn't own the property yet; however, he has had multiple conversions with the owner. The structure is too big for a single family and he wants to purchase it and convert it into two condominiums. The buildings properly line is less than 10 feet from the building edge on its left and right sides, so it has no off-street parking, only on-street parking. He provided a certified plot plan.

Chair Curran stated that this property is in an R2 District. There is room at the rear for parking but there is no ability to access the backyard.

Mr. Watkins asked what the properties to either of this one. Mr. Digirolamo replied that based on their appearance he believes they are both 2-family dwellings.

Mr. Copelas stated that the variance request is a function of a desire to convert the structure into a 2-family which doesn't meet the legal description of a hardship. Mr. Digirolamo replied that if it's not converted it would be sold as one-family 7-bedroom house without parking. He speculated that a single family could create a demand for 4 or more cars, whereas two condominiums would appeal to commuters with 1 or no cars per unit to help with current street congestion.

Mr. Duffy asked for clarification on there being no parking. Mr. Digirolamo replied that the current owners have two cars and park on the street. Off street parking would be best for the structure.

Chair Curran read a letter into the record from Al Revera of 6 Phelps #2. Mr. Revera is concerned with there being no driveway, there is a narrow dead-end street and parking on-street has increased over the past 8 years that he has lived there, and he is concerned with the on-street parking that 2-family building could bring. He is also concerned that the property could be used as an AirB&B.

Chair Curran opens public comment.

John Jay Latoszek of 8 Phelps Street. He is concerned with conversion of a single family into a two-family which would be a hardship to the neighbors and neighborhood. There is an existing

parking issues on this dead-end street. There are approximately 9 single families on Phelps Street, 3 on Vail Street, and 5 on Sterns Place, and more vehicles in the neighbors will not improve the neighbors' quality of life. He presented pictures to the ZBA of existing vehicle congestion on Phelps Street.

Mr. Copelas asked about the driveways shown in the photographs. Mr. Latoszek replied that they belong to 2 & 6 Phelps Street, on either side of the structure in question. He noted that emergency vehicles can't access it in the winter and showed an example of the vehicle congestion that another 1 to 2 fam conversion looked like in their neighborhood.

Jodie Rosodie of 47 Broad Street. She stated that her house is on the corner of Broad and Phelps and her driveway is on Phelps Street. Her fence extends from Broad up to the empty lot and she has difficulty exiting her driveway with cars parked on both side of Phelps Street. The neighbors have multiple cars and she can't see past the cars parked along the fence. Phelps is supposed to be a two-way street but a vehicle must wait for the road to clear before they can drive down it and many drive over the speed limit. An incident occurred on this street and it was extremely difficult for the emergency vehicles to get to their destination. She is against this application.

Carol Kelly, 49 Broad Street. Her driveway also exits onto Phelps Street. The house had a previous illegal apartment but has always been a single fam. The density of parking is a problem, emergency vehicles have difficulty getting down the street as well as plows. A 2-family with no off-street parking would make the parking situation worse.

Mr. Digirolamo noted that the 4 Phelps owners have let the neighbors who owns the Jeeps borrow 2 feet of her property and if the owner of 4 Phelps were to install a fence all of those cars would be back on the street.

Chair Curran stated that if this was a more suburban area it wouldn't be a problem but she is not in support of a second unit to the structure without parking. Mr. Copelas questions how any 1 family can be reviewed for becoming a 2-family if they don't consider the fact that parking is an important part of that decision even if it is an R-2 district.

Mr. Duffy asked if Sec. 3.3.3 or 3.3.2 was being argued. Ms. Schaefer replied 3.3.3 because the petitioner is applying to use the current residential housing and expanding it for the same purpose but in a substantially different manner. It is an extension not a use change. A 2-family is allowed by right but because the structure is non-conforming that section is being triggered. Mr. Duffy noted that there could have been an argument that this could have been a single-family use to a 2-family use under 3.3.2 and in that situation, he's not sure that they could find that its not substantially more detrimental without parking.

