

**City of Salem Planning Board and City Council
JOINT MEETING
Approved Minutes
Monday, April 9, 2018**

A joint meeting of the Salem Planning Board and the City Council was held on Monday, April 9, 2018 at City Hall Annex, 93 Washington Street, Salem, Massachusetts.

Council President, Beth Gerard opens the meeting and outlines procedures.

I. ROLL CALL

Planning Board Members present: Kirt Rieder, Dale Yale, Carole Hamilton, Helen Sides, Noah Koretz, Bill Grisct

Planning Board Members Absent: Chair Ben Anderson, DJ Napolitano, Vice Chair Matt Veno

City Council Members Present:

Arthur C. Sargent II, Councilor At Large

Thomas H. Furey, Councilor At Large

Domingo J. Dominguez, Councilor At Large

Elaine Milo, Councilor At Large

Robert K. McCarthy, Ward 1 Councilor

Christine W. Madore, Ward 2 Councilor

Lisa JB Peterson, Ward 3 Councilor

Timothy G. Flynn, Ward 4 Councilor

Josh H. Turiel, Ward 5 Councilor

Beth Gerard, Ward 6 Councilor – Presiding

Stephen G. Dibble, Ward 7 Councilor (arriving late)

Also in attendance: Tom St. Pierre, Building Inspector; Tom Daniel, AICP, Planning Director; Ashley Green, Staff Planner

SATV: <http://cc.satvonline.org/Cablecast/Public/Show.aspx?ChannelID=1&ShowID=12569>

1. **An Ordinance Amending Zoning Section 3.0 - Table of Principal & Accessory Use Regulations amending scrivener's errors from 2009 recodification including allowing a dwelling above first floor retail, service or office in B1 zone; allowing by right clubs, indoor commercial recreation, service, plumbing/carpentry/sheet metal, restaurants, manufacturing, storage, research/development and adult daycare in I zone; allowing by special permit ouTom Danieloor commercial recreation and accessory structures in I zone.**
2. **An Ordinance Amending Zoning Section 3.2.5 – Swimming Pool to require fencing.**
3. **An Ordinance Amending Zoning Section 4.1.1 – Table of Dimensional Requirements establishing 1) max. height of fences and 2) dimensional requirements for B1 zone dwellings.**
4. **An Ordinance Amending Zoning Section 10.0 – Definitions relative to dwelling unit; rooming, boarding and lodging house; general service establishment; assisted living residence; site plan review; and zoning bd. of appeal.**
5. **An Ordinance Amending Zoning Section 8.4.9 - Parking Requirements subparagraph 4(a) of the NRCC zoning district to require 1.5 parking spaces per dwelling unit.**

Discussion by item:

2. **An Ordinance Amending Zoning Section 3.2.5 – Swimming Pool to require fencing.**

This Amendment proposal is heard first. Tom Daniel reviews the Amendment. This recodification goes back to 2009 and needs clarification. Tom Daniel has been actively involved since then and notes that the swimming pool recodification omitted language regarding fencing, and a resident actually challenged the recodification all the way up to City Council; the City upheld that the language requiring a fence around a pool should have been in the Ordinance. They would like to rectify this as they still occasionally get challenges from residents installing pools.

Councilor Dibble joins the meeting at approximately 6:05PM.

There are no comments from either Planning Board or City Council Members.

Public comment in favor: None

Public comment opposed:

Polly Wilbert of 7 Cedar St.

Concerns:

- Procedural issues, classification of change as a scrivener's error
- Allowance for only a single gate

Tom Daniel comments that in the past, second gates have been allowed as long as they are padlocked. The intent is that the gate for access by people (vs. equipment) swing closed behind to keep out toddlers.

Councilor Milo asks for clarification of the definition of "scrivener's error." Presiding Councilor Gerard notes that typically errors are in packets or agendas but can be errors accidentally but not willfully omitted as part of a vote. In this case language should have been included since it was in the past, was not in the recodification.

Councilor McCarthy asks Tom St. Pierre if before the recodified 2009 version, the language was in there. It was and was accidentally omitted during the recodification. No vote was needed and none was taken as there was thought to be no change. During 2008 when the zoning book was recodified to make it more user friendly, items were put into table format to make them easily accessible to laypeople, who were unfamiliar with it. This one was always in Zoning but got lost in the transition from text to table. It is not actually a change so was not voted upon at that time.

Councilor Sargent notes that this was not discussed at the ZBA, as he thought it was in Zoning, and agrees that pools should have fences.

Tom St. Pierre cites Section 7.10, Subsection F: Safety Precautions, which references the location of the previous item. The process of appeal to City Council is described; the Council voted that the language was NOT meant to be eliminated.

