

City of Salem Board of Appeals
DRAFT Meeting Minutes
Wednesday, November 16, 2016

A meeting of the Salem Board of Appeals ("Salem BOA") was held on Wednesday, November 16, 2016 in the third floor conference room at 120 Washington Street, Salem, Massachusetts at 6:30 p.m.

Ms. Curran (Chair) calls the meeting to order at 6:30 pm.

ROLL CALL

Those present were: Rebecca Curran (Chair), Peter A. Copelas (Vice-Chair), Jim Hacker (alternate), Paul Viccica (alternate), and Tom Watkins. Those not present were: Mike Duffy and Jimmy Tsitsinos. Also in attendance Tom St. Pierre - Building Commissioner, Erin Schaeffer - Staff Planner, and Colleen Anderson – Recorder.

REGULAR AGENDA

Project	A continuation of a public hearing for a petition requesting a Special Permit per Sec. 3.3.2 Nonconforming Uses and Variances per Sec. 4.1.1 Dimensional Requirements for the following minimum lot area per dwelling unit, minimum lot frontage, minimum distance between buildings, and maximum number of stories to construct eight (8) residential units.
Applicant	MICHAEL MEYER, TRUSTEE
Location	1-3 EAST COLLINS STREET (Map 36 Lot 277) (R-1 Zoning District)

Chair Curran - stated that a request has been received by the Board from the petitioner requesting this discussion be continued to the December 21, 2016 meeting.

Motion and Vote: Mr. Copelas makes a motion to continue the public hearing with no evidence taken. The motion is seconded by Mr. Watkins. The vote was unanimous in favor and none (0) opposed to continue the public hearing to the next regularly scheduled meeting on Wednesday, December 21, 2016 at 6:30pm.

Project	A continuation of a public hearing for a petition requesting Variances from Sec. 5.1.5 Parking Design and Sec. 5.1.8 Table of Required Parking Spaces to allow the construction of a 24' wide curb cut and associated parking area within five (5) feet of the street line.
Applicant	JASON & CHRISTINA ROBINS
Location	77 PROCTOR STREET (Map 25, Lot 5) (R-2 Zoning District)

Documents and Exhibitions

- Application dated September 12, 2016 and supporting documentation

Chair Curran- States that the Board of Appeals requested that the petitioner narrow the curb cut from 24' feet to 20' feet and to submit some additional information about the distance from the curb cut to the hydrant.

Jason Robins, 77 Proctor Street, were present to discuss the project.

Jason Robins stated that new plans were submitted reduced the curb cut from 24 feet to 20 feet, the distance from the curb cut to the existing fire hydrant is 20 feet, and a new letter of hardship was also submitted.

Chair Curran – stated that the petitioner no longer needs a variance for the width of the driveway because it now conforms to the dimensional requirements of the zoning ordinance, however; a variance is needed for providing parking within five (5') feet of the street line, which is needed because the lack of space between the house and the street. It would otherwise not be physically possible to provide parking without the Variance.

Robins noted that in terms of hardship concerns, a list of accidents on Proctor Street from the Salem Police Department has been provided, dating back to January 1, 2015. The prior owners tenant had their vehicle struck in front of the house.

Chair Curran asks for public comment.

No one in the assembly wishes to speak.

Chair Curran closes public comment.

Chair Curran – stated that with the curb cut reduced and no way to providing parking that is not within five feet of the street line without needing a variance, she is in favor of granting a variance.

Motion and Vote: Mr. Viccica makes a motion to grant a variance Sec. 5.1.8 *Table of Required Parking Spaces* to allow the construction of a 20 foot wide curb cut and associated parking area within five (5) feet of the street line. The motion is seconded by Mr. Watkins. The vote was unanimous with five (5) Rebecca Curran (Chair), Peter A. Copelas (Vice-Chair), Tom Watkins, James Hacker, and Paul Viccica, in favor and none (0) opposed.