Mr. Copelas stated that there is no point in approving a special permit if the variance was denied since they go together in this instance.

No one else in the assembly wished to speak.

Chair Curran closes public comment.

**Motion and Vote: Mr. Copelas makes a motion to approve the petition for a special permit per *Sec. 3.3.3 Nonconforming Structures* to allow a two-family dwelling unit and a variance from *Sec. 5.0 Off-Street Parking* to allow less than the required parking spaces. The motion is seconded by Mr. Duffy. All opposed. The vote was unanimous with zero (0) in favor and five (5) Rebecca Curran (Chair), Peter Copelas (Vice-Chair), Tom Watkins, Mike Duffy, Jim Hacker opposed.**

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Project	A public hearing for a petition requesting a Variance per <i>Sec. 4.1.1 Table of Dimensional Requirements</i> , to allow an above ground swimming pool to be located within the front yard setback.
Applicant	<b>JENNIFER C. CRONIN</b>
Location	<b>3 BRADFORD STREET (Map 17 Lot 28)(B-1 Business Neighborhood)</b>

The petitioner nor a representative were present at the meeting.

Chair Curran stated that an above ground pool was constructed within front yard setback which is a violation of the zoning ordinance. They received an application to allow the 15'x26' oval shaped above ground swimming pool to left of the garage to continue. The petitioner was unaware that it could be in the front yard setback and she also wanted to do a 6-foot-high fence around it.

Chair Curran noted that a violation notice was sent to the applicant, pools are allowed in only side or rear yards but not within 6 feet of the lot lines and located no less than 10 feet from the dwelling or structure. A licensed electrician must obtain an electrical permit if electrical work has been done along with a certified plot plan. The applicant had appealed to the Board of Appeal in response to receiving this violation. Mr. Copleas stated that in the narrative submitted by the applicant stated they the previous location of pool was at the rear of the property.

Chair Curran opens public comment.

Vincent Lepore of 1 Bradford Street. The pool is outside his house and if something were to happen to the pool the water could end up on his front yard. He would be sympathetic to the pool if she had nowhere else to place it. Mr. Lepore provided a letter from owner at 2 Bradford Street, Arsen Sheraj, who is also is opposed to this pool.

Chair Curran read an e-mail from Mary St. Pierre, an abutter who is opposed to the placement of a pool in the front yard after the previous pool existed in the rear yard for many years.

Matt Modoff of 10 Leavitt Street #1. It is out of place to see an above ground pool in the front yard and close enough to touch it from the sidewalk despite it seeming properly secure. He is opposed to the variance.

Chair Curran stated that there are other locations for this pool and she is not in favor of granting the variance. Mr. Duffy noted the application applying for forgiveness and without the petitioner present and stated that there is no hardship for this location.

**Motion and Vote: Mr. Watkins makes a motion to approve the petition requesting a Variance per *Sec. 4.1.1 Table of Dimensional Requirements*, to allow an above ground swimming pool to be located within the front yard setback. The motion is seconded by Mr. Copelas. The vote was unanimous with zero (0) in favor and five (5) Rebecca Curran (Chair), Peter Copelas (Vice-Chair), Tom Watkins, Mike Duffy, Jim Hacker opposed.**

Ms. Schaeffer noted that in this instance the petitioner will be sent a notice to remove the pool. Chair Curran stated that after the decision is sent the applicant has 20 days to appeal their decision. Mr. Cummings noted that the notice would give the applicant 30 days to remove the pool.

