

**City of Salem Planning Board  
Meeting Minutes  
Thursday, July 7, 2016**

A public hearing of the Salem Planning Board was held on Thursday, July 7, 2016 at 7:00 p.m. at City Hall Annex, 120 Washington Street, Room 313, Salem, Massachusetts.

Chair Ben Anderson opens the meeting at 7:14 pm.

**I. ROLL CALL**

*Those present were:* Chair Ben Anderson, Noah Koretz, Bill Griset, Vice Chair Matt Venno, Tony Mataragas (leaving early), Dale Yale and Helen Sides

*Absent:* Kirt Rieder, Carole Hamilton

*Also present:* Amanda Chiancola, Staff Planner, and Stacy Kilb, Planning Board Recording Clerk.

**II. REGULAR AGENDA**

**A. Location: 14 Bertuccio Ave. (Map 24, Lot 105)**

**Applicant: Nathan Jacobson**

**Description:** A continuance of a public hearing for a Definitive Subdivision Plan in accordance with the Salem Subdivision Regulations to allow the construction of a roadway to serve seven (7) residential lots, and a Stormwater Management Permit in accordance Sec. 37 of the Salem Code of Ordinances to allow for activity that results in a land disturbance greater than one acre.

Here for the project is Ben Osgood representing TTI Environmental. The traffic memorandum will be reviewed and the City's peer reviewer will report first. A public comment letter from Chris Schoen, who is opposed to the project, is entered into the record.

Alan Cloutier with Stantec provides the traffic review. A memorandum addressing all the points raised was received by TTI today.

Comments included:

- Right of way footage
- Sharp curves in the road/steep grades/site distance as originally proposed. All three are interrelated. Applicant agrees to reduce the grade to 9%; winter maintenance will be critical. Sharp curves artificially lengthen the road and reduce the grade; they also help regulate the speed on the road. However, some trees will block the view. Trees will be moved. This is acceptable.
- Parking on Bertuccio Ave. close to the driveway; no parking should occur within 20' of a road. Signage will be installed and the applicant should communicate with the homeowner in question.
- Missing sidewalk segment on the original plan: the developer was trying to protect a Norway Maple, but this left a gap. Options are described for maintaining sidewalk continuity (removal of the tree, going around, etc.). The crosswalk would then be moved.
- Dead End sign: not absolutely necessary
- Sign Post detail: will be taken care of
- Guard rail will be changed

Mr. Cloutier's notes that the traffic review was limited to activity site distance, it does not include an analysis of capacity impacts.

Mr. Osgood mentions the response letter; he feels the comments were not major. Changes have not yet been made to the plan pending discussion with the Board.

- He is not certain that the trees around the curve between station 1+75 and 3+00 will block views. An alternative proposed by Mr. Osgood is to relocate the trees to the other side of the sidewalk with an easement for them.
- There is a large Norway Maple along the sidewalk of the entrance. This type of tree generally does not do well in residential settings; they only last about 60 years and additionally are an invasive species. He would prefer to remove it and replace with three native species that would last longer and look better.
- The guard rail should be wood in this residential setting. He does not feel the street warrants the guard rail but is advisable due to the drop off 15' away.
- He describes the profile and the proposed grade changes. A 10% grade was proposed to keep the cut down; they can revise the grade to 9%. The biggest change at 9% will be 1.8' of cut.
- He also notes that they can adjust the signs.
- The Board requested a profile of what the street would look like from behind one of the houses; this is shown. Eaves of the house may be visible from the yards of the neighbors below.
- Artist renderings are also shown

Stormwater revisions were recently submitted to the peer reviewer, and are pending a response from the peer reviewer. The applicant admits it took a little while longer to get all the corrections to him. If the applicant cannot resolve the comments by the next meeting they would request a continuance.

Chair Anderson has some concerns. He states that he is speaking for himself, not the Board, and raises the following issues:

- While proposed changes should technically resolve any runoff or drainage issues, he is uncertain whether the project should move forward from a moral standpoint, he is concerned about the following items:
  - Number of waivers requested- included the Road length waiver from 500 feet to 900 feet
  - Density of the development in this small area- could have a quality of life effect on the neighborhood
  - Blasting. Chair Anderson would like a second opinion and states that the City has been searching for a geotechnical engineer to review.
  - The Board has requested public amenities in other projects, for example parks and paths; none has been requested yet but he wonders if the developer would consider reducing the number of homes to install something

Tony Mataragas is also concerned about the blasting and would also like a second opinion. He is also concerned about the density of the area.

Matt Venio cites his extensive comments from the last meeting, and continues to be very concerned about this project, in particular the road length waiver. He does not see how the project provides a benefit per the subdivision control act. He acknowledges that it is a difficult site, and applauds their efforts but they are trying to do a lot. He also feels blasting may present an unacceptable level of disruption to existing residents. He would also like a second opinion, as an expert could convince him. But the letter submitted by the applicant from a blasting expert is not compelling.

Dale Yale shares the concerns expressed and also comments that there is a 9% slope on a street the City will need to maintain with sanding and salt and so forth; cars will probably also go faster than 15mph and it would be difficult to enforce, so speed is a safety concern.

Noah Koretz asks about geotechnical peer review; no reviewer has been found yet but the search will continue. Mr. Jacobson has someone in mind but feels that their person would represent a conflict of interest.

Bill Griset also feels the City should independently find a geotechnical peer reviewer.

Matt Venio states that the root of his concern is the application of the subdivision control law, particularly as it relates to the waivers and does not feel that this project satisfies the requirements of the subdivision control law.

Mr. Osgood disagrees and outlines the subdivision control laws and zoning requirements along with the specs for his project. The lots meet the zoning sizes, which are twice as big as the lots in the neighborhood. He feels that the proposed density of 15,000 square foot lots will not be detrimental to the 5,000 square foot lots in the neighborhood. Roadway slope is within the requirements and a 1' reduction in the right of way still follows the spirit of the law. He feels adhering to the letter of the law does not serve the property owner, who should be allowed to use their property and benefit.

The developer has not ruled out public amenities on City land. He cites a nearby Park. He feels this residential project in a residential area is not detrimental.

Chair Andersons opens to the public.

Cliff Goodman of 22 Bertuccio Ave. is still concerned about drainage. Despite revisions presented last time, he comments that the slope on elevation has changed. He is concerned about this affecting the length of time the retention pond will hold the runoff. Peer engineering review is not present but Mr. Osgood will respond at the end.

Linda Wilson of 18 Bertuccio Ave. which is the largest lot on the street, thus she has the biggest frontage and backage to the plan and is in favor of this plan. Her parents own 14 Bertuccio Ave. and are the ones selling this property, however she would still be in favor if that wasn't the case. Her parents let everyone enjoy the hill for 26 years. She states her parents are not selling their home, they want to stay and enjoy it, and they are just selling the deadspace up there. She feels that the concerns raised by the neighbors are unfounded and the items being addressed are being blown out of proportion. The only thing up there now is a homeless camp which is a moral issue. She feels the project provides the public an opportunity to walk up there and enjoy the view, perhaps there will be benches. She states that the developer has attempted to meet with neighbors but none were interested.

Steve Szpak of 27 Bertuccio Ave. replies that he did see the email asking to meet with the developers, and that he was willing to do so. He observes that many residents of the street see drivers who do NOT realize it is a dead end, and try to reach the football field, thus he feels that the dead end signage is needed. The property line has also not yet been staked, as requested. He also asks what the purpose of the laws is if they are going to be waived.

Audrey Welling of 17 Bertuccio Ave. states that she also responded to Steve Lovely and was willing to meet with the developer, and had opened her home to have the developer and others view the area.

Travis Meindel of 14 Hodges Court reads from a letter he has already submitted. He is concerned that the plan is not complete and that several changes have yet been addressed, but his main issue is with the loss of green space. Unmanaged open green spaces should be preserved for posterity, and so that children have easy access to it for educational purposes

Ken Wilson of 18 Bertuccio Ave. points out that the land in question is not available for people's children. It is privately held land, not public, and they have held off putting up no trespassing signs. He asks why people think they have the right to walk on it. Others have been rude, threatening to take the land by adverse possession.

Mike Giannopolo of 15 Bertuccio Ave. comments that public development should enhance the experience for existing residents, and the proposed project does not. In a City that can be inclusive and welcoming, the goal should be more affordable housing.

Peter Lupo of 24 Bertuccio Ave. wonders where the water line for the new homes will come to. The Engineer will respond at the end. Mr. Lupo also is also concerned about the pumped water from basements adding to the detention pond, and feels it should be accounted for.

Kara Meindel of 14 Hodeges Court will be moving to Bertuccio Ave. and is concerned about the slope and safety of residents and drivers.

Linda Wilson reiterates that this is private property.

Mr. Osgood responds to the public comments. He outlines how drainage is determined. Pre- and post-development conditions are analyzed and the rates must be the same. They use a detention pond to do this. It holds the water briefly, allowing it to build up then drain slowly. Runoff into the intersection has been reduced. Therefore, the presumption is that there will be no impact. He also discusses groundwater recharge; there is a lot of bedrock so not much recharge here. It will be roughly the same volume as in the predevelopment condition, as per regulations.

Re roadway and its safety: he cites the standards that it must meet. This has a 15mph design speed; curves make it safer. No design can account for freak accidents, such as someone hitting the gas instead of the brake, as mentioned by one resident.

He describes the water delivery as an existing 8" line and hydrant on Bertuccio Ave.; it is uncertain how far beyond the hydrant the line goes; that will be determined for both water and sewer. That will be done as part of the subdivision.

Public property issues: he agrees that this is private property that can be developed as the developer sees fit, however reiterates that the developer is willing to provide some amenities, such as a path connecting to the school/open land.

Mr. Peter Lupo is still concerned about blasting, water, etc. and claims that Ms. Wilson was rude.

The Chair states that one option discussed at previous meetings were surveys of properties; the Board can condition requiring the Developer to repair any damage that occurs. Some insurances and security can be built into the decision.

Mr. Travis Meindel is also concerned about the age of the infrastructure and demand on the water line; the Chair reminds him the City Engineer will review all documents before issuing a permit.

Kelly Bordeaux of 28 Bertuccio Ave asks about the fire hydrant; would another need to be added? Mr. Osgood outlines the additional hydrants proposed to meet the requirement. Water lines in the subdivision will be new; mains can break (even new ones) and can collapse if fire dept. pulls out too much water. He feels this will not be an issue.

Matt Veno asks Amanda Chiancola about the requirement that a dead end street be no longer than 500' and that this one will be 950'. He asks where the 500' requirement comes from; Ms. Anderson responds it is a local law. Matt states that while he is sympathetic to the owner's family and their right to develop private property, this Board must operate within the constraints of the law. The petitioner has a right to seek a waiver. The board is bound to consider the waiver consistent with the subdivision control law. It is not this Board's purview to decide if it is a good or bad development that is not their job. In order to be clear on what the board is using as a framework for the waiver he cites Section 81R, Chp. 41 of the Mass General Law:

“A planning board may in any particular case, where such action is in the public interest and not inconsistent with the intent and purpose of the subdivision control law, waive strict compliance with its rules and regulations....”

Mr. Veno believes that the beginning of that sentence is the core, as the board judges the waiver on whether it is:

1. In the Public Interest, and
2. Consistent with the intent and purpose of the subdivision control law

He then cites the purpose of the subdivision control law pursuant to MGL Section 81M of Chp. 41:

“The subdivision control law has been enacted for the purpose of protecting the safety, convenience and welfare of the inhabitants of the cities and towns in which it is, or may hereafter be, put in effect by regulating the laying out and construction of ways in subdivisions providing access to the several lots therein, but which have not become public ways, and ensuring sanitary conditions in subdivisions and in proper cases parks and open areas.”

Therefore, the board's job is to make sure what is being proposed is not inconsistent with that purpose, and within the public interest. He is not convinced that this project meets those two requirements. Waivers have been granted in the past, for example, for the Clark Ave. subdivision, but that was a different project that included public amenities, it was not so jammed in and did not have so many issues and concerns of abutters.

*A motion to continue to the July 21, 2016 meeting is made by Helen Sides, seconded by Dale Yale, and passes with all present in favor, 7-0.*

**B. Location: 70-92 ½ Boston St. (Map 15, Lot 299 & Map 16, Lot 139)**

**Applicant: 139 Grove Street Realty Trust**

**Description:** A continuance of a public hearing for a Site Plan Review, Flood Hazard Overlay District Special Permit, Special Permits associated with the North River Canal Corridor Neighborhood Mixed Use District in accordance with the following sections of the Salem Zoning Ordinance: Section 9.5 Site Plan Review; Section 8.1 Flood Hazard Overlay District; Section 8.4 North River Canal Corridor Neighborhood Mixed Use District; and a Stormwater Management Permit in accordance with Salem Code of Ordinances Chapter 37. Specifically, the applicant proposes the redevelopment of the former Flynnntan site consisting of removal of three structures on the property, the construction of 50

residential dwelling units within two separate buildings and a commercial retail space with parking provided on the site.

Tony Mataragas leaves the meeting at 8:20PM.

The applicant is working on responses to civil engineering and traffic reviews.

*A motion to continue to the July 21, 2016 meeting is made by Bill Griset, seconded by Matt Veno, and passes with all present in favor, 6-0.*

**C. Location:** 40 Circle Hill Drive (Map 9, Lot 255; Land Court Plan 856-J, Lots 56, 57, 59 and 60)

**Applicant:** Bartlett & Steadman Development Corp.

**Description:** Update on the status of construction of the Circle Hill Subdivision, and vote on an extension request of the subdivision approval and Wetlands and Flood Hazard Special Permit.

Ken Steadman presents. He reviews the plan, describing progress thus far. He will appear before the Conservation Commission next week to extend the Order of Conditions; after that the subdivision will be completed, adding sidewalks and curbing, as well as a guard rail.

Chair Anderson asks about the need for yet another extension; he is concerned that completion is not yet in sight and bond has not been submitted. He would be more confident if the developer were to issue a bond. Some concerns were also raised by the neighbors about the lack of ongoing activity and some materials being stored onsite.

Mr. Steadman apologizes, stating that his company handles all its own excavation. They will complete the roadway by September and plan to develop the lots by September 2017 (the length of the extension). He would prefer to hold off on completing the asphalt until heavy excavation is complete. Current materials being stored are stones from blasting, which have been crushed for gravel, and one container.

The Chair states that he obtained some information from the City solicitor re the requirement of a bond as a condition of the extension; he got initial response but not a full one. Chair Anderson says that the developer may continue to another meeting to get that information, or as a Board, they can vote on an extension.

Matt Veno asks about the bond element and the Chair elaborates: the Bond starts clock ticking for developer, who can't sell the property until bond is in place and released; it is as insurance that development will be completed.

Additional discussion about the bond and procedural issues ensues.

*A motion to continue to the July 21, 2016 meeting is made by Matt Veno, seconded by Helen Sides, and passes with all present in favor, 6-0.*

**D. Location:** 14 and 16 Alameda St. (Map 14, Lot 116 and Map 14, Lot 117)

**Applicant:** Town and Country Homes, Inc.

**Description:** A continuance of the public hearing for a Definitive Subdivision Plan to construct a roadway to serve two existing undeveloped lots.

Because there are only 6 Board members present, the applicant requests to continue to the next meeting.

*A motion to continue to the July 21, 2016 meeting is made by Matt Veno, seconded by Helen Sides, and passes with all present in favor, 6-0.*

**E. Location:** 81 Highland Ave; 108 Jefferson Ave; Old Rd; 1 Dove Ave; 79 Highland Ave; 55 Highland Ave; and 57 Highland Ave (Map 24, Lots 1, 2, 88, 19, 216, 218 220; and Map 14, Lot 129)

**Applicant:** North Shore Medical Center, Inc.

**Description:** The applicant requested a continuance to July 21, 2016 of the public hearing for a Site Plan Review, in accordance with the Salem Zoning Ordinance: Section 9.5 Site Plan Review; and a Stormwater Management Permit in accordance with Salem Code of Ordinances Chapter 37. Specifically, the applicant proposes to construct a new Emergency Department/Inpatient Beds building, a new front Lobby expansion, renovation resulting in an addition of 119,735 square feet and repurposing of 119,734 square feet of interior space, internal driveway and parking modifications, landscape and hardscape improvements and utility infrastructure modifications to their existing campus.

The applicant requests to continue to the next meeting as they are working on a response to comments received.

*A motion to continue to the July 21, 2016 meeting is made by Dale Yale, seconded by Helen Sides, and passes with all present in favor, 6-0.*

### III. APPROVAL OF MINUTES

A. June 16, 2016

This item is taken first on the Agenda as a Board member will be arriving late.

*A motion to approve the June 16, 2016 of minutes, with proposed amendments, is made by Noah Koretz, seconded by Helen Sides, and carries with all present in favor, 7-0 (Chair Ben Anderson, Noah Koretz, