

City of Salem Zoning Board of Appeals Meeting Minutes

May 25, 2022

A meeting of the Salem Zoning Board of Appeals (“Salem ZBA”) was held on Wednesday, May 25, 2022 at 6:30 pm via remote participation in accordance with Chapter 20 of the Acts of 2021, as amended by Chapter 22 of the Acts of 2022.

Chair Mike Duffy calls the meeting to order at 6:33 pm.

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

ROLL CALL

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

REGULAR AGENDA

Location: **12 Woodside Street (Map 17, Lot 200) (R2 Zoning District)**

Applicant: **Raymond F. McSwiggin**

Project: A public hearing for all persons interested in the petition of RAYMOND F. McSWIGGIN at 12 WOODSIDE STREET(Map 17, Lot 200) (R2 Zoning District), for a Special Permit for per Section 3.3.5 Nonconforming Single- and Two-family Residential Structures of the Salem Zoning Ordinance to construct an extension of the existing porch to provide a roof over the stairs in order to prevent them from icing over in the winter. The entire proposed porch will be enclosed.

Documents and Exhibitions

- Application date-stamped **March 18, 2022** and supporting documentation

Chair Duffy introduces the petition.

Attorney Lauren Weeks introduces herself on behalf of the Raymond F. McSwiggin Trust, who’s trustee is the owner of 12 Woodside Street. She clarifies that though the agenda and advertisement listed Mr. McSwiggin, the property is owned in a trust. Ms. Weeks provides a brief history of the home property, which has been owned by the same family since 1962. The lot is nonconforming, as is the existing structure, having no setback requirements met. Ms. Weeks explains the proposal is a minor expansion to the front porch that would cover the front steps. She presents a rendering of the proposed conditions and discusses the relief requested in more detail. The existing front yard setback nonconformity will be increased, and a special permit is required. Ms. Weeks contends the design of the proposal is consistent with the neighborhood, and would result in an aesthetic

improvement to the property. She notes that sidewalk passage would not be affected. The proposal would allow for more usable space for the owners, and cover the steps and protect them from the elements.

Chair Duffy asks if the overall addition will come any closer to the sidewalk than the current set of steps, and Ms. Weeks confirms it will not. She states the space alongside the steps was previously landscaped, but that it has been removed.

Mr. Viccica asks if the addition goes right up to the sidewalk and asks to see a plot plan. Ms. Weeks indicates it almost goes up to the sidewalk but not fully, and suggests several houses in the area have a similar distance between the building and sidewalk.

Chair Duffy and other Board members ask how many feet or inches the sidewalk will be from the new facade after the addition. Ms. Weeks indicates the distance would be about six inches. Mr. Viccica notes that after conducting a street view search online it seems none of the houses in the area come right up to the sidewalk. Mr. Viccica also notes the window sills on the proposed addition appear rather high for a building that comes so close to the sidewalk.

Mr. Copelas confirms with Ms. Weeks that the existing external steps would now be on the inside with the proposal, and states that the proposal accomplishes much more than protecting the steps from weather, and suggests that in some ways the design is a little problematic.

Mr. Viccica asks for the dimensions of the new addition, which would add three feet and nine inches to the existing covered porch for a total of ten foot eight inches. He states he wishes the proposal were not so close to the sidewalk for several reasons, including drainage concerns as rain would go from the new small roof directly onto the sidewalk. Ms. Weeks suggests gutters could be added to redirect the rain. Mr. Viccica suggests he would prefer to see the additions scaled back two feet for an approximately eight by eight foot room. Mr. Viccica notes that in the neighborhood the closest house is still about two feet back from the edge of the paved sidewalk. He states that while he thinks it is a great idea for the residents, the current design is too close for pedestrians and the streetscape. Mr. Viccica also states that gutters will be needed so that water does not sheet across a public way.

Chair Duffy opens the floor to public comment.

Raymond McSwiggin of 12 Woodside Street introduces himself, and states that the porch roof currently has gutters, and that he would be happy to maintain them on the addition.

Chair Duffy summarizes the Board's concerns regarding the proximity to the sidewalk and rainwater drainage. Mr. Viccica proposes including a special condition that the addition be no closer than one foot to the sidewalk, which would allow the step up to exist outside the addition. Mr. Copelas states that would be reasonable, and Ms. Weeks indicates the condition would be acceptable.

Chair Duffy discusses the statement of grounds provided and special permit criteria.