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Project            A continuation of a public hearing for a petition requesting a Comprehensive Permit pursuant to M.G.L. Chapter 40B, Section 20-23 to construction multi-family housing.  
The ZBA will discuss the following:

- Civil and Traffic Peer Review Responses
- Discussion and respond to ZBA comments from the June 28, 2017 meeting
- Review and Discussion on ZBA and Commission comments

Applicant        **NORTH SHORE COMMUNITY DEVELOPMENT CORP.**  
Location        **34 PEABODY STREET, 47 LEAVITT STREET, AND 39 PALMER STREET (Map 43 Lots 384, 136, 155)**

Attorney Scott Grover, of Tinti, Quinn, Grover & Frey, 27 Congress Street, Suite 414, Salem, MA 01970, represents the applicant

Others present were:

- John Ofilos, of Tinti, Quinn, Grover & Frey, 27 Congress Street, Suite 414, Salem, MA 01970, represents the applicant
- Mickey Northcutt, Chief Executive Officer of North Shore Community Development Corp., 96 Lafayette Street, Salem, MA 01970
- David Valecillos, Project Manager of North Shore Community Development Corporation

Atty. Grover stated that with the help of the City Planner a decision has been crafted and provided a new set of Record Plans for the record for the ZBA to rule on.

Ms. Schaeffer stated that the ZBA has a revised version with no substantial changes and she suggested that the decision be reviewed and commented on item by item.

### Statements of Fact

- Item No. 13: No. of parking spaces provided.
  - 19 on grade parking spaces are proposed at 34 Peabody Street
  - 16 on grade parking spaces at proposed at 47 Leavitt Street
  - 7 on grade parking spaces at 37 Palmer Street for 47 Leavitt Street
  - (Chair Curran requested confirmation on what the traffic peer reviewer said would work. Ms. Schaeffer will confirm.)

### List of Waivers - Exhibit E

1. Ms. Schaeffer suggested that Sections 3.1.2 and 3.1.3 be waived to allow the ZBA to move forward with the comprehensive permit. Chair Curran agreed and stated that both sections should be referenced in the document next to the ZBA determination.
2. Ms. Schaefer noted that the petitioner needed to provide Attachment A: a revised plan with all dimensional changes needs to be provided.
3. Multifamily Development – Section 7.1: Allowing multi-family buildings with more than twenty (20) units, as well as the associated standard conditions. The petitioner requested to waive the multi-development standards and the Special Permit Section 7.1.1 for the multi-family development use to allow the proposed development as conditioned and governed by the comprehensive permit. The suggested determination is for the ZBA to waive the special permit requirement of Section 7.1 and the dimensional requirements of Section 7.1 through 7.3 to allow the proposed development as conditioned and governed by this comprehensive permit.
4. Dimensional Standards and Requirements: Ms. Schaefer stated that the petitioner requested that the dimensional standards of zoning ordinance be waived, including all dimensional requirements; minimum lot area, minimum lot area per dwelling unit, minimum lot frontage, minimum lot width, minimum lot coverage, minimum frontage, rear & side setbacks, and maximum height of buildings in both feet and stories. The petitioner is proposing the dimensions in the attached addendum.
  - A. Per Sec. 4.1: The minimum lot area is 25,000 square feet. Approximately 9,668 SF is proposed at 47 Leavitt Street and approximately 9,000 SF is proposed at 34 Peabody Street. (See attached chart.)
  - B. The minimum lot area per dwelling unit in the zoning ordinance is 3,500 SF. Approximately 386 SF is proposed at 47 Leavitt Street and approximately 344 SF is proposed at 34 Peabody Street.
  - C. The minimum lot frontage is 100 feet. The proposed lot frontage at 47 Leavitt Street is 110 feet and the minimum lot width needs to be clarified. The proposed lot frontage at 34 Peabody Street is 107 feet. The lot frontage and width have been met.
  - D. The maximum building height is 45 feet. A 48-foot building height is proposed at 47 Leavitt Street and a 55 foot building height is proposed at 34 Peabody Street. The new structure at 34 Peabody will have a height that is in keeping with the heights of the neighboring buildings. The dimensional waivers and exact dimensions will be included.