Kirt Rieder asks for clarification as to whether the Planning Board is being asked to consider this precise language or if it can deliberate and modify it. He wonders if "fence" is defined elsewhere in the code. Tom St. Pierre replies that the previous section does define it, but Kirt Rieder comments that certain aspects are not addressed. These include specifics such as anywhere a fence is placed, the openings cannot be greater than 4", and openings under the bottom of fence must also be less than 4". Such details are not in this language, though the requirement that any gates must be self latching and self closing is.

Councilor Dibble asks about the 25' rule, noting that many homes have fencing around the entire backyard, not just the pool, but that this fence may be further than 25' from the pool. Tom St. Pierre notes that as long as the yard was fenced in, it would pass inspection, and a second fence around the pool in compliance with the 25' distance is

not required. The intent was to keep make sure the fence was not so far away as to be ineffective. However, the Ordinance could be enforced as written.

Councilor McCarthy moves to close the public hearing, and the matter carries.

A motion to refer the matter to the Planning Board for consideration is made by Councilor McCarthy and the matter carries.

**3. An Ordinance Amending Zoning Section 4.1.1 – Table of Dimensional Requirements establishing
1) max. height of fences and 2) dimensional requirements for B1 zone dwellings.**

Tom Daniel notes that this is **not** a scrivener's error, though it was an omission. This change would add a notation that fences will be no more than 6' high for residential and 10' high for commercial uses. It would also add a notation that all dwelling units in B1 would comply with the dimensional requirements of the R3 ordinance. Tom St. Pierre notes that what was omitted was the lot area per dwelling unit requirement in B1. This was what was causing some problems, as someone could purchase in B1 and add as many units as they could have parking spaces for. This is in contrast to pool fences, which were an omission in codification.

Councilor Turiel comments that this is a situation where the lack of restriction for B1 dwellings had to be dealt with last year. The City Council changed a block of properties from B1 to R2 in order to gain control over dimensional requirements. Currently there are no restrictions on B1 other than parking.

Councilor Sargent asks about the dimensional requirements for the R3 district; these are outlined. The purpose is not to rewrite all dimensional requirements, but to tighten this section. Councilor Sargent asks what the definition of "errors" is, and if it is possible for them to be in the City's favor.

Councilor Turiel notes that the City does not like this error, as B1 used to have the same restriction as the R3 dimensional requirements, but now there are no restrictions other than space for parking. Reverting to the original is desirable.

There are no Planning Board comments.

Public Comments in favor: None

Public Comments Opposed:

Mike Becker of 2 School St. Court

Mr. Becker owned property at 76 Leech St, which was the one in question as mentioned above (where that block was changed from B1 to R2 by the City Council in order to enforce dimensional requirements). When he purchased it was in B1. He is opposed, noting positive changes on Bridge St. Neck which is a B1. Previously it was a rundown street/area, but now sees the highest square footage sales in condos. The City has upgraded sidewalks, lighting, etc. and there is developer interest. It is now a nice neighborhood, but that would not be possible without this scrivener's error. He wonders how restrictions on B1 would be beneficial when B5 has no minimum lot size per dwelling unit requirement. It encourages people to buy properties in rough condition, and there is still some restriction as developers need to accommodate parking for 1.5 cars per unit to put dwellings in.

Councilor Turiel asks if a hardship variance could be obtained in cases like the one above if dimensional requirements proved a burden to the project. Tom St. Pierre that Applicants may always request a variance, but that the variance standard is difficult to meet. Councilor Turiel feels there should be a process by which the City Council can examine projects on a case by case basis, as Bridge St neck improvements have been in dense pockets resulting in improvements to the street. There is some validity to that and while he doesn't think B1 should be left unlimited, there should be a mechanism for examination.

Tom St. Pierre comments that regulations are needed. The Zoning and Planning Boards can revisit any dimensional table at any time; nonconforming structures are regularly allowed to change from one nonconforming use to another. The attempt tonight is to put the brakes on things that are out of control; subsequent changes can be made if desired.

Barbara Cleary of 104 Federal St. questions whether this is a scrivener's error or an amendment. She is also concerned about height requirements, which would increase significantly in B1. She requests that the public hearing remain open for this question.

Mike Becker of 2 School St. Court notes that the height limit of 30', which is less than that in an R2 zone, is extremely restrictive. He agrees that a 45-50' height is "ridiculous," but comments that B1's are often located in the Entrance Corridor, where there are mostly houses that are on the street in already dense neighborhoods. If this restriction is enacted, it would pose an undue burden on the B1 district, which would now need an exceedingly large amount of square footage to build a 3-family unit. Such developments would not be not in keeping with the character of anything in the Salem B1 zone already.

Councilor Sargent notes that businesses and housing each have different parking requirements. Housing requires 1.5 spaces per unit, while businesses have a square footage requirement. He asks if this is in total, or if there is overlap. Tom St. Pierre opines that there is no overlap, meaning that the maximum number of spaces are required. If a developer would like parking spaces for mixed use, this would require relief from the Zoning Board of Appeals (ZBA). To sum up: if a developer would like to build less than (the square footage required by the business + 1.5 spaces per dwelling unit), a variance is required.

Jenn Firth, President, Historic Salem Inc., asks for clarification that, if this change is made, the 45' height requirement of R3 would now be applied to B1, which is currently at 30'. Tom St. Pierre notes that this is a valid concern and an unintended consequence. Ms. Firth is concerned about the impact that an increase in height could have on historic buildings, if Applicants wanted to add floors to them, and there can also be issues with shadows. As this is a major change, she feels that neighborhoods should be allowed a formal review process first.

Councilor Turiel clarifies that the dimensional requirements of B1 do not mean that a new use is being allowed. Discussion centers on the references to R3, with Tom St. Pierre noting that the intention was to mirror those requirements regarding density but not height, and around the hearing process and possible language revisions.

Polly Wilbert is concerned that this process may not meet the requirements of the Sunshine Ordinance, and feels it is too difficult for members of the public to obtain updated zoning maps.

Presiding Councilor Gerard would like to schedule this for a date certain to continue the hearing, in order to comply with the Sunshine Ordinance. Polly Wilbert is still concerned.

Timing and the process for advertising this item are discussed; Presiding Councilor Gerard will solicit input from the City Solicitor.

Councilor Sargent notes that dimensional requirements and the table of uses would best be considered alone as transparency and additional input are needed.

Tim Jenkins of 18 Broad St. is also concerned about the availability of map updates and notification of zoning changes to residents; the Council should keep the public informed in a timely manner

Polly Wilbert asks about R3 “half stories,” and if that is really an option for builders; if not appropriate or realistic, she wonders why it is in the code. Tom St. Pierre notes that there are definitions of half and full stories in the zoning book, which he did not write, yet is tasked with its enforcement. Such references are from the old days in order to capture knee walls and attics, which are not often seen anymore.

Councilor Dibble feels that this should be reviewed and advertised as a zoning change.

Councilor Dibble moves that the public hearing be kept open until an ad hoc committee can review the changes to be made. He is seconded by Councilor Sargent and the motion carries.

Procedural matters are discussed.

Councilor McCarthy is concerned with the continuation of the public hearing and formation of an ad hoc committee, which must be formed by noon tomorrow. If that committee recommends zoning changes, the process would have to be gone through again, however, a public hearing cannot be kept open without a date certain to discuss the issue again. As this body and the Planning Board must all agree on a date, he suggests keeping the matter open and determining a date certain at the end of the meeting.

Councilor McCarthy motions to keep the matter open, and the motion carries.

4. An Ordinance Amending Zoning Section 10.0 – Definitions relative to dwelling unit; rooming, boarding and lodging house; general service establishment; assisted living residence; site plan review; and zoning bd. of appeal.

Tom Daniel reviews the changes to be made, some of which will be new definitions in order to conform with the State’s definitions of assisted living, site plan review and Zoning Board of Appeals.

Noah Koretz asks for clarification of Section 1(a), a sentence that says “no more than 3 people not within the 2nd degree of kinship shall live...” He questions if this is directly from Mass. General Law (MGL) and seeks clarifications as to whether it is not within the law and extra or covered within those regulations.

Tom St. Pierre clarifies that state laws define a rooming house as 4 or more unrelated individuals living together, so Salem’s regulations will state no more than 3 to mirror that, before it is considered a rooming house. He can provide the MGL citation.

Public comment in favor: none

Public comment opposed:

Polly Wilbert 7 Cedar St. makes a point of information in that there are 2 typos: (B) a house WHERE lodgings are let, not were and (D) are not designed (past tense)

Councilor Sargent asks for clarification on the definition; it will be deleted and replaced. Zoning and building code are discussed. Councilor Sargent is concerned about the wording, in that the proposed mentions four or more, but the state’s laws currently allow no more than six, thus Salem’s regulations will not stipulate a maximum number of residents. Tom St. Pierre counters that rooming/boarding is by special permit only so would be reviewed.

Public comment in favor: None

Public comment opposed:

Mary Madore, 31 Forrester St., complains of a rooming/boarding house on her street that housed too many people with issues and received money from the state, and agrees there must be an upper limit to the number of people allowed to reside there.

Polly Wilbert of 7 Cedar St. asks re (D) in terms of the legality of the language, it discusses medication assistance, which can only be provided by a medical professional, but rooming and boarding houses “do not provide medical or nursing services” so there is a conflict. Language should be clarified to protect that legality.