Motion and Vote: Mr. Copelas motions to approve the petition of RAYMOND F. McSWIGGIN at 12 WOODSIDE STREET (Map 17, Lot 200) (R2 Zoning District), for a Special Permit for per Section 3.3.5 Nonconforming Single- and Two-family Residential Structures of the Salem Zoning Ordinance

to construct an extension of the existing porch to provide a roof over the stairs in order to prevent them from icing over in the winter, 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.

And the following special conditions:

1. The addition must contain gutters with downspouts to direct water away from the public way.
2. The proposed addition shall be no closer than one foot to the lot line at sidewalk.

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

Location: **5 West Terrace (Map 33, Lot 734) (R1 Zoning District)**

Applicant: **Meghan Walsh**

Project: A public hearing for all persons interested in the petition of MEGHAN WALSH at 5 WEST TERRACE(Map 33, Lot 734) (R1 Zoning District), for a Special Permit for per Section 3.3.5 Nonconforming Single and Two-family Residential Structures of the Salem Zoning Ordinance to construct a 6'7" x 11'6" accessible bathroom addition. The addition of the bathroom will increase the non-conforming lot coverage from 32.2% to 34.2%.

Documents and Exhibitions

- Application date-stamped **March 21, 2022** and supporting documentation

Chair Duffy introduces the petition.

Meghan Walsh introduces herself and presents photos of the property demonstrating existing conditions, noting the area that will become the proposed bathroom. Ms. Walsh indicates she is an architect and that she is representing her father, who owns the home. Ms. Walsh explains the

proposed addition will house an accessible bathroom for her mother, who has Alzheimer's disease and knee issues. Ms. Walsh further explains that the proposal will allow her parents, both in their 80's, to continue to age in place. She informs that of the approximately 115 million homes in the United States, only about 10 percent are built to handle the needs of the elderly. Ms. Walsh contends the proposed addition will not be visible from the street, and she presents plot plans showing the existing nonconforming structure, as well as the proposed conditions. The addition will conform to the setback requirement and consist of the same materials and color as the rest of the house. Ms. Walsh next presents floor plans, and states she plans to work with MassSave on an energy audit to make improvements to the home as well.

Mr. Copelas states the proposal makes sense and is straight forward.

Ms. McClain suggests the proposal seems like a very thoughtful plan, and that nothing stands out as problematic. Ms. McClain also notes that on a personal level, Ms. Walsh is doing a beautiful thing for her parents to allow them to age with dignity.

Chair Duffy opens the floor to public comment but there is none. Chair Duffy discusses the statement of grounds and the special permit criteria.

Motion and Vote: Mr. Viccica motions to approve the petition of MEGHAN WALSH at 5 WEST TERRACE(Map 33, Lot 734) (R1 Zoning District), for a Special Permit for per Section 3.3.5 Nonconforming Single and Two-family Residential Structures of the Salem Zoning Ordinance to construct a 6'7" x 11'6" accessible bathroom addition, subject to the following standard conditions:

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

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

Location: **2 Bridge Street (Map 37, Lot 58) (B2 Zoning District)**

Applicant: **2 Bridge, LLC**

Project: A public hearing for all persons interested in the petition of 2 BRIDGE, LLC at 2 BRIDGE STREET (Map 37, Lot 58) (B2 Zoning District), for a Special Permit for per Section 6.10.6 General Provisions of the Salem Zoning Ordinance to operate a marijuana cultivation facility.

Documents and Exhibitions

- Application date-stamped March 28, 2022 and supporting documentation

Chair Duffy introduces the petition.