5. Sec. 5.1: The petitioner is requesting a waiver for the parking required for the residential and commercial uses proposed. The ZBA will waive those requirements. The number of parking spaces designed shall comply with the number of parking spaces shown on the approved Record Plans. Both traffic and parking spaces have been peer reviewed and option 2 was selected.
6. Sec. 8.1: Flood Overlay District – The petitioner is requesting a waiver of the review and requirements of the Flood Overlay District, to the extent and with the requirements that are consistent with the Record Plans; however, the petitioner must comply with the conditions set forth in paragraph 12 the Flood Mitigation Safety as a condition. The North Shore CDC must provide an Emergency Management Operation Plan to the Salem Fire and Police Departments, to ensure that the residents can leave the premises and have safe conditions in the event of a flood.
7. Sec. 9.5: Site Plan Review – This will be done as part of the Comprehensive Permit, therefore, the suggestion is to waive the requirement, which can be waived locally but not at the state level.
8. Board of Health – The petitioner requests a waiver of any procedures, rules, and regulations by the Board of Health to allow the proposed development as conditioned by the Comprehensive Permit and as requested by the Massachusetts State Sanitary Code and regulations to allow the proposed development. The ZBA doesn't have the authority to waive the requirements of the State requirements but does have the authority to waive the local requirements. The ZBA will waive the Board of Health requirements but will include the standard conditions used by the Planning Board.
9. Demolition Delay of Buildings (6 months) – In regards to the existing building located at 47 Leavitt Street. The petitioner is requesting a waiver to allow the demolition of the existing building. The Historic Commission (HC) submitted a letter with recommendation to the ZBA to deny this request. The process has been carried through and at least five (5) months has gone by and the clock has already started with the ZBA and the ZBA did not waive it. The HC requested additional special conditions that are already suggested within the Comprehensive Permit.
10. Retail signage on all properties - The Planning Board recommends denying this request. The petitioner must seek approvals for all proposed signage at all three locations and be subject with all ordinances to erect signs in connection with the proposed development.
11. Part 3, Chapter 50: Protection of Wetland Resource Areas – Local standards exist under the Conservation Commission as well as strict state ordinance and regulations. The ZBA recommendation is to the extent that the proposed areas as defined in Chapter 3, Section 40, that the City of Salem will maintain its jurisdiction to ensure that appropriate conditions are proposed at the proposed developments to safeguard those areas. The state requirements can't be waived. The petitioner will still need to provide the filing fees which have already been collected. The petitioner requested that the ZBA waive any related fees, bonds, and securities requirements those will not be required The Planning Board recommends that the ZBA deny this waiver request and let the Conservation Commission rule over it. The state also still has jurisdiction.
12. Comprehensive Permit – The ZBA needs to make the following findings and rulings;
  - A. The petitioner is eligible to receive a subsidy from the DHCD
  - B. The project is fundable by a subsidizing agency (Sec. 56.04 of the Chapter 40B regulations.) The ZBA has received a letter from the DHCD on this matter dated, February 21, 2017, stated that this project meets those requirements.
  - C. The DHCD will be the Subsidizing Agency (Sec. 56.02 of the Chapter 40B regulations.)

- D. The petitioner controls the site. Although the City of Salem meets the statutory minimum set forth in the general law of 40B, that low and moderate income housing units in Salem do exceed 10% of Salem's total housing units, the ZBA finds that there is still a significant city-wide need for affordable housing. The development as proposed in the supporting documentation is consistent with local needs within the meaning of Chapter 40B.

