

City of Salem Zoning Board of Appeals
Meeting Minutes
December 15, 2021

A meeting of the Salem Zoning Board of Appeals (“Salem ZBA”) was held on Wednesday, December 15, 2021 at 6:30 pm via remote participation in accordance with Chapter 20 of the Acts of 2021.

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

Chair Mike 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. Chair Duffy also explains the rules regarding public comment.

ROLL CALL

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

Chair Duffy explains that as there are only four Board members present, a motion would require all four members voting in favor to pass, and therefore all applicants have been given the opportunity to request a continuation if they choose.

CONTINUATIONS

Location:	10 Lynn Street (Map 26, Lot 206) (R2 Zoning District)
Applicant:	Timothy Doggett
Project:	A continuation of a public hearing for all persons interested in the petition of TIMOTHY DOGGETT to appeal a decision of the Building Inspector per M.G.L ch.40A sections 8 and 15. The petitioner is appealing the Building Inspector’s decision to grant a Building Permit for a two-family residential dwelling at 10 LYNN STREET (Map 26, Lot 206) (R2 Zoning District).

Documents and Exhibitions

- Application date-stamped August 8, 2021 and supporting documentation

Chair Duffy introduces the petition.

Attorney Bill Quinn introduces himself on behalf of the property owner, and briefly explains the history and that he has been before the Board several times regarding this matter. There have been long and active attempts to settle the case with neighbors. Mr. Carr has also requested there be a continuance, and there are no objections. Mr. Quinn requests that the Board continue the matter to the next regularly scheduled meeting.

Motion and Vote: Mr. Copelas motions to continue the petition of TIMOTHY DOGGETT to appeal a decision of the Building Inspector per M.G.L ch.40A sections 8 and 15. The petitioner is appealing the Building Inspector’s decision to grant a Building Permit for a two-family residential dwelling at 10 LYNN

STREET (Map 26, Lot 206) (R2 Zoning District) to the next regularly scheduled meeting of the Zoning Board of Appeals on January 19, 2022.

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

REGULAR AGENDA

Location: **22 Orne Street (Map 27, Lot 351) (R2 Zoning District)**
Applicant: **Steven Feldmann**
Project: A public hearing for all persons interested in the petition of STEVEN FELDMANN for a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance to construct a 12' x 14' screened in porch that is not in compliance with setbacks of 30' of the principal dwelling at 22 ORNE STREET (Map 27, Lot 351) (R2 Zoning District).

Documents and Exhibitions

- Application date-stamped September 16, 2021 and supporting documentation

Chair Duffy introduces the petition.

Steven Feldmann introduces himself, and explains he is seeking to build a small structure off his kitchen that would line up with the back of the house to create a screened in porch, which would reduce the setback to 23.5 feet. Mr. Feldmann maintains the design would be simple and contemporary. He adds that they live near a cemetery, and that his wife enjoys sitting outside but would like to not get eaten alive by mosquitoes.

Chair Duffy asks if the screened in porch would go over a new or existing deck. Mr. Feldmann indicates the proposed screened in porch would go over an existing brick patio, and presents a plot plan.

Mr. Copelas references a photograph included in the petition, and asks if the photo represents the exact look and dimension of the porch, including the pitched roof. Mr. Feldmann confirms that is what will be built.

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

Chair Duffy states the request is relatively modest. He notes a statement of grounds was provided, and confirms that the proposal will not negatively affect traffic flow, safety, utilities, or the environment. Moreover, Chair Duffy suggests it will fit with the neighborhood character.

Mr. Copelas asks if the sloped roof will be sloping toward the left in the direction of the garage shown on the plot plans. Mr. Feldmann confirms the direction, but states that the garage is no longer there.

Motion and Vote: Mr. Copelas motions to approve the petition of STEVEN FELDMANN for a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance to construct a 12' x 14' screened in porch that is not in compliance with setbacks of 30' of the

principal dwelling at 22 ORNE STREET (Map 27, Lot 351) (R2 Zoning District) subject to the following standard conditions:

1. Petitioner shall comply with all city and state statutes, ordinances, codes, and regulations.
2. All construction shall be done as per the plans and dimensions submitted to and approved by the Building Commissioner.
3. All requirements of the Salem Fire Department relative to smoke and fire safety shall be strictly adhered to.
4. Petitioner shall obtain a building permit prior to beginning any construction.
5. Exterior finishes of the new construction shall be in harmony with the existing structure.
6. A Certificate of Occupancy is to be obtained.
7. 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.

Mr. Smalley seconds the motion. **The vote is four (4) in favor (Steven Smalley, Peter Copelas, Rosa Ordaz, and Mike Duffy (Chair)) and none (0) opposed. The motion passes.**

Location:	373 Highland Avenue (Map 7, Lot 58) (B2 Zoning District)
Applicant:	Berman Properties, LLC
Project:	A public hearing for all persons interested in the petition of BERMAN PROPERTIES, LLC for the following variances to allow construction of a new facility for Tropical Products, an existing Salem business, to relocate to support the company's growing needs: Variance from Section 4.1.1 Dimensional requirements of maximum lot coverage by all buildings in the B2 Zoning District (25% required/+ , - 60% proposed); variance from Section 8.3.9.1 Buffer Zone in the BPD Zoning District 75 feet required, and 15 feet proposed; and variance from Section 8.2.3.1 Curb Cuts for two curb cuts greater than 24 feet for commercial uses. Two curb cuts are proposed-one for 42.5 feet and the second 58.4 feet. The site is comprised of the following parcels in the BPD Zoning District: 373 Highland Avenue (Map 7, Lot 58), 5 Cedar Road (Map 7, Lot 48), and 10 Cedar Road (Map 7, Lot 55); and the following parcels in the B2 Zoning District: 355 Highland Avenue (Map 7, Lot 46), 2 Cedar Road (Map 7, Lot 57), 3 Cedar Road (Map 7, Lot 47), and 6 Cedar Road (Map 7, Lot 56).

Documents and Exhibitions

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

Chair Duffy introduces the petition.

Attorney Joseph Correnti introduces himself on behalf of the applicant, noting that Paula Thompson and Ed Berman are also present. Mr. Correnti provides an overview of the project and explains that Tropical Products is an existing successful business that has been at 220 Highland Avenue for a number of years. The company has outgrown its existing facility and need to expand.

Mr. Correnti indicates they have been looking for sites to build a new manufacturing and distribution center, and that while many locations were considered including some outside Salem, the property at 373 Highland Avenue was deemed appropriate for their needs and a way to stay in the City. Mr. Correnti contends the project has been well received and already gone before the Planning Board and is currently undergoing site plan reviews. He adds that public feedback has been positive. Mr. Correnti explains the proposal is for a singular 70,000 square foot building on the lot, and that much work has gone into engineering to ensure the space will work for his client. Tractor trailers will be able to enter, load and unload, and there will be adequate parking for the workforce and any limited visitors. The plan has also been before the Design Review Board. Mr. Correnti asserts there will be lots of attention paid to appearance and landscaping. He also indicates the circumstances are unique because a zoning border line runs through the middle of the proposed building. There are portions in the business park development ("BPD") overlay district, and some in the B2 zone.

Mr. Correnti explains that the first variance request and relief needed, noting that if the building were all in the BPD zone the request would be compliant, but due to portion being in the B2 zone relief is required. He also explains that relief is sought for curb cut widths, as well as one related to BPD buffer zone requirements.

Paula Thompson introduces herself as the project engineer. She describes the buffer zone line, showing its location 75 feet off from the abutting lot, and notes there is one residential abutter to the South. Ms. Thompson explains the parking and circulation requirements, and how they relate to the size of the building, as well as driveway dimensions allowing for required parking and truck maneuverability. Ms. Thompson explains the site is currently pretty open and has been cleared, but that a nice evergreen buffer zone is being proposed along the slope. Within the parking lot, Ms. Thompson indicates there will also be many plantings with a mix of deciduous and evergreen plants (which have all been reviewed by the Planning Board during the site plan approval). Ms. Thompson notes that regarding curb cuts, the applicant is required to get approval from MassDOT. MassDOT requires a 30 foot wide driveway and radius points coming in of 30 feet for large tractor trailers. Ms. Thompson indicates the North and South driveways will be in right and out right only as the property is on a divided highway.