Project	A continuation of a public hearing for a petition seeking a Special Permit per Sec. 3.3.5 <i>Nonconforming Single- and Two-Family Residential Structures</i> to expand the nonconforming structure and a Variance per Sec. 4.1.1 <i>Table of</i>
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Dimensional Requirements of the Salem Zoning Ordinance for minimum lot area per dwelling unit.

Applicant **ARSEN SHERAJ**
Location **2 BRADFORD STREET (Map 17, Lot 50)(R-2 Zoning District)**

Documents and Exhibitions

- Application dated September 27, 2016 and supporting documentation

Attorney Billy Quinn, on behalf of Arsen Sheraj of 2 Bradford Street, was present to discuss the project.

Atty. Quinn stated that space to accommodate their growing family is driving the need for this duplex addition onto their existing dwelling. They have applied for a special permit for dimensional changes and a variance because of their desire to add a new non-conformity of lot area per dwelling unit. The odd shaped lot pre-dates zoning laws and its positioning of the structure on the site will cause the addition to impose on the site in one way or another. Their lot has 7,700 square feet and the lot area per dwelling unit is 7,500. 2 families are allowed in this district and there are 29 lots, either single or double, that have less than 3,800 square feet per unit. This lot area per dwelling unit request is not out of the ordinary for the neighborhood.

Atty. Quinn stated that the amended plans show the three dimensioned parking spaces and new dwelling floor plans. His reading of the special permit indicates that this project can be approved as a special permit without the need for a variance. St. Pierre told him prior to the meeting that it's been the ZBA's practice has been to require a variance at the new non-conformity being added with the request for dimensional non-conformity. Being an allowed 2 family like others in the neighborhood is not against the public interest, it will not be more detrimental to the neighborhood because it is already non-conforming, it will have adequate off-street parking for two units, there will be no natural habitat issue by construction on their lawn, and the City will benefit from the additional taxes a second unit will provide.

Chair Curran – stated that an odd sizes lot, in terms of a hardship that requires a variance, would apply as a side yard or a rear yard but not to lot area, despite it being a pre-existing condition. She had previously suggested creating a large addition to the single family. Appealing to the Building Commissions decision regarding his interpretation of the zoning bylaws, would allow the ZBA to make a determination regarding the granting of a special permit only.

Chair Curran – suggests a continuation to discuss the project with the Building Inspector or altering the proposed plan to create a large addition and not a separate unit. Atty. Quinn replied that a large addition will not provide the privacy they desire. They are seeking a dimensional relief which required a lower standard of qualification than a variance. A variance can be granted which a hardship from circumstances regarding lot size or the

structure on the lot. The combination of their circumstances creates a hardship and asks if a special permit for two units was before the Board if it would be considered approvable.

Chair Curran – replied yes.

Atty. Quinn requests a continuance to the next regular meeting.

Motion and Vote: Mr. Copelas makes a motion to continue the discussion at the December 21, 2016 meeting. The motion is seconded by Mr. Watkins. The vote was unanimous in favor and none (0) opposed.

Project	A continuation of a public hearing for a petition seeking a Special Permit per Sec. 3.0 Uses to allow the conversion of a historic carriage house to a dwelling unit.
Applicant	JAY FAMICO
Location	380 ESSEX STREET (Map 25 Lot 206)(R-2 Zoning District)

Documents and Exhibitions

- Application dated September 27, 2016 and supporting documentation

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

Other presenters include:

- Dan Ricciarelli of Seger Architects, 10 Derby Square, 3N, Salem, MA 01970

Atty. Grover stated that the carriage house is in a state of disrepair. Salem adopted a zoning ordinance aimed at historic carriage houses and gave people an incentive to restore them. This ordinance allowed the BOA to grant a special permit for historic carriage houses (in place on or before the year 1900) and to allow them to become separate dwelling units. It needs to be determined that the adverse effects of this change in use don't outweigh the beneficial impacts, a community need will be served – the preservation of a historic carriage house will benefit the community, no overburdening of traffic or parking will be created – 4 parking spots will be created to serve the two units (two for each unit), there are adequate utilities on site – the utilities are on site and will be extended to the carriage house, and lastly that there is positive fiscal impact – a second dwelling unit will increase tax revenue for the City. The R2 use is consistent with the neighborhood and additional housing is a need in Salem. This project will also go before the Historical Commission.