Special Conditions of the Comprehensive Permit:

1. Record Plan approval - The ZBA will approve the Record Plans presented and the drawing name, number, and date will be written into the permit.
2. Amendments to the Record Plans - Any amendments to the Record Plans shall be reviewed by the City Planner and any substantial changes will be reviewed by the ZBA. Any significant amendments to the special conditions shall also be reviewed by the ZBA. Atty. Grover noted that the City Planner would determine minor vs. significant modifications.
3. As-Built Plans – As-Built plans must be submitted for each individual building prior to their occupancy. Mr. Valecillos noted that the construction of one building will begin 4-months prior to the second.
  - a. Traffic Safety, Circulation and Mitigation: The petitioner shall work with the Traffic Engineer to design and construct an ADA compliant speed table and crosswalk connection between the proposed exterior stair, to the building, and to the Peabody Street Park, prior to the issuance of a Certificate of Occupancy and subject to the approval of the Engineering Department. Ms. Schaffer noted that she has spoken to the Engineering Department regarding the crosswalk connection and the City of Salem was planning to repave Peabody Street in 2018. Typically, there is a 5-year moratorium where new roads cannot be dug up, but in this instance they will be allowed to dig up the road and special requirements by the Engineering Department will be applied to ensure that the road has new asphalt across the width of the street and not just patched. Those details can be clarified with the Engineering Department who don't want to hold up the planned repaving.
  - b. At 34 Peabody Street the Peer Reviewer was concerned with sight-lines at the garage entrance. An audible ADA compliant device was suggested to allow for safe pedestrian crossing at the garage entrance and exit drives. That design is subject to approval by the Engineering Department prior to the issuance of a Certificate of Occupancy.
  - c. The ZBA has requested that a stripe be painted down the driveway to designate the entrance and exit sides of the driveway at 47 Leavitt Street. Ms. Schaeffer suggested that the parking strip also be requested at 34 Peabody Street and will include it in the traffic mitigation section.
  - d. At 34 Peabody Street the ZBA has requested wheel-stops and bollard to protect the retaining wall at 34 Peabody Street. They should be installed prior to the issuance of a Certificate of Occupancy.
  - e. The ZBA has requested that a parking management system be installed at all garage entrances to manage cars moving on and off the site. The petitioner will ensure that there will be no open access parking areas.
  - f. At 47 Leavitt Street the Traffic Engineer has requested that an ADA compliant crosswalk be installed across Leavitt Street and to the park. The Traffic and Parking

Director also requested an ADA complaint crosswalk from 47 Leavitt Street across Congress Street.

- g. At 47 Leavitt Street the ZBA has requested that there be clear site lines at the garage entrance and exit. Ms. Schaeffer stated that there would be no visible barrier that could conceal the view.
4. Fire Department – All work shall comply with the standards requirements, Building Inspectors statement, and Maintenance.
  - a. The petitioner is responsible for snow-plowing and clearing sidewalks at all locations. In the event of too much snow the petitioner must remove the snow to an off-site location to ensure that all parking spaces are available. No changes.
5. HVAC Units – Both heating and cooling units will be located on the roof of both 47 Leavitt Street and 34 Peabody Street, and they will be screened and not loud. Mr. Copelas stated that the word “site” be stricken from the wording.

Engineering:

- 9a: All work shall comply with the standard requirements of the City Engineer. No Changes.
- 9b: The petitioner shall provide results of the pipeline CCTV inspection, sewer and drain pipes, and result of the water main and service mapping to the City Engineer prior to the issuance of a Demolition permit. The City Engineer has provided maps of the sewer, water, and drain pipes to the petitioner. No changes.
- 9c: The sewer and water piping must be cut and capped. No changes.
- 9d: The petitioner must submit construction plans and associated technical letters to the DHCD, Building Department, and Engineering Department, to demonstrate adequate capacity and conditions for each system prior to the issuance of a Building Permit, and the City of Salem may request an additional Peer Review at the petitioners’ expense to confirm the adequacy of capacity for each system. Any deficiency in the construction plans shall be corrected by the petitioner at the petitioners’ expense to the reasonable satisfaction of the Engineering Department. No changes. Ms. Schaeffer stated that she is confident that these projects are feasible on both locations and can be connected and adequately engineered.
- 9e: Any deficiency or capacity with each system which the petitioner plans to use at either development must be improved at the expense of the petitioner, in accordance with the construction plans submitted and approved by the City Engineer prior to the issuance of a Building Permit. No changes.
- 9f: Retaining wall – The applicant shall provide a statement from a Structural Engineer, licensed in the state of Massachusetts, stating that the proposed design will not adversely impact the wall, road, or sidewalk on Ward Street. Mr. Copelas noted that the final statement should read “prior to the issuance of a building permit” and not “demolition permit.” Ms. Schaeffer noted that any deficiencies must be improved at the expense of the petitioner. Who owns the wall should also be included and further discussion between the Planning Department and Building Department should also happen. Additional information is needed on that way and that information requires a peer review.