Mr. Correnti discusses the buffer zone more, noting that the abutting residential property is the home of the former owner of the land at 373 Highland Avenue. Mr. Correnti notes that the building is clearly outside of the required 75 foot buffer, but that there will be pavement and landscaping within the buffer zone. He echoes Ms. Thompson's description of an extensive vegetative buffer, as well as the plantings within the parking area. Mr. Correnti states the proposed curb cuts will undergo further review, but they are expected to be approved.

Chair Duffy asks if there is sidewalk running along the property currently, and Ms. Thompson indicates there is an existing five foot sidewalk, which will be reconstructed consistent with MassDOT requirements.

Ed Berman introduces himself as the principal of Tropical Products, and thanks the Board for hearing this petition. Mr. Berman indicates the City of Salem has been good to him, and that he would like to stay in Salem as the business continues to grow. He adds that there is not a lot of buildable land available on the North Shore, and that with the previous apartment building proposed for this area falling through, it worked out well as a viable option. Mr. Berman suggests this

proposal would be less intrusive than other proposals, and that it will be a great project for this piece of land, and ultimately better for neighbors. Mr. Berman explains that Tropical Products is a private label manufacturer of personal care and pet products, noting that some customers include Burt's Bees and Yankee Candle for example. Mr. Berman maintains they have used up every square inch of space of their current space, and even put on an addition a few years ago (building was previously Sunburst Fruit Juice Building). During the pandemic, Mr. Berman contends business has exploded and they are considered an essential manufacturer. He adds that Tropical Products made and donated lots of sanitizer to the City, and that they also make hand soaps, disinfectants. Additionally, Mr. Berman asserts that many companies are seeking to move manufacturing back to the US from China and other countries, and as such they are getting inundated with new orders. The new building will be able to accommodate 120 employees, and Mr. Berman states that many of them are Salem residents.

Mr. Copelas acknowledges that the ZBA is a small cog among many moving pieces and that there will be multiple layers of review by various boards and commissions. Nevertheless, Mr. Copelas indicates he was disappointed in reading the statement of hardship, noting it did not seem to adequately address the statutory requirements of a hardship in terms of unique circumstances, topography of land, soil conditions, how literal enforcement would create a hardship. Mr. Correnti indicates he can address the issue. Mr. Correnti contends the lot is unique in its location on Highland Avenue, with a residential home just 50 feet away from the property, as well as an adjacent 18 acre commercial site and a 5.5 acre site of commercial manufacturing. Mr. Correnti asserts the zoning split also makes the lot unique and unlike others in the area, and that the topography exhibits many starts and precipitous drops toward the back of the site. Some blasting and ledge removal will be required. Mr. Correnti adds that the shape of the lot is also unique, as it is a piece of an 18 acre tract of land that was carved out. Further, Mr. Correnti notes that limitations and the uniqueness of the lot, and the needs of Tropical Products required exceptional engineering for the proposal.

Ms. Thompson discusses the unique topography in more detail, noting the front of the property has an elevation of 134 feet while the back is 112 feet. Ms. Thompson indicates the obstacles were used advantageously by having the loading docks on the lower side, and that this informed many of the design decisions. She notes other challenges regarding site design, such as getting the footprint large enough for use and working with the existing roadway.

Chair Duffy notes in the statement of hardship there is mention of environmental cleanup needed onsite. Ms. Thompson confirms that there is an environmental specialist on site and that borings have been completed across the property. She explains that the site was filled various times over time, and that they discovered all kinds of urban fill materials that require excavating. She explains the environmental remediation a bit more.

Mr. Correnti notes an additional significant issue is that a roadway was going through what will now be a building, and that a portion of Cedar Road is being relocated pursuant to City Council approval. Mr. Correnti explains they will need to maintain access for rear abutters. Mr. Correnti discusses the hardships again, and notes that there are economic benefits from the project, such as local employment and taxes.

Chair Duffy opens the floor to public comment.

Steve Kiapantis of 23 Wisteria Street introduces himself and opines that this proposal is great news for Salem. Regarding Cedar Road, Mr. Kiapantis asks if the outer most lane sitting on the property line will be the Cedar Road access to Highland Avenue. Ms. Thompson confirms that is correct.

Mr. Copelas asks if that is an easement over private property, and Mr. Correnti states that is correct. Mr. Correnti explains it was the result of months of discussion with the City Solicitor and real estate counsel. The road will be called Cedar Road and will provide access always to all lots in the rear via an access and utility easement. If any of the rear lots are developed, utilities will be able to be pulled from Highland Avenue down this road according to Mr. Correnti.

Dennis Colbert of 37 Clark Street introduces himself, and asks about the extension and new location of Cedar Street. Mr. Colbert asks if there will be more blasting in the future to get utilities down the road, or if it will be taken care of now. Mr. Correnti explains that the blasting company has represented that it will be completed now. Mr. Correnti further explains that Tropical Products will not be pulling their utilities from Cedar Road, but directly from Highland Avenue, and will allow the rear lots to have access via Cedar Road and the ability to run their utility lines. Ms. Thompson adds that there were some old water and sewer lines on Cedar Road, but they are being taken out.

Chair Duffy discusses the variances being requested and acknowledges the unique aspects of the property and hardships with respect to site development. He also notes that the proposal appears to be a good use of the property, with desirable benefits for the community and City.

Mr. Correnti notes that while this is one stop before many boards and commissions, coming before the ZBA is nevertheless important as the project cannot move forward without the Board's approval.

Motion and Vote: Mr. Copelas motions to approve the petition of BERMAN PROPERTIES, LLC for the following variances to allow construction of a new facility for Tropical Products, an existing Salem business, to relocate to support the company's growing needs: Variance from **Section 4.1.1 Dimensional requirements** of maximum lot coverage by all buildings in the B2 Zoning District (25% required/+, - 60% proposed); variance from **Section 8.3.9.1 Buffer Zone** in the BPD Zoning District 75 feet required, and 15 feet proposed; and variance from **Section 8.2.3.1 Curb Cuts** for two curb cuts greater than 24 feet for commercial uses at 373 HIGHLAND 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. A Certificate of Occupancy is to be obtained.
5. A Certificate of Inspection is to be obtained.
6. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board.
7. 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.

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

Location:	143 Derby Street (Map 41, Lot 319) (B1 Zoning District)
Applicant:	Lisa and John Bartlett
Project:	A public hearing for all persons interested in the petition of LISA & JOHN BARTLETT for a variance per Section 4.1 <i>Dimensional Requirements</i> of the Salem Zoning Ordinance for side yard setback, front yard setback, and minimum lot area per dwelling at 143-145 Derby Street to construct a new 90' x 42' +/- mixed-use building to include two commercial units and five residential units. The front and side yard setbacks would be reduced to 0 feet. The B1 requirements are 3,500 square feet per dwelling. The proposal is 1,600 square feet to allow for the five units at 143 DERBY STREET (Map 41, Lot 319) (B1 Zoning District).

Documents and Exhibitions

- Application date-stamped October 1, 2021 and supporting documentation

Chair Duffy introduces the petition.

Architect Andrew Crocker introduces himself on behalf of the applicants, who he explains have owned the property for a number of years. Mr. Crocker explains they operated Captain Dusty's which currently occupies the property. The owners are proposing to develop the two lots they own on 143 and 145 Derby Street into a single development, which will include two commercial units and five residential units. Mr. Crocker indicates the existing structure at 143 Derby is historic, and as such the applicants have gone before the Historic Commission twice and have come to a general consensus as to how to deal with the historic nature of the structure by creating a joining piece between the existing structure and the new one. The new structure will be three stories and contain two residential units on the second and third floors each, with the four residences each having about 1,000 square feet of space. The existing structure will become a two story unit at approximately 1,300 square feet. Mr. Crocker explains the new structure will be up against the property line on Derby Street as it runs along Daniels Street. He adds that the proposal allows space for ten cars to park in the rear and meets the parking requirements for the commercial spaces on the first floor of the new structure.

Mr. Crocker explains the variance requests as being two-fold, with the setback relief allowing the proposal to match the surrounding streetscape on Derby and Daniels by bringing the building to the edge of the sidewalk. Mr. Crocker maintains that the Historic Commission was in favor of this idea. The second request involves lot area per unit, and Mr. Crocker explains that the relief would allow the applicants to provide five two-bedroom units that can fit reasonably into the space. He contends that most of the buildings in the neighborhood have a unit dwelling square foot ratio that is even smaller than what is being proposed, and as such is the proposal is not detrimental and in line with neighborhood characteristics.

Mr. Copelas asks about the ten parking spaces proposed for the commercial space, and how the spaces relate to the residential units. Mr. Crocker states that in the B1 zone, there is no parking

requirement for residential units, but commercial spaces require one parking space per 150 square feet of usable retail space. Mr. Copelas asks if Mr. St. Pierre is available, as he is unsure of the stated requirements, but Mr. St. Pierre is not present.

Steve Cummings, Salem Assistant Building Inspector, introduces himself and states he does not believe Mr. Crocker's statements are accurate. Mr. Cummings suggests the zone still requires 1.5 parking spots per residential dwelling unit.

Mr. Copelas suggests this complicates things, and that there needs to be further clarification on the matter. Mr. Cummings notes that before coming to the ZBA, petitioners usually discuss plans with the Building Department. Mr. Cummings asks if this issue was discussed. Mr. Crocker indicates he spoke with the building inspector twice, and that his understanding and assumption was that the project had been reviewed and no issues found. Mr. Cummings states that even in the most dense zone, B5, parking for residential units is required.

Mr. Copelas suggests this is a fundamental issue, and that the petitioner perhaps should go back and confirm that the variances being requested are adequate. Ms. Ordaz agrees. Chair Duffy suggests continuing the petition to the next meeting on January 19, 2022. Mr. Crocker agrees to continue, and asks if there are additional concerns from the Board. Chair Duffy reminds the petitioner that there is a high bar for variances, and that the property must be shown to have unique aspects, and a hardship must be evident.

Mr. Crocker states the general hardship is to be able to develop the property in a conscientious way within the limits of the zoning ordinance, and that it is more about the zoning and location of the property, as well as size and shape.

Chair Duffy suggests digging into the hardship a bit deeper before returning to help out with the presentation. Mr. Copelas suggest referring to the City Solicitor's 2018 guidance on reviewing variance requests.

Ms. Ordaz states she is unsure if this is an issue, but as the property is going from one commercial space to two, she suggests confirming there is no issue with the use and whether it is non-conforming. Mr. Crocker states he will double check.

Chair Duffy opens the floor to public comment.

Susan Cayouette of 20 Hardy Street introduces herself, and states the development seems too big for the area. Ms. Cayouette also worries the parking will be an issue, as the additional residential units will have nowhere to park. She contends that parking is a big problem in the neighborhood, and that currently Captain Dusty's rents out parking where the new building will go, so those cars will also be displaced.

Nina Vaden introduces herself as a resident of the neighborhood. Ms. Vaden states that she initially thought the parking was for the residential units when she saw the plans, which she opines would make more sense as parking is an issue in the area. Ms. Vaden points out that if this were a commercial parking lot, the only way to enter onto Daniels Street is to go down Koscuisko and then take the corner and go back down Daniels. This would be a big change in the amount of traffic that

small loop sees, and drastically change the traffic flow in the neighborhood. She suggests if the parking were for the residential units, it might not be as big of a problem.

Mr. Copelas asks if Daniels is a one way off of Derby Street, and Ms. Vaden confirms it is, but that you cannot turn onto Daniels from Derby. They discuss the unique traffic situation with the surrounding one-way streets.

Heidi Liedberg of 131 Derby Street introduces herself and states this new development will back up to her bedroom windows and will take away a lot of her light and air. Ms. Liedberg states that she is also displeased with the ten additional cars that will be parking outside her window due to the added noise and exhaust. Ms. Liedberg states she would like to see fewer parking spots, as the City strategy is to get people out of cars.

Kathrine LaBonte of 25 Daniels Street introduces herself and echoes the concerns raised regarding increased traffic and lack of parking. Ms. LaBonte states she is confused about the access to parking on Daniels, as there is currently not a curb cut. The introduction of a curb cut would further remove an additional street parking spot. Ms. LaBonte also raises concerns regarding increased noise and the blocking of natural light.

Geoff Millar of 29 Boardman Street introduces himself as a resident of the neighborhood for 17 years. Mr. Millar echoes the concerns of other commenters, particularly those of Ms. Vaden regarding traffic flow and access to the property. Mr. Millar also notes parking issues and asks if the big curb cut on Daniels would return to parking spaces if the proposal were to go forward.

Motion and Vote: Ms. Ordaz motions to continue the petition of LISA & JOHN BARTLETT for a variance per Section 4.1 *Dimensional Requirements* of the Salem Zoning Ordinance for side yard setback, front yard setback, and minimum lot area per dwelling to construct a new 90' x 42' +/- mixed-use building to include two commercial units and five residential units at 143 DERBY STREET (Map 41, Lot 319) (B1 Zoning District) to the next regularly scheduled meeting on January 19, 2022.

Mr. Copelas seconds the motion. **The vote is four (4) in favor (Mike Duffy (Chair), Rosa Ordaz, Steven Smalley, and Peter Copelas) and none (0) opposed. The motion passes.**

Location:	20 Wisteria Street (Map 32, Lot 196) (R2 Zoning District)
Applicant:	Rafael Campusano
Project:	A public hearing for all persons interested in the petition of RAFAEL CAMPUSANO for a variance per Section 4.1 of the Salem Zoning Ordinance <i>Dimensional Requirements</i> to add a dormer of +/- 37 feet by 12 feet on the rear & left side of the existing building. This dormer will increase the existing non-conformity of the building by encroaching onto the side and rear setbacks within the existing building footprint at 20 WISTERIA STREET (Map 32, Lot 196) (R2 Zoning District).

Documents and Exhibitions

- Application date-stamped October 6, 2021 and supporting documentation

Chair Duffy introduces the petition, and notes that a written request to continue was submitted by the applicant.

Motion and Vote: Mr. Copelas motions to continue the petition of RAFAEL CAMPUSANO for a variance per Section 4.1 of the Salem Zoning Ordinance *Dimensional Requirements* to add a dormer of +/- 37 feet by 12 feet on the rear & left side of the existing building at 20 WISTERIA STREET (Map 32, Lot 196) (R2 Zoning District) until the next regularly scheduled meeting on January 19, 2022.

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

Location:	201 North Street (Map 17, Lot 288) (R2 Zoning District)
Applicant:	Jessica Kane
Project:	A public hearing for all persons interested in the petition of JESSICA KANE, for a special permit per Section 3.3.5 <i>Nonconforming Single- and Two-Family Residential Structures</i> of the Salem Zoning Ordinance to construct a one-story addition by encroaching into the 10' setback by about 1'. In addition, the proposal is to remove an entry porch and build a one-story heated entry at 201 NORTH STREET (Map 17, Lot 288) (R2 Zoning District).

Documents and Exhibitions

- Application date-stamped October 12, 2021 and supporting documentation

Chair Duffy introduces the petition.

Helen Sides introduces herself as project architect on behalf of the applicant. Ms. Sides indicates that since this project was initially submitted, the proposed modification of the front porch has been eliminated, and so the project only involves the rear addition. Ms. Sides explains that currently a deck exists with a notch cut out in the rear, and that the proposal is the square it off at the end. This encroaches upon the setback by a little less than a foot, which is why relief is sought.

Mr. Copelas asks about the relief sought and if the front porch modifications were part of this request. Ms. Sides confirms that the relief was separate and explains in more detail.

Ms. Sides states the petitioner, Ms. Kane, submitted a letter to the direct abutter and that they were enthusiastically supportive of the proposal. Chair Duffy acknowledges the letter, and confirms that Mr. and Ms. Haley, neighboring property owners, have expressed support.

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

Chair Duffy discusses the statement of grounds and how the relief sought is minimal. Mr. Copelas agrees.

Motion and Vote: Mr. Copelas motions to approve the petition of JESSICA KANE, for a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning

Ordinance to construct a one-story addition by encroaching into the 10' setback by about 1' at 201 NORTH STREET (Map 17, Lot 288) (R2 Zoning District) subject to the following standard conditions:

1. Petitioner shall comply with all city and state statutes, ordinances, codes, and regulations.
2. All construction shall be done as per the plans and dimensions submitted to and approved by the Building Commissioner.
3. All requirements of the Salem Fire Department relative to smoke and fire safety shall be strictly adhered to.
4. Petitioner shall obtain a building permit prior to beginning any construction.
5. Exterior finishes of the new construction shall be in harmony with the existing structure.
6. A Certificate of Occupancy is to be obtained.
7. 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.

Mr. Smalley seconds the motion. **The vote is four (4) in favor (Steven Smalley, Rosa Ordaz, Peter Copelas, and Mike Duffy (Chair)) and none (0) opposed. The motion passes.**

Location: **57 Loring Avenue (Map 32, Lot 146) (R1 Zoning District)**

Applicant: **Jaho Industries, LLC**

Project: A public hearing for all persons interested in the petition of JAHU INDUSTRIES, LLC to amend an existing decision for an addition of a liquor license at 57 LORING AVENUE (Map 352, Lot 146) (R1 Zoning District).

Documents and Exhibitions

- Application date-stamped November 22, 2021 and supporting documentation

Chair Duffy introduces the petition.

Attorney Correnti introduces himself on behalf of the petitioner. Mr. Correnti explains that the applicant was before the Board earlier last year and received approval for a special permit to change from one non-conforming use to another to open a new location on Loring Avenue between the north and central campuses at Salem State University. At the time, Mr. Correnti indicates there were no liquor licenses available and no desire to pursue one through additional means. In the decision issued by the Board, there was a findings of fact and a mentioning of the fact that this second location would not have a liquor license like the Derby Street location does. Since then, Mr. Correnti explains that the applicant has acquired space on Canal Street across from Crosby's plaza, which will be opening. Together, the applicant is now going before City Council to seek a home rule petition liquor license, which is done through a special act of legislature when none are available, to grant licenses that stay with the property. Mr. Correnti asks that the Board's prior decision be amended to include the liquor license, as the finding of fact was never meant to be a prohibition, the applicant was just not seeking a liquor license at the time.

Mr. Mezini, owner of Jaho, explains how he uses the full liquor license at the Derby Street location, and contends he is trying to recreate a European café experience, with the ability to also serve coffee-centric cocktails. He indicates that at the time no licenses were available, but that since then he has been approved for one at the Canal Street location. From a consistency standpoint, Mr. Mezini states he would like to be able to offer the same menu at all three locations and offer the same experience to customers from location to location.

Mr. Correnti emphasizes that the Board's action tonight is not issuing a liquor license, as that is a process the applicant will need to go through with a home rule petition through the Salem Licensing Board. Mr. Correnti states what is being requested is an amendment to the finding of fact to reflect that it was not meant to be a prohibition, but rather a recitation of facts at that time.

Mr. Copelas addresses Mr. Mezini and states he did not realize Jaho also had locations in Boston. Mr. Copelas asks if this proposal seeks to standardize operations across all locations, and Mr. Mezini confirms.

Ms. Ordaz states she is a fan of Jaho and is glad to hear the new location will replicate the offerings of the Derby Street location.

Chair Duffy opens the floor to public comment.

Steve Kapiantis of 23 Wisteria Street introduces himself and expresses his support, stating that it is a great business in Salem and he is happy to see it expand. Mr. Wisteria opines that they serve the best cappuccino in town.

Chair Duffy states the Board is being asked to amend a statement of fact, rather than a condition of approval. He suggests it is an easy amendment, and that the fact could even simply be stricken.

Motion and Vote: Mr. Copelas motions to approve the petition of JAHOO INDUSTRIES at 57 Loring Avenue to amend our existing decision to remove the reference to a prohibition of liquor license to the statements of fact, and to confirm the special permit is allowed with or without a liquor license.