Ricciarelli stated that the carriage house was constructed in 1807, at the same as the house, in the Federal style with McIntire details. The building has no foundation so a new one is proposed. All building finishes will be restored (wood clapboards, trim and a new roof), an

egress door will be added at an existing front window, no additions are proposed, the windows are existing and will all be restored, sprinklers will be added, as well as utilities. The first floor will remain as the owners' space for storage and recreation purposes with a kitchenette. The second floor will become a one unit two bedroom 1,100 square foot apartment. An area of paneling on the second floor will become a functioning set of French doors and other exterior add-ons will be removed during the restoration.

Chair Curran – asked if there will be any dormers or changes to the footprint. Ricciarelli replied no. Chair Curran – added that if this is approved a condition will be placed on it to make sure that it remains a single dwelling unit.

Chair Curran opens public comment.

Jacqueline Washburn and Stanley Szwartz of 143 Federal Street, a direct abutter, read a statement in opposition of Mr. Famico's desire to restore the carriage house to be used as a separate dwelling unit and not as its intended use as an accessory building. The approval of this project would eliminate their privacy as a neighbor since it is so close to the lot line, have a negative affect on the property values of the neighbors, approving the building for another use would limit the grandfathered status that is more intrusive is not reasonable, suggested moving the building so that it complies with the current residential buffer zones ordinances, requests that the underground oil tank be remediated, and if the special permit be requested that the lease on the unit be no less than 1 year so transient housing will not be an allowable use and plantings be placed to block site lines from windows and for the noise and privacy concerns of neighbors.

Washburn read a letter from abutter Chris Copelas who is in opposition of the project. He has even less of a buffer zone, at times his home is within one foot from his property line and some of its windows are directly across the windows of his home, namely a bedroom. He is in favor of moving the structure to conform to zoning laws and to protect the privacy of his family. He is also concerned with the decline in property value that will result from the approval of this project.

Stephen Gregory of 141 Federal Street is a diagonal rear abutter. Is in opposition of this project, agrees with the concerns already stated, and is concerned with the quality of the neighborhood and the character of the McIntire District which is mostly single family dwelling and the large open space backyards. The approval will allow a residence in the middle of a group of rear yards.

Chair Curran - read a letter from Johnathan Bailey (no address was given), who is in favor of the project. The structure will be preserved, has no parking concerns or its proposed rental use, historic details will be restored in keeping with the neighborhood.

Atty. Grover stated that the privacy concerns by neighbors are understood and they will mitigate the impacts on the neighbors. Eliminating some windows and using skylights is an option as well as adding a privacy fence to shield the view into the first floor, and plantings can be added to the buffer zone. Ricciarelli added that windows could be blacked-out; flat

skylights could be added to the roof. The building would most likely fall apart if it were to be moved and three large trees would need to be cut down. Atty. Grover noted that Mr. Famico would voluntarily accept a condition that prohibits the unit from being used as a transient housing. Chair Curran – noted that blacking out the windows from the interior would be acceptable if the Historic Commission agrees, the use of vegetative screening for privacy will work, and moving the carriage house doesn't make sense since they were historically placed in the back corner of lots. Mrs. Washburn stated that allowing this change will be in favor of Mr. Famico but at the detriment to the abutting neighbors.

Chair Curran closes public comment.

Mr. Hacker – suggested that the owners and neighbor meet to discuss design alternative that will work for all involved. Chair Curran – replied that the issues mentioned have been addressed and moving the carriage house would defeat its historical purpose. She would support this with the conditions that the 2nd story south side windows facing 143 Federal Street be blacked out from the interior, vegetation of a sufficient height within the 4 foot buffer zone for a privacy screen, a limit in rental terms of no less than 6 months, and that it remain a single family dwelling unit.

Motion and Vote: Mr. Watkins makes a motion to approve the application for a Special Permit per Sec. 3.0 Uses to allow the conversion of a historic carriage house to a dwelling unit with the following conditions; the structure shall remain a single family dwelling unit on the second floor only, the second story window at the rear of the building shall be blacked out on the interior side, the side window will be reviewed and approved by the Historical Commission shall have the same blacked out treatment, vegetation at least 6 feet high will be planted in the buffer zone to create a privacy screen, and the rental unit agreement will be limited to no less than 6 months. The motion is seconded by Mr. Viccica. The vote was (4) Paul Viccica, James Hacker, Tom Watkins, and Rebecca Curran (Chair) in favor, and (1) Peter A. Copelas (Vice-Chair) abstaining.

Project	A public hearing for all persons interested in the petition of, seeking an amendment to an existing Zoning Board of Appeal decision dates September 2, 2015 to construct four (4) parking spaces at the rear of the property.
Applicant	161 FEDERAL STREET LLC
Location	161 FEDERAL STREET LLC (Map 36, Lot 277) (R-1 Zoning District)

Documents and Exhibitions

- Application dated October 25, 2016 and supporting documentation

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

Atty. Grover stated that the property is the former rectory of St. James Church on Federal Street. The board approved a series of variances that allowed the rectory to be converted into 4 dwelling units with 6 parking spaces. At the time there was concern with the ability to access those spaces through an existing driveway that is less than 8 feet wide at its narrowest. Converting the building to a more productive use outweighed the access to parking.

Mr. Botwinick has since acquired some ownership in the neighboring 3 unit building at 2 Griffin Place, which is currently being renovated. This brings the opportunity to use the neighboring Griffin Place entrance and increase the number of parking spaces at the rear of 161 Federal Street to 10 – 6 spaces for 161 Federal Street and 4 spaces – for 2 Griffin Place. There are currently no legal parking spaces at 2 Griffin Place. A reciprocal easement would be created between the two properties so that the owners of 161 Federal can pass over Griffin Place and the owners of 2 Griffin Place and park at of 161 Federal, which will eliminate vehicles from needing to use the narrow driveway. No new relief is needed only an amendment to a previous Board decision based on the newly submitted site plan.

Mr. Viccica – asked if this eliminate parking at 2 Griffin Place? If these are two separate properties shouldn't this be two separate requests? This creates a potential conflict. Mr. Copelas – replied that this request is not detrimental to 161 Federal because it will provide a safe access to their parking area.

Atty. Grover stated that 2 Griffin Place legally has no parking. Chair Curran – noted that legal parking for 2 Griffin Place will be provided where it previously did not.

Mr. Viccica – asked if legally those four (4) spaces would be deeded to the owners of 2 Griffin Place. Atty. Grover replied that those spaces would be considered “exclusive use only.”

Mr. Viccica – asked if once the owner sells his share in 2 Griffin Place, would those spaces remain with the 2 Griffin Place unit owners.

Atty. Grover replied that a permanent easement between the two properties would be in place. If this option was not approved by the Board the Applicant would request tandem parking behind the building with the use of the easement, although an existing tree would need to be removed to make that parking arrangement possible, but neighbors would like the tree to remain.

Chair Curran opens public comment.

Chair Curran – read a letter from Tom Collins of 155 Federal Street, is favor of the project.

Chair Curran – read a letter from Sue Linder-Bean and Charles Bean of 19 Fowler Street, in favor of the project. Requests that a fence be installed to keep headlights from vehicles

from shining into their windows and snow from being plowed onto their property, and suggests a permeable driveway.

Joyce Wallace of 172 Federal Street. The owner had a meeting with the neighbors and everyone was pleased with their efforts and providing as much off street parking as possible. She is in favor of this project.

Virginia Charette of 169 Federal Street. Asked for clarification on parking and driveway access. Both Chair Curran and Mr. St. Pierre replied that the wider neighboring driveway at 2 Griffin Place will be used as the driveway for both buildings.

Chair Curran closes public comment.

Atty. Grover added that a solid fence will be attached to the existing chain-link fence to create a screen and the area behind the building will be left as greenspace for snow storage. Mr. Watkins asked who will maintain the private way. Atty. Grover replied the owners of 2 Griffin Place.

Motion and Vote: Mr. Viccica makes a motion to amend the September 2, 2015 decision and to approve the modified site plan dated September 29, 2016 adding four rear parking spaces to 161 Federal Street, with the following conditions; adding a new solid fence at the entire southern end (rear) of 161 Federal Street, a portion behind 2 Griffin Place and the South-Western corner up to the rear of 2 Griffin Place, and the reciprocal easement to allow 4 parking spaces at 161 Federal Street for 2 Griffin Place be in place before a Certificate of Occupancy is issued at 2 Griffin Place. The motion is seconded by Mr. Watkins. The vote was unanimous with five (5) Rebecca Curran (Chair), Peter A. Copelas (Vice-Chair), Tom Watkins, James Hacker, and Paul Viccica in favor and none (0) opposed.

Project	A public hearing for all persons interested in the petition of, seeking a Special Permit per Sec. 3.3.3 <i>Nonconforming Structures</i> to expand an existing rear deck and provide access to an existing second floor unit by means of an exterior stairway to the expanded deck.
Applicant	CHRISTOPHER B. CRONIN, TRUSTEE
Location	61 BROAD STREET (Map 25, Lot 275) (R-2 Zoning District)

Documents and Exhibitions

- Application dated October 25, 2016 and supporting documentation

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

Atty. Grover stated that Chris Cronin has purchased the structure and Joe Bates is doing the renovation. The intention is to convert the building into two condominium units and the use will remain. The clean-up of the site and renovation of the exterior have begun but they would like to expand and existing deck at the rear of the building and add a new exterior stair. There is an existing non-conformity, the rear setback is 30 feet and the existing deck is at 22 feet. The non-conformity will not be increased, the proposed deck will only extend further towards the side yard, to include the exterior stair, which will give the second floor unit private access. The second floor is currently accessed through a common hallway and up a set of stairs.

Atty. Grover stated that a special permit is required because it is a two-family house. This minor change is not more detrimental, there is no change in parking, the fiscal impacts will benefit the City and increase the property value, it will increase usability, and the stair will be within the side yard setback but it will increase the rear yard non-conformity.

Mr. Copelas – asked if this access point was going to be the exclusive egress to the second floor unit. Mr. Cronin replied that it will be a second egress; the existing front interior stair through a common hallway will remain.

Chair Curran opens public comment.

Chris Burke of 65 Broad Street. If the interior stair works why add an exterior stair? This exterior stair will be seen from the street and no other houses in the area have that. A new exterior stair will increase the square footage and density. Will there be any parking changes or a new curb cut that will eliminate street parking which has been a problem? Will the trees removed be replaced? Joe Bates (Contractor) replied that he cleared overgrown weeds along the sidewalk but removed no trees. A tree across the street was removed but not by him. An 18 foot curb cut will be done to create 4 off-street parking spots which will result in the loss of 1 on-street parking spot.

Ellen Mcardle of 63 Broad Street, a direct abutter. The contractors work is exemplary, however; an exterior stair is not inappropriate for their proposed design but it is not in harmony with the rest of the neighborhood. Is in favor of the exterior stair if it stays on the side of the house where it is currently proposed.

Atty. Grover stated that the exterior stair does not increase the footprint and will not increase the number of rooms/bedrooms in the unit - the 2 family dwelling will remain a 2 family.

Mr. Copelas – asked if a window will be lost on the first floor due to the new exterior stair. Mr. Bates replied no, the first floor will not be impacted by the new stair. He could add trees at the side and rear of the property to help conceal it. Mr. Burke replied that he hopes a vegetation that can quickly get overgrown is planted since the rear yards are all divided by vegetation and not fences. It is important to keep the character of the neighborhood.