Water System: Ms. Schaeffer noted that Bill Ross conducted a peer review, the petitioner has provided revised plan to match connections between the 12” water line; however, the plans do include some connectivity issues between the 6” and 12” water lines, which need to be clarified. The petitioner shall confirm the existing condition and provide plans that show the true capacity.

1. The petitioner shall provide a plumbing plan to the City Engineer that demonstrates 100% of the roof runoff collected will be conveyed by the drain pipe stems identified on the civil drawing, prior to the issuance of a building permit. Mr. Copelas noted that these should be separated 47 Leavitt Street and 34 Peabody Street, and the parking lot at 37 Palmer Street, as their conditions may differ. Ms. Schaeffer replied that she would clarify that.
2. Ms. Schaeffer stated that items B – F on this section were standard items.

Sewer System: Ms. Schaeffer stated that the petitioner has several items to complete and submit to the City Engineer. She noted that the final statement should read “prior to the issuance of a building permit” and not “demolition permit” since there are only existing buildings on two of the sites. She will also clarify that 47 Leavitt Street and 34 Peabody Street should be reviewed if there are connections to be made. The petitioner shall provide any corrections to the plans should there be any issues with capacity.

10 - Board of Health: Ms. Schaeffer noted that the conditions A-K are standard. No changes.

11 - Construction Practices: Ms. Schaeffer stated that the standard conditions apply although; they have asked the petitioner for the Construction Management Plan to DCHC, Engineering Department, and Building Department, prior to the issuance of a building permit, to ensure that there are minimal impacts to traffic and circulation during construction at 47 Leavitt Street and 34 Peabody Street. She noted that this was a special condition suggested by the traffic peer reviewer.

1. Mr. Copelas asked if the hours of construction had been specified and where they could be found in the document. Chair Curran asked if there was a sound ordinance for the petitioner to follow. Ms. Schaeffer replied yes, it is defined in the City Ordinance. Mr. Watkins suggested that the construction times also be applied to the demolition of the old building and not just the construction of the new. Mr. Duffy stated that one for each site; a demolition construction plan shall be submitted for 47 Leavitt Street prior to the issuance of a demolition permit, and two new construction management plans for 47 Leavitt Street and 34 Peabody Street shall be submitted prior to the issuance of building permits, will be included as three separate conditions.

12 - Flood Mitigation and Safety: Ms. Schaeffer stated that an emergency management plan for both 47 Leavitt Street and 34 Peabody Street must be submitted to the Salem Police and Fire Departments prior to the issuance of certificate of occupancies.

1. Flood I and II: Ms. Schaeffer stated that the ZBA is not entirely waiving the conditions of the Flood Hazard Overlay District special permit that the Planning Board makes. Evidence has been submitted stating that these conditions will be met.

13 - Affordable Housing: Ms. Schaeffer stated that the petitioner shall place an affordable housing restriction on 25% of the total number of units of the project and shall be in accordance with the eligibility criteria of the DHCA subsidized housing inventory for the purpose of ensuring that these dwelling units shall be restricted to affordable housing for households whose annual income are 80% or less of than the median area income. Mr. Copelas asked if all of the affordable units could be clustered into one building. Mr. Ofilos replied no, by law the units must be distributed across the unit types and both buildings. Mr. Northcutt stated that it is their intent to make all units affordable.