Councilor Sargent feels that this item should also be sent before the ad hoc zoning review committee and get further citizen input before a vote is taken.

Councilor Sargent motions to keep the public hearing open and add this item to the ad hoc committee, and is seconded by Councilor Dibble.

Councilor Dibble asks about the removal of the limit to the number of people that can be in a boarding/rooming house, and Tom Daniel notes that it mirrors the language of the state definition, which does not specify a limit. Tom St. Pierre observes that, in his 20 years of working with the City, he has yet to see a new rooming house approved. Typically, what is requested are Bed and Breakfast establishments, which require a special permit and neighborhood input, so this has not been an issue.

Councilor Turiel comments that basic definitions, not regulations, of rooming/boarding houses are being discussed. The Council is also not discussing the permit process, etc. This discussion is only regarding the definition of “up to 3 people,” so if more, it would qualify as a rooming/boarding house, would fall under that regulation and would require proper permitting. If the Council wishes to continue, it can, however the basic definition seems simple. The Council is not looking at it in the context of what the regulations are and may not need to edit that language.

A motion to keep public hearing open was previously made and seconded by Councilors Sargent and Dibble, and the matter carries.

5. An Ordinance Amending Zoning Section 8.4.9 - Parking Requirements subparagraph 4(a) of the North River Canal Corridor (NRCC) zoning district to require 1.5 parking spaces per dwelling unit.

Tom Daniel comments that this is also a straightforward change, to reduce the requirements from 2 to 1.5 spaces per dwelling unit. The NRCC parking requirement is the highest in the City; all other residential zones require only 1.5 spaces per unit. The B5 central business district requires 1 space per unit for the rehabilitation of buildings for residential purposes. The goal was to bring this zone into conformance with other residential zones and districts that have mixes of uses and given the proximity of the NRCC to a pedestrian oriented environment, transit, etc. it makes sense. Additionally, having a higher parking requirement than necessary increases the number of impervious surfaces and the cost of development as more spaces are paved than are needed.

An informal review of parking utilization at the North River Apartments at 28 Goodhue St. and at Liberty at Bell found that utilization of parking was much less than the current guidelines. The North River Apartments see 1.29 spaces per unit used, and the Bell Apartments see .95 spaces per unit used.

Presiding Councilor Beth Gerard notes that there are several NRCC projects in the works and some that have already been approved, and for her, in her ward, this change makes a lot of sense. Green space is more desirable than impervious surfaces. Regarding the lot at 28 Goodhue St., instead of a patio and garden space, residents have a parking lot that no one else can use, yet they are not using it. Bell Apartments could also have had more amenities but have parking instead.

When this Zone was created, the idea was to get people off the streets, but the reality is that people changed in that they are buying where they are living, not buying cars the way they used to, and in fact heavy traffic has helped because people don't want to get in their cars, and it is easier to deal with walking than parking.

Councilor Madore asks if such a reduction would grandfather in existing developments that are at the current requirement of two space per dwelling unit, and what would happen with current proposals. Tom Daniel replies that projects already built would have the option to eliminate parking and increase green space, but would need to go through a process. Permitted projects such as the Gateway Center have met the requirement through shared parking. The Flynnan development, on which construction has begun, had a reduction due to commercial space. For those projects that have not started construction but are permitted, they would need to file an amendment to their plans.

Councilor Madore is concerned that rather than converting parking to green space, completed projects or those in the permitting process would add on. Tom St. Pierre notes that parking is supposed to be an accessory to the building, so spaces could not be rented out to commuters.

Tom Daniel notes that moving forward, the only project currently in question is for the Ferris junkyard on Franklin St. That Applicant's project is intending to seek relief from the ZBA from the number of parking spaces, so this would spare them that part of the process and would probably not delay it as they will need other additional relief from ZBA anyway.

Councilor McCarthy is also concerned that developments could be added on to if some relief from parking is granted, however Tom St. Pierre reiterates that density and setback requirements would still be in place, so while a development might be able to add another unit or two, increases are not likely. Tom Daniel feels that reducing the parking requirements will most likely result in more open space.

Councilor Sargent is still concerned, feeling that it is better to err on the side of extra parking in order to avoid visitors and residents, if there is growth, parking in the street. Parking spaces can always be deleted, but there is no way to add parking once the requirement has been lowered.

Councilor Turiel reviews the narrative regarding the NRCC, which includes a table. The NRCC district was set up by a committee in June 2004, and at that time the draft had required only one space per unit given the Transit Oriented Development (TOD) nature of the NRCC. However, it was then updated in committee to be 1.5 spaces per unit as recommended by the Planning Board. The City Council changed it to 2 spaces at the first passage, so that number was not decided upon by those who had gone through the development process for the NRCC district, but at the last minute by the City Council. While he does not envision a reduction down to the 1 space requirement as originally required by draft, if there was an area in Salem where that could work, the NRCC would be it. He notes that the Gateway Center is the furthest project from transit in the NRCC and could handle it easily, so based on this, a requirement of 1.5 spaces per dwelling unit is a reasonable number. He does see a trend, especially in that neighborhood, toward single car families due to one person commuting by train, etc. His was a single car family upon moving to Salem for many years. During that time, they lived downtown, so he feels this is fairly typical. If families find they eventually need additional cars/parking, they move out into neighborhoods with driveways and/or garages. This area has the highest parking requirement of anywhere in Salem yet is the closest planning area to the train station.

Noah Koretz comments that, as a professional planner, he has examined many zoning ordinances and parking requirements. He joined the Planning Board (PB) and studied Salem's ordinance. Typically, the fewest number of parking spaces per unit are required in the most transit accessible developments, with more parking allowed as they become less urban. He feels that 1.5 spaces as an industry standard is still high. Data are available about parking utilization and all aim toward reducing, not increasing, parking requirements. All NRCC developments are walkable

to transit and downtown so it makes sense to have this area require the fewest number of parking spaces per unit in the City. There is also a tendency to worry about neighborhood spillover, but the City has data from existing developments that shows what utilization will be within the zone. He has been on the PB doing Site Plan Review (SPR) on several NRCC developments and almost always there have been some less than ideal site plan compromises because the developer has said, "We don't want it to look like a Wal-Mart parking lot surrounding our building, but we don't want to go before Zoning to get a variance either," so this makes it difficult for the Planning Board. Zoning regulations are creating a problem that doesn't need exist by requiring more parking than there is demand for. He notes that developers consistently overestimate the amount of parking needed; he has never seen them underestimate it. No one wants to put in too little parking since developers make their money by selling units; they have access to the data and know how many cars there will be per unit for them to be able to sell or rent units. Parking is a required amenity for them. If people with 3 cars come in, they will not be able to lease a unit with only 1 parking space, but that is not the case, as developers are seeing. The trend, they note is that those leasing the units do not have more than one vehicle. He urges anyone interested to look up this data online.

Councilor Dibble is still concerned that this is a zoning change but that it was not advertised as such. Tom Daniel clarifies again that it was advertised as a change in the legal notice. Councilor Dibble asks about the number of units that have been and will be constructed in the NRCC since that zone was instituted. They are broken down thus:

- North River Apts., 28 Goodhue St.: 44 units, the only project completed thus far
- Flynntan, Boston St.: 48 units under construction
- Gateway Center, Bridge St.: 117 units, construction not yet begun
- Riverview Place: 130 units, construction not yet begun
- Salem Oil and Grease site is in the area but is not zoned NRCC; it was permitted as a Planned Unit Development (PUD) at 1.5 space per unit
- Hood Factory, 9 South Mason St: Includes 6 existing units
- Franklin St. Project: In the permitting process, 48 units planned

Councilor Dibble notes that this totals more than 500 units, a substantial amount of growth for the area. Additional future development should also be accounted for, yet this may not be possible. He advises caution. Presiding Councilor Gerard comments that Tom St. Pierre has answered that question, by explaining that developers would not be given enough space to actually build on, due to setback and density requirements, but they would have the opportunity to add more green space or open space.

Councilor Turiel reiterates that density and setback requirements are still the same with no changes, so there may be a jiggering of a unit or two with some developments currently in the design phase, but it is not likely to be a substantive change and it does not affect those that area already built as of now, or those already under construction, so only a handful of developments are in question.

Councilor Flynn asks about visitor parking at these sites; many places in the City have visitor parking all taken up at certain times, so he agrees with Councilor McCarthy that two spaces per unit should be required, for visitor parking. Tom Daniel comments that PB Member Noah Koretz spoke to this, in that developers want to build projects that will work for residents and guests. In the context of the NRCC, like the greater downtown area, if there is not parking available in a development, guests can park on street. The challenge referenced by Noah Koretz is that developers are trying to meet the requirements of 2 spaces, so cannot optimize the development from a design or functionality perspective. There is only so much you can do on a piece of land to meet all requirements, and having it function for those who live there as well as the community around it is key. The PB takes that into consideration, looking at how the development will function in the neighborhood.

Councilor Flynn wonders if there is a formula for calculating the amount of visitor parking to be included. Tom Daniel replies that this is examined on a case by case basis. I.e., the Gateway Center is mixed use, with the CLC,

residential, and commercial uses having shared parking. Flynnntan also has shared residential/commercial parking planned, with the understanding that all spaces will probably not be used at same time, since businesses and residences have different busy times.

Presiding Councilor Gerard stresses that 28 Goodhue St. is the furthest NRCC development from downtown and the T, yet uses only 1.3 of its allotted two spots per unit, while Bell Apartments is practically at the T station and uses less than 1 space per unit. Those apartments are not inexpensive, so residents who live there must have the means to purchase additional cars but choose not to.

Public comment in favor:

Mike Becker, real estate developer and broker, applauds Noah Kortez's comments about developers needing parking to sell or rent units. He notes that the B5 zone allows for offsite parking, for residents to use the municipal garage up to 1000 feet away; if we are allowing people who live downtown to walk that distance from the garage to their residence, why is it not reasonable to think that those in the NRCC, living less than 1000 feet from the train station, should be allowed to have less than two parking spaces per unit? He feels it is ridiculous, with less than one space per unit being used at Bell next to the train station, and less than 1.5 for the development furthest from the train station. Developers are required to add pavement at the expense of green space. While they may add units, he feels that this will be taken care of in the permitting process by the Planning and Design Review Boards along with requirements for green space, setbacks and density.

Public comment opposed:

Polly Wilbert, 7 Cedar St.

Urges caution. Concerns:

- Events at the Senior Center and lack of parking on Bridge St. to accommodate overflow
- Overflow parking and lack of space in neighborhoods in general
- Snow storage

Tim Jenkins, 18 Broad St.

Concerns:

- Impacts of future projects, which he feels should be built above the permitted density
- Impact of Gateway Center
- Suggests adding green space by making parking lots "green" with permeable pavers
- Give developers density bonus for providing adequate parking while not a sea of it
- Regulations should reflect what is currently happening in the NRCC, and what the City would like to happen

Noah Koretz responds that the easiest way to encourage more green space is to not make developers build parking spaces that no one wants. The data does show that current parking spaces are not being used. He clarifies the idea of multi use sites with commercial and residential combined, such as the CLC. This change is specifically regarding residential units. The residential dwelling unit requirement only is being discussed here; commercial and other uses have their own separate requirements. On sites that are more complex like the Senior Center, there was a long conversation about how usage affected parking at different times of night. He has seen multiple SPRs in this zone, which had sites not optimized for design because developers can't ask for too much relief in parking. Developers have commented that they don't need the parking but must install that instead of green space. They acknowledge that they do not have green space or sufficient pedestrian infrastructure on the plan because of this parking requirement that forces them to build spaces neither they nor tenants want.

Carole Hamilton echoes Noah Koretz, noting that, in the review process for many NRCC projects, the PB has said, "This could be a better project if you didn't have to do 2 parking spaces." The Board has encouraged developers to

seek parking relief from ZBA due to the requirement for too many spaces. If all these projects are within 1000 feet of the MBTA, and if it is a night with lots of events, the MBTA lot and garage can be used. If people can walk that distance during the day, they can walk it at night.

Anne Sterling, 29 Orchard St:

Concerns:

- Number of developments under permit/construction in a short amount of time
- Parcels on Franklin St. up for development, affecting density of that area
- Furlong Park/parking during Little League season
- Feels parking is a means to limit density in the area
- Notes most families have 2 cars

Justin Whittier, 10 River St.

Concerns:

- Would like more green space but notes that future usage can change
- Notes that people prefer not to use the Commuter Rail, and that many who do use it also have cars for times outside of work
- Comments that the vision for the NRCC was for large developments in areas already crowded by cars, and that assumption was that there would be overflow
- Worries that ever spaces required will lead to more units being put in
- Not convinced they will see response they want

Tyler Terry, 22 School St.:

- Feels valid reasons for the reduction were not outlined
- Notes that one resident at Bell has her own space plus a visitor space, but parks in the visitor space as these are often full and her visitors will not have parking unless she reserves her assigned space for them
- He also parks on the street so visitors may park in his driveway
- Feels that green space does not need to be sacrificed to parking, and increasing the square footage per lot area dwelling unit requirement from that of R3 to R2 could an option instead

George O'Brien, 5 Locust St.

- Concerned about density/number of units of Ferris Junkyard development
- Feels 2 spaces per dwelling unit is reasonable

Jane Arlander, 93 Federal St.:

Concerns:

- Parking during flooding in this district; cites Riverview Place garage and parking issues
- Density

Judy French, 16 Foster St.:

Concerns:

- Feels reduction in parking will not have an impact on sites such as Ferris, where some parking is located under the buildings
- Density and number of bedrooms per apt.
- Developers should still be required to seek a variance to decrease parking in NRCC

Presiding Councilor Beth Gerard clarifies that regarding the Salem Suede proposal, the project was approved but when it went before the DRB that Board recommended that because they were designing micro apartments, that they only include one parking space per unit, however the ZBA voted that down. Permitting for that project is done, but they may still have some Chapter 91 issues.

Councilor Turiel clarifies that when discussing the base parking requirement in the NRCC, and how it is the highest in the City, that is not directly tied to the density that Applicants are applying for. When they are before the ZBA requesting density relief, it is a separate matter from the parking. In that situation, they want more units than dimensional requirements would otherwise allow. The Ferris development is going through this right now. If they were granted that relief, the Applicant would also possibly be seeking relief on the parking requirement. However, in this meeting, discussing this one action, the Council is not discussing Ferris or other properties already permitted or that are in the process. This would change the parking requirement to 1.5 spaces per dwelling unit, not commercial, and anything less than that or combined with/factored in with Commercial would have to obtain a variance for relief from the ZBA or could provide more parking with that in mind. The density of the Ferris property development is not directly tied to parking. While it does affect the permitting process, especially for those like Ferris, the Planning Board will, during SPR, make sure that the parking is above water in a flood incident.

Barbara Cleary of 104 Federal St. is in favor of more green space, but notes that additional green space is not required in exchange for less parking. She is still concerned about density.

Kirt Rieder observes that in his working in San Francisco, CA, TX, MA and various areas on the East coast, mutually beneficial open space can be codified and counted as an offset to parking and development. He notes that in 1997 San Francisco was talking about shifting to a 1:1 ratio of units to parking spaces, then in 2010 a 1:.75 ratio or a 1:.5 ratio, and as of 2015 that City now exempts all new developments from any minimum. The trend across the nation is to reduce or even eliminate parking requirements.

Carole Coss, 7 River St.

Concerns:

Green space may not be substituted for parking as desired

Parking during snow emergencies as lots are often full

Anne Whittier, 10 River St.

Concerns:

Thinks that the ratio of cars to adult in Salem is 1:1

Does not trust that developers will substitute green space for parking

Councilor Madore feels that the reduction trend is good to consider moving forward, and wants to build housing for people, not space for cars. This is especially true in the NRCC, a transit-oriented area where many people have one or no car in the family and take advantage of Zipcar, Uber, the train, etc. Or they walk. If parking the parking requirement is reduced, we are supporting the types of developments that would attract the types of households that want fewer or no cars, or who would want to ditch the car and move to where they can walk to local amenities. The idea to require open space in NRCC is a good one and should be considered.

Councilor McCarthy moves to close the public hearing, and the motion carries.

Councilor McCarthy moves to refer the matter to the Planning Board for consideration, and the motion carries.

- 1. An Ordinance Amending Zoning Section 3.0 - Table of Principal & Accessory Use Regulations amending scrivener's errors from 2009 recodification including allowing a dwelling above first floor retail, service or office in B1 zone; allowing by right clubs, indoor commercial recreation, service,**

plumbing/carpentry/sheet metal, restaurants, manufacturing, storage, research/development and adult daycare in I zone; allowing by special permit commercial recreation and accessory structures in I zone.

Tom Daniel notes that item A pertains to zones B1 and items B, C, and D are for the industrial zones. After submission, there were errors discovered in the I section so they recommend this be continued, however the Council can discuss item A as these are scrivener's errors. Tom St. Pierre reviews B1 allowed uses, which include: all those in R3 district, such as grocery, bakeries, drug stores, liquor stores, newsstands, variety stores, dry goods and notions, stationery, florists, hardware, banks, barber beauty, laundry dry cleaning, self service laundry, tailors, shoe repair, radio and TV appliance repair, professional offices, medical, dental, restaurants not serving alcohol including drive ins, and municipal buildings with off street parking. The point is that there were many, many small traditional stores allowed in the district and as written now none of that is allowed, so this is clearly an error.

Councilor Turiel feels the Council should continue as discussed but Section 1A is the easiest decision to make. B1 traditional use has been that seen on Derby St., Boston St., Jefferson Ave. and some of Lafayette St., which have lots of neighborhood retail. Most of Derby St. would be technically illegal if this error stands.

Councilor Sargent motions to continue the hearing, adding these items to the ad hoc committee for review, and is seconded by Councilor Dibble.

Further discussion:

Councilor McCarthy agrees that section 1A regarding the B1 district should be discussed, and the rest of the matter should be continued.

Councilor Madore notes that the Bridge St. Neck area, especially in the Entrance Corridor in the B1 district, has existing residential uses above neighborhood retail. She has seen many changes in that district where neighborhood retail flips to residential, altering the neighborhood character, so it would be good to encourage investors to keep the mix of uses. This is not to say that residential use is allowed by right, but that mixed use itself is still restricted by dimensional requirements. She wants to maintain the neighborhood's character.

Councilor Sargent is concerned that residential development could be allowed as per the R3 zone; however, Tom points out that if parking for residential is not available then that is not actually feasible. The developer must meet all other requirements, not take their limited parking and say that the 1st floor will be retail, the 2nd office, and the 3rd residential. Not only would they need too many variances to make it work but would also have to be a good neighbor to abutters.

Tom St. Pierre feels that this was a scrivener's error, and that to change zoning would be a different process. This was allowed previously and the new version prohibited it via the omission.

Public comment in favor: none

Public comment opposed:

Barbara Cleary, 104 Federal St.

Concerns:

Challenges the process, feeling that public informational meetings should be held prior to public hearings

Feels the Planning Board should schedule its own public hearings

Scrivener's errors vs. zoning changes and the process for addressing each

Tom St. Pierre comments he thought his explanation on that issue was clear. He clarifies, again, that before the 2009 recodification all uses he mentioned were allowed, but are not currently, so in that effect yes, zoning was changed then without a hearing. However, the intent was not to change the code, only to recodify the existing one in a more accessible format. While some may have taken advantage of the mistake, he and Mr. Daniel feel there was no intent, only accidental omission.

Barbara Cleary and Tom St. Pierre discuss the logistics of changes in zoning in 2000 and recodification in 2009. Presiding Chair Gerard notes that this should be an offline discussion. Ms. Cleary still feels these questions should be answered before the items under discussion are declared scrivener's errors.

Noah Koretz clarifies that what Tom Daniel and Tom St. Pierre are saying is that when the document in question was transferred, and what we are now suggesting we change, is what was omitted by accident, so would be putting things back the way they were prior to a clerical mistake. Two things are before the Board and Council: scrivener's errors, which are simply mistakes to be corrected, vs. actually making changes to the code. We are doing the former.

Councilor Turiel notes that for any zoning change the Council wants to make, in any case, whether a correction or change that is an edit to the tables, there is a public process involving advertising and a joint public hearing, where Councilors and Planning Board members ask questions and listen to public input. Then the PB makes a determination and submits its opinion, at which point the City Council may modify and act or not act on it. That is a public process. Regarding individual projects, there is also a process, and in many cases there are public meetings as well because the developer wants neighborhood support. These are not changes just happening clandestinely; the process is well defined and the Council has already decided that several matters need more work and that there will be additional hearings. Full recodification is so large it will have a more robust public process, but this is not that process.

Justin Whittier of 10 River St. feels that issues raised tonight will cause delay, thus speaking to the usefulness of having a prior informational session. He is concerned with the process re scriveners errors, which he feels may actually be changes to the table of uses as the errors are all in one direction (uses formerly prohibited now being made "as of right).

Tyler Terry of 22 School St. asks about what is allowed by right and by special permit in various zones; this is outlined. He supports dwellings above retail units by special permit but not by right in zone B1.

No ad hoc committee has yet been formed to refer the matter to, as motioned and seconded above, so the public hearing must just be left open, as motioned and seconded above. The Council will discuss dates certain by the end of the meeting.

Logistics and dates certain are discussed. May 7th is suggested but will not work.

Councilor McCarthy motions to keep the public hearing open, and the motion passes.

Councilor Turiel moves to resume the public hearing on April 30, 2018, at 6PM, and the motion carries.

Councilor McCarthy notes that those who want to form the ad hoc committee must get turn in the form by noon tomorrow (April 10) for timing purposes so they can present on April 30.

Councilor Sargent notes that once a matter is closed at the City Council meeting, members of the public are no longer allowed to comment at a subsequent Planning Board meeting. Some have requested that the PB meeting should also be a public hearing, but this would be redundant as the point of a joint City Council meeting is to have the Planning Board present to hear and address public comment. The City Council is not allowed to attend

Planning Board meetings; that is how the process works. The City Council follows rules set by the State regarding the timeline for the process. No matter was left open ended but was continued to a date certain, mentioned above, as required by law, unless the Council is unaware of some change that has occurred at the State level.

Councilor Turiel reiterates that this format the Council has been using allows those with concerns or questions to address all parties and officials at the same time, so all bodies take that feedback into account in their deliberations, and the public does not have to attend multiple meetings to make the same point repeatedly.

Councilor Fury motions to adjourn, and the motion carries.

The meeting ends at 8:40PM

Respectfully submitted,
Stacy Kilb, Recording Clerk
Salem Planning Board

Approved by the Planning Board on 06/07/2018

Know your rights under the Open Meeting Law M.G.L. c. 30A § 18-25 and City Ordinance § 2-2028 through § 2-2033.