Attorney Bill Quinn introduces himself on behalf of the applicant, and notes this property was discussed and came before the Board in October 2021. Mr. Quinn describes the property as the former Stromberg's restaurant off of Bridge Street, and notes the Board granted a special permit to operate part of the building as a retail marijuana facility. Mr. Quinn explains that a good portion of the property remains vacant, and that his client is now asking that the basement of the building be licensed separately as a marijuana cultivation facility under Section 6 of the general zoning provisions. Mr. Quinn briefly describes the history of the property and series of attempts to utilize it and the changes in ownership, all with mixed success due to difficulties with parking. Mr. Quinn explains there are 15 legal parking spaces on the site, and that the zoning requirements and traffic impact study showed the retail facility required six spaces. Mr. Quinn maintains the location is isolated, with mostly commercial abutters, and residences on the other side of the connector causeway on Bridge Street. Mr. Quinn acknowledges there were some concerns raised by neighbors but that all criteria were met and the Board granted the special permit. The proposal before the Board now seeks to use more of the building, and allow the applicant to grow his own crop rather than purchase it for the retail use. Mr. Quinn notes there will be no manufacturing or production of goods, just growing and bagging. Based on a supplemental study and discussion with the building inspector, the parking requirement for this proposed use is an additional two to three spaces. This would bring the use to nine of the original fifteen spaces. Mr. Quinn explains that only employees would require parking for the new proposal, and that there would only be two or three. He suggests there will be minimal impact from adding the cultivation facility, and notes there will be many layers of regulation and review, including the board of health, CCC, and others. Mr. Quinn indicates all reports have been submitted to the City and appropriate departments, including the police and fire departments, who have reviewed the security plans and do not object to the proposal.

Mr. Copelas asks if any of the cultivated product will be wholesaled out of the building, and Mr. Quinn indicates 100 percent will be utilized in the retail establishment at the site. Mr. Copelas asks about the restaurant component that was previously proposed, and whether the cultivation facility being proposed will take up all of the remaining square footage and building space. Mr. Quinn explains that the majority of the space on the first floor considered for a restaurant is still vacant, and that his client filed plans with the state regarding the possibility of a small restaurant with docking facilities to serve boat traffic and travelers in the area at some future time, but that those plans have nothing to do with the proposal before the Board currently. Mr. Quinn states his client is well aware that parking will be an issue at the space and that no additional uses can be placed in the building without coming back to this Board, as well as others. Mr. Quinn states the Board would not be committing themselves to anything other than the originally approved use and the

proposed use presented. Mr. Copelas asks about the square footage of the building and the separate amounts by use. Mr. Quinn explains the building is 2,000 square feet on each floor, and that 1,100 square feet of the main floor would still be vacant with this proposal. The entire basement 2,000 square feet would be used for cultivation and storage.

Chair Duffy asks if the cultivation facility and retail operations will be conducted by the same or separate entities. Mr. Quinn explains they are not required by law to be separately owned, but that ownership must be disclosed under state law and regulations. The uses are required to be physically separate with lockable doors, and the proposal does not allow free travel from one use to the other, according to Mr. Quinn. Mr. Quinn presents floor plans.

Mr. Viccica notes the City and Commonwealth have both become more comfortable with both marijuana retail and cultivation facilities, but states a few things are worth reviewing. Mr. Viccica indicates he saw the letter from the police department approving the safety plan, and asks if someone would like to speak to the plan. He also notes that Section 6.10.9 discusses high efficiency lighting, LED use, and limits on pesticides and the number of plants that can be flowering at one time. Mr. Viccica also suggests it would be appropriate to have a special condition that there be no transportation of cannabis from the site to other facilities, or that 100 percent be used for retail purposes on site. He states that without such a condition there would need to be a discussion of hours of operation, truck traffic, and safety. Mr. Quinn states that would be an acceptable condition. Mr. Quinn discusses the application for the special permit and the grounds per section 6.10. Mr. Quinn discusses the reports filed with various departments and plans showing the physical separation of the structures. He further notes there are no educational facilities within 500 feet of the property, and that there will be adequate storage in the basement. All business signs will need to be approved by the CCC and the City. Mr. Quinn asserts that no produce will be eaten, consumed, or ingested in any way on the premises. He states that Tim Haigh has sole ownership interest in the facility and the property.

Chair Duffy and Mr. Quinn discuss that the submitted materials include a letter indicating the CCC had approved a change of location for permits and applications sought for a similar facility located on Jefferson Street. Mr. Quinn indicates his familiarity with the requirements of Section 6.10.9 and that the aspects relating to lighting, water usage and demand, and other requirements have not changed.

Chair Duffy opens the floor to public comment.

Tim Haigh introduces himself, and discusses the requirements related to cultivation ordinances. He discusses the LED lights in all locations except for flowering rooms, which will utilize ceramic metal halide lights. Mr. Haigh explains this would be the smallest cultivation facility in the state permitted through the CCC, at only four times the size of what someone could grow legally in their home for personal consumption. He states there are not anticipated negative impacts to the neighborhood associated with the proposal.

Mr. Viccica asks about how best practices around lighting and technology are evolving for cultivators. Mr. Haigh explains that best practices include a combination use of LED and ceramic metal halide lights, where certain frequencies of LED lights are utilized (blue and red spectrums). This combination produces the best gram-per-watt, according to Mr. Haigh. He further explains that he is looking into solar panels and closed cell insulation for all walls, as he takes efficiency very

seriously. Mr. Haigh also notes the CCC requires an energy audit as part of its annual license renewal procedure.

Ward 5 Councilor Jeff Cohen of 12 Hancock Street introduces himself. Councilor Cohen expresses support for the proposal, and notes he also submitted written comment. Mr. Cohen speaks to the sustainability and efficiency aspects of the proposal in particular, indicates Mr. Haigh's businesses often meet the highest guidelines.

Ward 2 Councilor Caroline Watson-Felt of 2 Beacon Street introduces herself, and states she has attended a number of community meetings held by Mr. Haigh. Councilor Watson-Felt indicates she is heartened and feels both confident and comfortable with how Mr. Haigh has approached his business thus far. She suggests he has been transparent and demonstrated extensive knowledge of the cannabis industry and regulations. Ms. Watson-Felt states he is not only well informed, but that his approach to sustainability is refreshing. Councilor Watson-Felt voices her support for the proposal.

Chair Duffy notes the Board received additional letters of support from Amy and Sean McKeehan of 6 Cromwell Street and Flora Tomthat of 30 Northey Street.

Chair Duffy discusses findings concerning the special permit criteria, those called for under the bylaws concerning cannabis establishments in the Commonwealth.

Motion and Vote: Mr. Viccica motions to approve the petition of 2 BRIDGE, LLC at 2 BRIDGE STREET (Map 37, Lot 58) (B2 Zoning District), for a Special Permit for per Section 6.10.6 General Provisions of the Salem Zoning Ordinance to operate a marijuana cultivation facility, 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.

And the following special condition:

1. 100% of all cultivated product shall be used on site in the retail facility.
2. All requirements specific to Section 6.10.9 regarding marijuana cultivation facilities shall be addressed and adhered to.

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

Location: **9 Albion Street (Map 15, Lot 183) (R1 Zoning District)**

Applicant: **Ryan McShera**

Project: A public hearing for all persons interested in the petition of RYAN MCSHERA at 9 ALBION STREET(Map 15, Lot 183) (R1 Zoning District), for a Special Permit for per Section 3.3.5 Non-conforming Single- and Two-Family Residential Structures of the Salem Zoning Ordinance to tear down a small portion of the rear of the building and rebuild a 13' wide by 18' deep addition. The proposed addition will be no closer to the lot line than the existing home.

Documents and Exhibitions

- Application date-stamped March 28, 2022 and supporting documentation

Chair Duffy introduces the petition.

Architect Ryan McShera introduces himself as representing the owners of 9 Albion Street. Mr. McShera describes the existing nonconforming property, which lacks frontage and does not meet front and side yard setback requirements. He presents a site plan, and discusses the proposed addition at the rear of the home. Mr. McShera explains that a portion of the structure in the rear will be torn down, and the addition 13 by 18 foot addition will go in its place, with additional stair access to the rear yard. Mr. McShera indicates the proposal complies with the special permit criteria.

Mr. Copelas asks to see photos of the existing conditions. Mr. McShera shows the existing staircase and conditions, and discusses how they will change with the proposal. Mr. Viccica asks why the stairs go out seven feet rather than being adjacent to the building. Mr. McShera indicates it was to create a spot for plants at the entrance.

Chair Duffy opens the floor to public comment.

Ward 4 Councilor Lev McClain introduces himself and states he lives down the street on Albion Street. Councilor McClain voices support for the proposal, and suggests the current owners have done a good job maintaining the property and have been good neighbors. Mr. McClain states he has not heard any objections or opposition from abutters to date.

Chair Duffy discusses the special permit criteria and statement of grounds.

Motion and Vote: Mr. Copelas motions to approve the petition of RYAN MCSHERA at 9 ALBION STREET(Map 15, Lot 183) (R1 Zoning District), for a Special Permit for per Section 3.3.5 Non-conforming Single- and Two-Family Residential Structures of the Salem Zoning Ordinance to tear down a small portion of the rear of the building and rebuild a 13' wide by 18' deep addition, subject to the following standard conditions:

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

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

Location: **12 Winter Island Road (Map 44, Lot 34) (R1 Zoning District)**

Applicant: **Joseph Manzi**

Project: A public hearing for all persons interested in the petition of JOSEPH MANZI at 12 WINTER ISLAND ROAD(Map 44, Lot 34) (R1 Zoning District), for a Special Permit for per Section 3.3.5 Non-conforming Single- and Two-Family Residential Structures of the Salem Zoning Ordinance seeking relief from the number of stories and to expand the non-conformity of the structure by adding a shed dormer to the property.

Documents and Exhibitions

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

Chair Duffy introduces the petition.

Architect Stephen Livermore introduces himself on behalf of Joseph and Sabrina Manzi. Mr. Livermore explains the proposal is for a small addition that will replace an existing covered porch at the back right corner of the property as part of renovations that are meant to improve the first floor living room and entrances, as well as increase the size of the kitchen and dining room. Mr. Livermore also notes the main entrance will be moved from Winter Island Road to the right side elevation. Mr. Livermore contends the additions will not encroach further on any setbacks, and presents a plot plan. Mr. Livermore indicates the proposal will also modify the roof frame of the building to create a gable style roof to allow for more living space on the upper floor. Mr. Livermore states the owners have one child and are expecting a second in December, and are

seeking to improve their home for their expanding family. He notes a statement of grounds was submitted with the application.

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

Chair Duffy states the application seems straight forward, and notes it will not change any dimensional setbacks. Mr. Duffy discusses the special permit criteria and statement of grounds.

Motion and Vote: Mr. Copelas motions to approve the petition of JOSEPH MANZI at 12 WINTER ISLAND ROAD(Map 44, Lot 34) (R1 Zoning District), for a Special Permit for per Section 3.3.5 Non-conforming Single- and Two-Family Residential Structures of the Salem Zoning Ordinance seeking relief from the number of stories and to expand the non-conformity of the structure by adding a shed dormer to the property, 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.
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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. Viccica seconds the motion. **The vote is five (5) in favor (Paul Viccica, Peter Copelas, Mike Duffy (Chair), Steven Smalley, and Carly McClain) and none (0) opposed. The motion passes.**

Location: **12 Laurel Street (Map 33, Lot 303) (R2 Zoning District)**

Applicant: **David Polumbo**

Project: A public hearing for all persons interested in the petition of DAVID POLUMBO at 12 LAUREL STREET(Map 33, Lot 303) (R2 Zoning District), for a Special Permit for per Section 3.3.5 Non-conforming Single- and Two-Family Residential Structures of the Salem Zoning Ordinance to construct a two-story dwelling unit behind the existing residence and connect it by a covered breezeway. The addition will result in two (2) connected dwelling units.

Documents and Exhibitions

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

Chair Duffy introduces the petition.

Attorney Bill Quinn introduces himself on behalf of the applicant, and notes he is accompanied by architect John Seger and Matt Polumbo, attorney and brother of the property owner. Mr. Quinn states the property has historic significance, as it was the original dwelling of one of the first Japanese American high school graduates in the United States. Mr. Quinn notes there is a letter from Patty Kelleher dated May 23, 2022 that speaks to the historical significance. The property is well preserved, and Mr. Quinn presents photos of the architectural detail, noting the hybrid Japanese-American style. Mr. Quinn explains the property is not protected in any way as it is not in a historic district, nor in the national register, but nonetheless deserves preservation. Mr. Quinn explains that in order to preserve the property without taking it apart or piling on an addition, the proposal seeks to build a second similarly sized structure that would be connected by a breezeway. Mr. Quinn maintains the final construction would technically be a two-family house under the definition found in the ordinance, and that the petition is seeking to expand from a single to a double property. The lot is large, but not large enough to meet the dimensional or frontage requirements of the neighborhood, according to Mr. Quinn, however the addition would conform with all other dimensional requirements. Mr. Quinn indicates the property was purchased 2.5 years ago and that the current owners have other commercial properties in Salem. The owners are real estate professionals, and Mr. Quinn asserts their projects are respectful and consistent with the neighborhoods in which they operate. Mr. Quinn states the owners have not tried to occupy the building due to its historic significance, and that they have spoken to representatives from the Peabody Essex Museum about documenting the interior and exterior. Mr. Quinn argues the proposal is respectful and intended to preserve the existing house. Mr. Quinn explains there is plenty of room for additional parking, and that the four spaces proposed is more than required for a two-family use. He states the end result will be two, two-story homes for occupancy and perhaps separate ownership by individual families. Mr. Quinn contends his clients have been working with neighbors who have complained to reassure them the future use and nature of the property will be appropriate. Mr. Quinn acknowledges that his clients own a nearby home that has created a number of problems in the neighborhood due to occupancy by the Salem State hockey team, and that many of the concerns raised are a result of that property. Mr. Quinn assures that there will be no teams or student groups occupying these two homes, as they are being developed for family use. He also notes there were drainage concerns raised by an abutter, but indicates there will be no change in impermeable surface, and that no drainage issues currently exist.

Project architect John Seger Architect introduces himself and describes the plans in more details. Mr. Seger explains the original house was built in 1893 for a Japanese citizen and resident of Salem, and designed by a prominent Boston architect. The details of the structure were finished by a local Japanese carpenter at the time. Mr. Seger presents photos of the woodwork and home details, noting the unique Japanese influence. Mr. Seger discusses restoring the home both inside and out, and presents a plot plan demonstrating the proposed addition in the center of the backyard. The driveway and two existing parking spaces will be maintained, and two additional spaces are proposed for the side of the addition. Mr. Seger indicates the lot coverage is increasing from 8.5 percent to 18 percent, but will still be below the maximum of 35 percent. He discusses the landscaping and presents floor plans of both buildings, pointing out the entrance options through the connecting breezeway. Elevations are presented, as are renderings of the two buildings as proposed.

Matthew Pumbo of Lynnfield introduces himself as the brother of David Pumbo. Mr. Pumbo states they learned of neighborhood concerns regarding the proposal, particularly those relating to their property next-door at 10 Linden Street. He indicates he contacted most of the neighbors to inform them of their intentions and to reassure them this project would be different. Mr. Pumbo describes the property at 10 Linden as a large three-family home purchased in 2017 that was in disrepair. He asserts that he and his brother cleaned and fixed up the property, which was one of the first properties they purchased. Mr. Pumbo states that due to the size and layout, when they rented the property the tenants they got were Salem State college students, and that they quickly learned about the headaches associated with renting to college kids. He also explains that he has informed the current students that he will not be renewing their leases, and they are only staying until the end of the semester. Mr. Pumbo indicates he and his brother intend to go in a different direction with the property at 10 Linden once all the students are gone, preferably renting it to families. He insists they want to be good neighbors and alleviate the issues that have occurred. Mr. Pumbo explains the property at 12 Laurel was purchased in 2019 because they loved the lot and the location was next door to the first property. After learning about the historic significance, Mr. Pumbo indicates he had discussions with the Peabody Essex Museum, Japanese historians, and agents at Sotheby's. Mr. Pumbo states he and his brother purposely kept the property vacant since purchasing, and that while many people have wanted to reside in the property he and his brother did not want the architecture ruined. After exploring several options, Mr. Pumbo argues this was the best plan they could come up with, and that the intent is to build the addition and sell both homes to families. He assures it will not be a party house or rental. Mr. Pumbo contends the final product will be a modern take on the existing home, and will be something cool that Salem will be proud of.

Mr. Copelas commends the architectural plans of the proposal, and states the design appears to be a sensitive, nuanced approach to preservation. Mr. Copelas notes there were many public comments submitted, and that he will not repeat any of them here. He also notes that while he has previously stated petitions are not popularity contests, after reading the comments and concerns he has determined this situation is rather different. While the requirements of a special permit are less significant than that of a variance, Mr. Copelas notes the Board must still attest or find that the social, economic, and community needs are served by the proposal, and that traffic flow and safety will not be negatively impacted. Based on the overwhelming opinions of 28 comments, Mr. Copelas states he cannot find that this proposal serves the community needs. Mr. Copelas acknowledges that the comments and discussions, and the current proposal, are relating to two different properties owned by the same owners, but notes the other property has been owned for five years. The other property at 10 Linden has not simply been a recent problem, but has been an issue since purchased in 2017, according to Mr. Copelas. He states he is sympathetic to the neighbors who are extremely skeptical of the owners and their ability to be good neighbors.

Ms. McClain echoes Mr. Copelas' concerns, noting she read the comments, read police reports, and saw videos neighbors had filmed of the problem property. Ms. McClain states she respects the architectural work and intention of preserving a historic building. but that the layout of the proposal presents no assurance that the property will not be used as dorm-style housing, particularly with the breezeway connection between the two buildings. She states if the neighboring property were not such a huge problem for the neighborhood the proposal might be viewed in a different light, but that the Board cannot stipulate who can or cannot rent a property. Ms. McClain indicates that while it is great that the owners spoke to some neighbors recently, she would not feel comfortable with the proposal until at least some of the neighbors were confident and on board with the plan. Ms.

McClain notes many of the comments discussed neighbors being embarrassed to have visitors due to the behavior and conditions at 10 Linden, which included copious amounts of trash, broken glass, soiled sofas, and other issues. She states the comments were overwhelmingly negative, including some from the inspection services department that were adamantly opposed to the proposal.

Mr. Viccica states the comments regarding 10 Linden Street are quite disturbing. Regarding the proposal, Mr. Viccica suggests it is clearly two separate dwellings being built on a single lot, with an unheated, not useful connection. Mr. Viccica suggests the proposal pushes the definition of an R2 zone to an extreme, and that calling it an addition seems to hide that the proposal is in fact a separate entity.

Mr. Quinn responds that the definitions in the zoning ordinance of a two-family do not require them to be piled one on top of the other, like in most cases. Mr. Quinn suggests this type of proposal has been approved in Salem for at least two projects he is aware of, and that this would not be precedent setting. Mr. Quinn argues the proposal could be approved under the provisions as a two-family as long as a connection exists. Mr. St. Pierre offers that after review, he did not find anything that would prohibit or preclude the proposal. He agrees that it is not a traditional addition, but that he is not sure there is any restriction precluding it.

Mr. Viccica states he is sensitive to the historic nature of the historic building, but that it is ultimately a clever way of adding a separate individual home to one that already exists, and that this clearly exceeds the definition of an accessory building. Mr. Viccica states that regardless of the interpretation, to him this appears to be two separate houses. He indicates the fact that it sits within the setbacks is interesting and clever, but that he struggles with the fact that it is essentially two separate structures. Mr. Viccica also acknowledges the serious problems in the neighborhood stemming from the petitioners' other property as well.

Mr. Copelas states that with special permits, the Board often takes applicants at their word that the findings are valid, but that in this case there is overwhelming evidence that the statement that community needs will be served is false. Mr. Copelas indicates that if the City Solicitor finds that a breezeway makes this a two-family home he can accept that, but that he does not believe the petitioner has met the findings required for a special permit.

Mr. Quinn states that he does not intend to excuse the other property at 10 Linden, but argues that this property would not be occupied by multiple students, and no more than three unrelated parties in accordance with Salem requirements for dwellings in a single family neighborhood. Mr. Quinn suggests this property would not be a problem for inspectors and City enforcement, as Salem has mechanisms to deal with any issues. Mr. Quinn contends this is a different property, a different design, and that while neighbors and the Board can expect the worst, there will be no issues.

Mr. St. Pierre and Board members discuss the definition of R2 zoning and the differences between attached and detached dwellings. Mr. Viccica asks if the proposal would be allowed if the breezeway were not there, and the determination is it would not.

Mr. Quinn again argues that the proposal is designed to be family homes, and that his clients are willing to accept a condition that they would be sold to individual buyers as condos rather than rentals. Mr. Copelas notes that even if sold as condos to individual owners, any owner could then rent out the property.

Chair Duffy opens the floor to public comment.

Marie Hanalusa of 12 Linden Street introduces herself and indicates she lives adjacent to both properties owned by the petitioners. Ms. Hanalusa states she appreciates the Board reading and considering the neighbors' comments and that their concerns are being heard. She also states she appreciates Mr. Pumbo attempting to talk to neighbors, but that she and others still have many concerns. Ms. Hanalusa suggests that Mr. Pumbo first earn the neighborhood's trust by proving that they can make 10 Linden Street into something other than a problem property. Ms. Hanalusa stresses that despite the separate building and design, the properties will have the same owners who have not been able to responsibly manage their existing property.

Karina Corrigan of 6 Briggs Street introduces herself, stating she holds a masters degree in historic preservation. Ms. Corrigan argues the house is an extremely important part of Salem history and Salem architectural history, and expresses support for the very sensitive design that Mr. Seger developed for the secondary element. Ms. Corrigan acknowledges that this Board is not focused on historic preservation, and that the home or area is not protected. She thanks the Pumbo brothers for their interest in allowing conversations and partnerships to document the home with professional photography. Ms. Corrigan notes that she would have liked to purchase the home if she had seen it for sale in 2019, and opines that this proposal may represent the best possible way to preserve the property while making it economically viable.

Councilor Jeff Cohen states he respects Mr. Seger's work, but that based on his interactions with the neighbors in the area he was very shocked to hear about the issues at 10 Linden Street. Councilor Cohen suggests it is unfair to create a correlation between the number of people who live in a property and the likelihood of bad actors. Mr. Cohen indicates he owns a multifamily on Hancock Street, and that he considers himself the most important arbitrator of what happens on his property. He states the safety of his residents is his number one priority, and that the stories he heard about 10 Linden were so shocking they were difficult to believe at first, including accounts of air conditioners being thrown out of windows. Councilor Cohen notes that as a landlord, his leases contain clauses that identify disturbances as violations, and that in his years living there he has not had to evict anyone. Councilor Cohen suggests the time to reach out to neighbors should have been long ago, not a week before coming before the ZBA with this proposal. Mr. Cohen acknowledges the property at 12 Laurel is amazing and definitely a treasure, but that alone is not reason to approve this petition.

Simeen Brown of 9 Linden Street introduces herself as a landlord and abetter to 10 Linden Street. Ms. Brown states she understands the Pumbo brothers are trying to make money, but that they do not live in the neighborhood, or even in Salem, and therefore do not have a personal stake in the neighborhood. Ms. Brown maintains the petitioners do not understand the makeup of the neighborhood, which is primarily owner-occupied landlords, condos, and private homes. She argues that 10 Linden is by far the worst house on the street, and that she has heard the petitioners' other properties are not without issue. Ms. Brown suggests it would make sense to turn 10 Linden Street into condos, as there would be more homeowners that take pride in ownership and ultimately bring up the value of the neighborhood. Ms. Brown contends that property values are down in the area because of the property at 10 Linden Street, as the property makes the whole neighborhood less desirable. Ms. Brown fears that the same thing will happen with 12 Laurel, suggesting the petitioners do not care.

Nohara Lopez Okoli of 16 Linden Street introduces herself as a life-long Salem resident with a four-bedroom home and family. Ms. Lopez Okoli states the issue comes down to a matter of safety and that since 2017 nothing good has come from the property at 10 Linden Street. She notes excessive amounts of trash and students causing problems at the intersection.

Mr. Quinn states it is clear the petition is not going to be approved by a majority of the ZBA based on comments thus far, and suggests he and the petitioners have much to consider. He states the comments have been sobering, and that he would like to withdraw the petition without prejudice on behalf of his client, rather than force people to listen to similar complaints that may be well founded, but will not change the result, only reinforce it.

Motion and Vote: Ms. McClain motions to approve the request to withdraw without prejudice the petition of DAVID POLUMBO at 12 LAUREL STREET (Map 33, Lot 303) (R2 Zoning District), for a Special Permit for per Section 3.3.5 Non-conforming Single- and Two-Family Residential Structures of the Salem Zoning Ordinance to construct a two-story dwelling unit behind the existing residence and connect it by a covered breezeway.

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

MEETING MINUTES

March 16, 2022

Motion and Vote: Mr. Copelas motions to approve the March 16, 2022 Zoning Board of Appeal meeting minutes as amended. Mr. Viccica seconds the motion. **The vote is five (5) in favor, and none (0) opposed. The motion passes.**

April 27, 2022

Chair Duffy suggests tabling the review of the April 27 minutes to review further.

OLD/NEW BUSINESS

9 Franklin Street Extension Request

Attorney Scott Grover introduces himself on behalf of the applicant, requesting a six month extension to the series of special permits and variances granted by the Board in May 2021. Mr. Grover describes the property, and explains that the petitioner has been working to get the rest of the required approvals to go forward, including site plan review and flood hazard permits from the conservation commission. Mr. Grover indicates things are moving along, and that all approvals for the project appear to be in order. The variances previously approved have a one year expiration, and so Mr. Grover indicates a six month extension is being requested.

Chair Duffy states the request seems straight forward and makes sense.

Motion and Vote: Mr. Copelas motions to approve the petition of 9 Franklin Street to extend the granted variances and special permit for a six month period. Mr. Viccica seconds the motion. **The vote is five (5) in favor, and none (0) opposed. The motion passes**

ADJOURNMENT

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

The meeting ends at 10:01 PM on May 25, 2022.

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

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

Respectfully submitted,
Daniel Laroc, Staff Planner