Chair Curran asked if placing the exterior stair along the back of the building and to come up within the existing deck was considered. Mr. Bates replied no, because the existing deck is already in place and it made sense to keep the stair near the parking. Mr. Burke is in favor of the rear stair and not the side stair. Ms. Mcardle is not in favor of the rear stair, because the increase foot traffic on the stair will be able to look down onto her property.

Chair Curran closes public comment.

Motion and Vote: Mr. Copelas makes a motion to approve the petition for a Special Permit to expand an existing non-conforming rear deck and provide access to an existing second floor unit by means of an exterior stairway to the expanded deck. The motion is seconded by Mr. Watkins. The vote was (4) Peter A. Copelas (Vice-Chair), James Hacker, Tom Watkins, and Rebecca Curran (Chair) in favor, and (1) Paul Viccica abstaining.



Project A public hearing for all persons interested in the petition of, seeking a Special Permit per Sec. 3.3.5 *Single and Two-Family Nonconforming Structures* to allow new construction for a new front deck and rear addition.

Applicant **MARIA CONNELL**

Location **145 FORT AVENUE (Map 25, Lot 206) (R-1 Zoning District)**

Documents and Exhibitions

- Application and supporting documentation

Maria Connell was present to discuss the project.

Ms. Connell stated that is seeking to add a rear addition and front deck to the front of her existing non-conforming home. The proposed addition does not extend beyond the existing footprint.

Chair Curran – asked if there was a second story deck on top of an existing front porch roof and a new gable dormer in the rear. Ms. Connell replied yes, the rear is a 1 ½ story addition to mirror the front roof. The second floor addition will allow the 2nd floor bathroom to be enlarged without eliminating one of the 3 bedrooms.

Chair Curran – asked if the rear deck is existing. Ms. Connell replied yes, the rear yard setback is 30 feet and 12 feet is what exists. The existing front yard setback is 48 feet.

Ms. Connell stated that a second non-conforming condition existing on the west side of the house. Towards the rear the existing side yard setback goes down to approximately 5 feet.

Chair Curran opens public comment.

Mark Meche of 1 Lowell Street, an abutter. Is in favor of the proposed project and the work that has taken place so far. R1 zoning doesn't fit with the neighborhood so none of the homes conform to the regulations.

Chair Curran closes public comment.

Motion and Vote: Mr. Watkins makes a motion to approve the petition for a Special Permit for the new construction of a new front deck and rear addition. The motion is seconded by Mr. Viccica. The vote was unanimous with five (5) Rebecca Curran (Chair), Peter A. Copelas (Vice-Chair), Tom Watkins, James Hacker, and Paul Viccica in favor and none (0) opposed.

APPROVAL OF MEETING MINUTES

Chair Curran requested to amend the October 19, 2016 meeting minutes to reflect that the public hearing was to remain open for 77 Proctor Street.

Motion and Vote: Mr. Copelas makes a motion to approve the October 19, 2016 minutes as amended. Seconded by Mr. Viccica. The vote was unanimous in favor and none (0) opposed.

OLD/NEW BUSINESS

2017 Zoning Board of Appeals Meeting Schedule – Discussion and Vote

Schaeffer stated that the only schedule changed is the December 20, 2016 submittal deadline for the January 18, 2017 meeting, to allow time for the holidays. All meeting dates are the typical dates.

Motion and Vote: Mr. Copelas makes a motion to approve the 2017 Board of Appeals meeting schedule as proposed. The motion is seconded by Mr. Viccica. The vote was unanimous with five (5) Rebecca Curran (Chair), Peter A. Copelas (Vice-Chair), Tom Watkins, James Hacker, and Paul Viccica in favor and none (0) opposed.

ADJOURNMENT

Mr. Watkins motions for adjournment of the November 16, 2016 regular meeting of the Salem Board of Appeals.

Motion and Vote: Mr. Watkins made a motion to adjourn the November 16, 2016 regular meeting of the Salem Board of Appeals, seconded by Mr. Viccica, and the vote is unanimous in favor and none (0) opposed.

The meeting ends at 9:00 PM.

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/

Respectfully submitted,
Erin Schaeffer, Staff Planner