Ms. McClain seconds the motion. **The vote is four (4) in favor (Steven Smalley, Rosa Ordaz, Peter Copelas, and Mike Duffy (Chair)) and none (0) opposed. The motion passes.**

Location: **10 Pleasant Street (Map 36, Lot 442) (R2 Zoning District)**

Applicant: **Ryan McShera**

Project: A public hearing for all persons interested in the petition of RYAN M. McSHERA for a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* to demolish a non-conforming single-story structure and construct and nonconforming 2.5 story structure at 10 PLEASANT STREET (Map 36, Lot 442) (R2 Zoning District).

Documents and Exhibitions

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

Chair Duffy introduces the petition, and explains that a written request to continue was submitted by the applicant.

Motion and Vote: Mr. Copelas motions to continue the petition of RYAN M. McSHERA for a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* to demolish a non-conforming single-story structure and construct and nonconforming 2.5 story structure at 10 PLEASANT STREET (Map 36, Lot 442) (R2 Zoning District) to the next regularly scheduled meeting of the Zoning Board of Appeals on January 19, 2022.

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

MEETING MINUTES

October 20, 2021

Chair Duffy notes he reviewed the minutes for October 20, 2021 and has no edits. Mr. Copelas states he also has no edits or comments.

Motion and Vote: Mr. Copelas motions to approve the October 20, 2021 Zoning Board of Appeal meeting minutes as drafted. Chair Duffy seconds the motion. **The vote is four (4) in favor, and none opposed. The motion passes.**

November 17, 2021

Chair Duffy notes he was not at the meeting, and therefore does not have any comment. Ms. Ordaz notes some minor edits, such as mention of Chair Duffy at the beginning of minutes, who was not present.

Mr. Copelas notes that on page 14 there is a good recitation of the Board's conversation, but that the actual motion is incorrect and may be the result of a cut and paste error.

Chair Duffy suggests correcting for the edits and re-reviewing the November 17, 2021 minutes at the following ZBA meeting.

OLD/NEW BUSINESS

Location: 16/18/20R Franklin Street

Applicant: Juniper Point, LLC

Description: Extension of Variance

Chair Duffy introduces the petition.

Mr. Correnti explains that it has been difficult to keep coming back for extensions, but asks that the Board understand that projects that require state licensing, such as Chapter 21, require time and that the applicant cannot begin the process until the local permitting is complete. The first step is usually the ZBA, then Planning, Conservation, and others. Mr. Correnti indicates the process generally takes over a year, so by the time the local process is complete, the variance could laps since they are only good for a year. Mr. Correnti maintains that further processes, like application for state permits, MEPA, and Chapter 91 license requirements for waterway projects, can require an additional nine to 12 months. Mr. Correnti indicates it has been 2.5 years since the Board's initial decision. While the owner is frustrated by process delays, Mr. Correnti assures he is diligent in pursuing all requirements to move forward. Mr. Correnti contends the MEPA certificate was issued 30 days ago, and that the Conservation Commission issued an amended order of condition five weeks ago. Additionally, DEP weighed in last week on the order of conditions and will issue a superseding order of conditions to address further issues.

Chair Duffy acknowledges the lengthy process and states the request makes sense. He indicates a six month extension brings the variance and special permit expiration to June 3, 2022.

Motion and Vote: Mr. Copelas motions to approve the request for a six (6) month extension to the previously approved variance and special permit for JUNIPER POINT, LLC at 16, 18, and 20R FRANKLIN STREET.

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

ZBA Meeting Schedule

The Board discusses the upcoming year ZBA meeting schedule and the revisions that have been made. The December meeting will be a week earlier, and the April meeting will be a week later in 2022 to take into consideration holidays and school vacation dates.

Motion and Vote: Mr. Copelas motions to approve the revised 2022 ZBA meeting schedule. Mr. Smalley seconds the motion. **The vote is four (4) in favor, and none (0) opposed. The motion passes.**

ADJOURNMENT

Motion and Vote: Mr. Copelas motions to adjourn the meeting. Ms. Ordaz seconds the motion. **The vote is all in favor. The motion passes.** All in favor, ends

The meeting ends at 8:43 PM on December 15, 2021.

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-2021>

City of Salem Zoning Board of Appeals
December 15, 2021 DRAFT Meeting Minutes

Respectfully submitted,
Daniel Laroe, Staff Planner