14 - Use Restrictions at 47 Leavitt Street: Ms. Schaeffer stated that the peer reviewer was concerned with trip generation if a restaurant, retail space, or bank were to occupy the first floor proposed commercial space at 47 Leavitt Street, since those uses have the highest parking demand.

15 - Design: Ms. Schaeffer stated that overhangs have been proposed at 34 Peabody Street over the existing sidewalk on Ward Street. She noted that in that case that the City Council does not approve of the overhang she asked if an alternate plan was in place for a flat facade. Mr. Valecillos replied that an alternate flat façade plan can be provided. Mr. Copelas asked if there will be window A/C units. Ms. Schaeffer replied, yes, an internal A/C system will be installed.

16 - Color: Ms. Schaeffer stated that it has been discussed that the petitioner will use a buff and not a white façade color to better fit with the character of the neighboring buildings, due to their modern architecture, and its location within a registered national historic district. She noted that the Planning Department will be able to review and approve the materials. Mr. Valecillos replied that color and material revisions would be reviewed by the City Planner. Ms. Schaeffer noted that she could include language stating that the City Planner would review the materials color change prior to the issuance of a building permit. Mr. Viccica stated that the language regarding a color change approval by the Planning Department should read “compatible to” and not “similar to.” Ms. Schaeffer stated that the petitioner noted that; the product would be man-made wood grain material, manufactured by the same company, and of a similar texture and durability to what was previously presented.

17 - Historic Preservation at 47 Leavitt Street:

1. A: Chair Curran stated that she believed the petitioner would submit a “Form B Inventory Form” with photographs and a paragraph description of the history of the building. Ms. Schaeffer noted that that would only include the inventory and not the salvage. She noted that a Form B exists and the petitioner could add on interior and exterior photographs from all angles and submit it to the ZBA. The ZBA can submit that information to the Planning Department and the Massachusetts Historic Commission.
2. B: Ms. Schaeffer stated that the Historic Commission received a letter from the North Shore CDC stated that they will salvage any historically significant features; hardwood flooring, stained glass windows, carvings, moldings, etc. and building materials and recycle or preserved, with no requirement to reuse the features on this property.

Schaeffer – any substantial changes to what the ZBA has reviewed and approved would return to the ZBA again. Parking spaces or arrangement, height, color, and any altered condition)

**Motion and Vote: Mr. Duffy makes a motion to approve the petition and the above special conditions, as amended. The motion is seconded by Mr. Watkins. The vote was unanimous with five (5) in favor Rebecca Curran (Chair), Peter Copelas (Vice-Chair), Paul Viccica, Tom Watkins, Mike Duffy and none (0) opposed to approve a Comprehensive Permit pursuant to M.G.L. Chapter 40B, Section 20-23 to construction multi-family housing.**

## OLD/NEW BUSINESS

### Salem Zoning ZBA of Appeals Fees Discussion

Schaeffer submittal deadline for Jan to be before Christmas – more than 21 days prior due to holiday legal advertisement notification deadlines.

**Motion and Vote:** Mr. Duffy makes a motion to approve the submittal deadline for 2018. The motion is seconded by Mr. Watkins. The vote was unanimous with five (5) in favor Rebecca Curran (Chair), Peter Copelas (Vice-Chair), Paul Viccica, Tom Watkins, Mike Duffy and none (0) opposed.

## MEETING MINUTES

No meeting minutes to review at this time.

## ADJOURNMENT

**Motion and Vote:** Mr. Viccica made a motion to adjourn the November 15, 2017 regular meeting of the Salem ZBA of Appeals, seconded by Mr. Watkins, and the vote was unanimous with five (5) in favor and none (0) opposed.

The meeting ends at 8:55PM.

*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://saalem.com/Pages/SalemMA\\_ZoningAppealsMin/](http://saalem.com/Pages/SalemMA_ZoningAppealsMin/)*

Respectfully submitted,  
Erin Schaeffer, Staff Planner