

**City of Salem Planning Board  
Approved Meeting Minutes  
Thursday, July 6, 2017**

A public hearing of the Salem Planning Board was held on Thursday, July 6, 2017 at 7:00 p.m. at City Hall Annex, 120 Washington Street, Room 313, Salem, Massachusetts.

Chair Ben Anderson opens the meeting at 7:04 pm.

**I. ROLL CALL**

*Those present were:* Chair Ben Anderson, Kirt Rieder, Dale Yale, Bill Griset, Matt Veno, and Carole Hamilton. Tony Mataragas will be late.

*Absent:* Bill Griset and Noah Koretz

*Also in attendance:* Amanda Chiancola, Staff Planner, and Stacy Kilb, Recording Clerk

**II. REGULAR AGENDA**

**A. Location: 293 & 297 Bridge Street (Map 26, Lots 634 and 635)**

**Applicant: Mark McLeod c/o The H.L. Turner Group Inc.**

**Description** A public hearing for a Flood Hazard Overlay District special permit in accordance with Salem Zoning Ordinance, Section 8.1 – (Flood Hazard Overlay District) to construct a 7,600 square foot addition to the existing building on the property located at 293 Bridge Street (Map 26, Lot 634). The adjacent lot at 297 Bridge Street (Map 26, Lot 635), currently a municipal parking lot, will be used for employee and customer parking, tractor trailer access to loading docks, and exterior storage for products.

Presenting for the applicant is Attorney Joseph Correnti of 63 Federal St.. This is the FW Webb Expansion Project; it has been ongoing in City permitting. This evening's is the revised plan that has undergone the permitting process prior to now. Also present were Andy McBeth and Bob Matvichuk, store manager FW Webb.

Tony Mataragas arrives at 7:06PM

When first presented, the project was proposed as a separate building, but has since been modified as there was a petition for re-zoning; the Council re-zoned the parcel from NRCC to B-4, which allowed Webb to move forward with the expansion. After receiving comments from this Board, the neighborhood and the City Council, Webb amended the plan and abandoned the idea of a freestanding building on the City parking lot, proposing instead an addition on the other side of the existing building. Originally planned as a 16,000 square foot addition comprised of two stories of 8,000 square feet each, was presented to City council and that was the building shown during petitions. Webb then went to the drawing board to prep for permitting, then returned with a smaller addition proposed to what is being shown now, which is 7,600 square feet. The Zoning Board of Appeals (ZBA) unanimously granted relief for one variance for curb cut width and a special permit for nonconforming structure. Conservation Commission approval has been obtained unanimously as well. This is the last permit being sought.

Mr. Mark McLeod with the HL Turner Group, Concord, NH, presents the Plan. Existing conditions are shown. Both lots slope upward from Bridge St. to the rear of the lot. The proposal is shown and reviewed. The addition will be on the other side of the building with the lot continuing to be used as parking and for tractor trailer deliveries. Some storage space will also be located at the rear. There will be minimal modifications to the grading of the parking lot. There is a cap on the site.

The site has no closed drainage except for detention basins with overflow structures at two areas of the parking lot. The rear part of the addition will feature permeable pavers with an underdrain system.

He outlines the conditions of the Special Permit: proposed use complies with the B-4 district.

Existing and proposed utilities are described; the addition will tie into existing services and only some underground conduits for the new site lighting.

Flood situations and elevations are described. The Floor elevation of the addition is well above the 100-year flood elevation. Bridge Street will have flooded before this site, so there would be no access to the site itself in that event. Underdrains behind the addition will ensure there is no ponding.

Chair Anderson has several questions. He prefaces his concerns by reading Section 8.1.1- the purpose of the Flood Hazard Overlay District into the record: *Item 2- To protect persons and property from hazard and loss through the regulation of future development of lands adjoining watercourses. And Item 4- To ensure the control and containment of sewage, and the safety of gas, electric, fuel and other utilities from breaking, leaking, short-circuiting, igniting or any other damage due to flooding.*

Namely, he is concerned with public safety. He understands the strategy for draining the site, he is concerned that there will be more than two feet of standing water in the parking lot during flood conditions. He does not see drainage structures or site drainage for the parking area. He understands there are issues with the cap, and disturbance of soil, but good practices are to drain the site you are using, he is concerned the water will just sit here.

They have dry goods stored, e.g. pipes. It is not clear whether these will be on racks. If there is over 2 feet of water, that is enough to start moving things. He asks the applicant to explain at what point the buoyancy factor comes in play in the parking area, of the dry goods in storage or even cars. He explains he that he is concerned with public safety for people in the building, because they would be surrounded by water and unable to exit the building. He asks if the one manhole in the front is part of storm drainage, and asks if it has an oil/gas separator since it drains back into the canal.

He is also very concerned with the utilities in the basement, in the event that that gets flooded. The responses are related to underground utilities, he cannot tell based on what is submitted where the electric service is, if there are backflow preventers, if the basement is waterproofed. Are the existing utilities safe? And if they are in the basement, are they safe? He wants to understand what is there – he asks for a floor plan.

Mr. McLeod describes the drainage, stating it will continue the existing drainage pattern. In the event that the canal and the whole system is flooded, it can't go anywhere until that recedes. Chair Anderson asks how that will be done, where do the drainage structures drain to? Mr. McLeod says the drains tie into a perforated underdrain/that accepts the water. Chair Anderson says he cannot tell if there are oil/gas separators. There is a large bituminous hot paving service with potentially leaking vehicles and no way to protect the soil system from flooding or rain getting into the system. You already have a condition of a capped site, it is not fair to add additional contaminants. Mr. McLeod explains that is what the deep sump catch basins are for. The deep sump basins are described at length, and Mr. McLeod explains how they have a hood that will separate "floatables" e.g. oil or debris from clean water. There is no way for the water to get over the top of the hood. Chair Anderson asks for a detail to understand this better. Mr. McLeod explains that this is a DEP BMP. Mr. Rieder asks if this is referenced in the drawing set? It is not.

The Chair asks about backflow preventers for utilities. He asks how they plan to address the existing utilities. There is a good chance the basement will be flood proofed. If you flood proof the basement, it is a safe plan of action, but this has not been proposed. He is being consistent with the other project being proposed, he wants to hear an explanation on how they plan on addressing these issues.

Mr. McLeod says they are on racks and feels that stored materials do not pose a flotation hazard.

Mr. McLeod states that, given the nature of the business, and the fact that it is not a residence, there will be some advance notice when such a flooding condition could occur, thus allowing people to leave before it becomes a safety hazard, and furthermore, given the topography of Bridge Street it would be difficult to get there once flood conditions were in effect. The Chair responds that the zoning ordinance to protect people in the event of a flooding situation. The Chair says he understands why there are lot of drainage structures behind the new addition, and only for in the parking lot. That does not seem sufficient. Mr. McLeod says he based it on the existing design. The Chair says, that does not make the existing design correct.

Mr. McLeod points out that entire system will be full in a flood and adding one additional structure would alleviate that flood. They want to avoid disturbing the cap. The Chair opines that it is a money issue, and that the applicant could hire an Licensed Site Professional there observing that. The Chair is concerned that improvements to parking lot side are very limited. Mr. McLeod says these are really not structures, they are Low Impact Development- a permeable surface with pipes below to replace existing asphalt with compacted gravel for limited containing and drainage. The Chair says the improvements to the right side of the site are very limited.

Kirt Rieder hears those concerns but has a different take. The direction the water sheets in means that there will never be an instance where water is trapped or standing. As Bridge Street flood waters recede, the water would recede out that way. He thinks this is an improvement in site drainage based on the removal of two islands that otherwise acted as check dams that would keep 6" of water upstream. In terms of intercepting water before it leaves the property, he hears that they will reuse 2 drainage structures, so some percentage does go through the curb cut. That may be acceptable. However, spot grades at the curb edge will move water left and right rather than accelerating it. Mr. McLeod responds that most drainage does not go through there, *only* that in a flood condition. Normal drainage goes through vegetated basins and deep sump basins. The Chair is still concerned that there will be approximately 2 feet of water and that is not a safe flood condition.

Kirt Rieder struggles with that, he reiterates that the site will be inaccessible to those who might want to go there in a flood condition, and that it is a tidal flood condition, not a flash flood, so they would have notice. He comments that it seems like a net positive, he cannot speak to the velocity or the volume of water but sees this is a simplification of what is there today.

Matt Venio references 8.1.4- Special Permit Uses, the four different standards that must be met are listed, but the opening paragraph is also important. He reads: *In the FHOD, no structure or building, including pipes and wells, shall be erected, constructed, substantially improved, enlarged or otherwise created or move and no area shall be paved etc. unless all of the following conditions are found to existing as part of granting the special permit. Item 2 says: There are adequate convenience and safety of vehicular and pedestrian movement within the site.*

Mr. Venio says he understands the rationale for preserving the current condition for current use, but this is not how the ordinance is written. It does not say you cannot make it more detrimental or more susceptible to difficulty navigating the site. Rather, it says the site must meet the standard, and he does not think the site does. Adding drain structures would accomplish that because there is nowhere for the water to drain to. It seems the only way to accomplish staying outside the 100-yr flood zone is to raise the parking lot, and does not know what that entails or what the implications are of that.

Thus, his question is a legal question. Is there a case can be made that irrespective of the fact that it does not meet the condition, are there circumstance unique to this property (which there are given a capped landfill) that would warrant special treatment under 8.1.4 section 2? Because the existing condition is not being changed and the

existing conditions has the entire parking lot below the 100 year flood zone, he does not see how it can be approved with the language as written.

Mr. McLeod states that this is final phase of the US Steel redevelopment. By removing the buildings previously there, the volume of impedance within the 100 year flood zone was reduced. Raising the lot would cause problems for addressing the flood impacts. As well as making it for vehicles to enter and exit from Bridge St. under normal conditions. Neighbors to the rear would also be impacted.

Matt Veno contends that legally, it does not meet the standard (8.1.4 Sec. 2). In other projects the site was raised above the floodplain to improve the project. This is a question of safety. The building will be flooded on all sides with no way in or out, that is its existing and proposed condition. Even if that is the case, there is nowhere to go if you step out onto a dry site, since Bridge St. would be flooded, as would the sidewalk itself. Matt Veno notes his question is directed to counsel.

Kirt points out that the applicant provided 1-foot contours which allowed him to do the quick math to figure out if they have compliance slopes of less than 2 percent that will allow anyone getting out of a car an accessible route in. That would not have been impossible with 2-foot contours.

Helen Sides comments on the lack of visuals. Under normal site plan review, they would be required, but the FHOD does not have that requirement. The project would have appeared before the DRB if it was 10,000 square feet or more. She feels that the City Council approved the rezoning, with the understanding that there would be DRB oversight, she is very upset by this. While she is supportive of the business staying, this is not acceptable. Kirt Rieder seconds those comments; the Board cannot provide site plan review that would allow addressing of vegetation, vehicle and pedestrian access. He is disappointed that it is either by coincidence or calculated that site plan review is being sidestepped.

Chair Anderson opens to the public.

Justin Whittier of 10 River St. is also concerned about the issue of flooding, noting that as the site floods from below, being filled tidelands, rain worsens the issue. Drainage during flooding is irrelevant as the water has nowhere to go. He also notes that the Plan was changed because the Applicant lost the City Council vote originally, not because of neighborhood critiques.

Jeremiah of 18 River St. questions the process, noting that the Applicant was able to ascertain which Board members would be available at an upcoming meeting and requesting a continuance because some would not be in attendance, yet that information is not available to the public. Thus, it is somewhat convenient that not many members of the public are here. He is also concerned about the foundation and the impact it will have on groundwater movement. The infrastructure provided by the City is inadequate and the situation will only worsen with this project.

A letter from Meg Twohey of 122 Federal St. is read into the record. She is recommending a full moon high tide site visit due to regular flooding at these times. She opines that the proposal does not address or propose mitigation to any of these problems. She also feels that the project does not comply with several sections of 8.1.4 and that the project is subject to a legal appeal and the Board should not hear it until that appeal is resolved.

A motion to continue to the July 20, 2017 meeting, is made by Matt Veno, seconded by Dale Yale, and passes in a roll call vote with Ben Anderson, Matt Veno, Kirt Rieder, Dale Yale, Carole Hamilton, Tony Mataragas, and Helen Sides in favor, unanimously.

### III. OLD/NEW BUSINESS

- A. Receive and file a Chapter 91 License Application Notification of the project located at 74 Leavitt Street (Palmer's Cove Yacht Club) for a dredging project and for permitting seasonal structures.

The Planning Board Received and Filed.

#### IV. APPROVAL OF MINUTES

- A. Special Joint City Council Planning Board Meeting held on June 12, 2017

A motion to approve the minutes with minor corrections is made by Dale Yale, seconded by Carole Hamilton, and passes unanimously, 4-0 in a roll call vote with Ben Anderson, Kirt Rieder, Dale Yale, and Carole Hamilton in favor, and Matt Veno, Tony Mataragas, and Helen Sides abstaining.

- B. Regular Planning Board Meeting held on June 15, 2017

A motion to approve the minutes with minor corrections and City Solicitor input on one matter, is made by Matt Veno, seconded by Kirt Rieder, and passes unanimously, 5-0 in a Roll call vote with Ben Anderson, Kirt Rieder, Carole Hamilton, and Matt Veno in favor, and Tony Mataragas, Dale Yale and Helen Sides abstaining.

#### V. ADJOURNMENT

A motion to adjourn is made by Matt Veno, seconded by Tony Mataragas, and passes unanimously, 7-0.

For actions where the decisions have not been fully written into these minutes, copies of the decisions have been posted separately by address or project at: <http://www.salem.com/planning-board/webforms/planning-board-2017-decisions>

Respectfully submitted,  
Stacy Kilb, Recording Clerk

Approved by the Planning Board on 07/20/2017

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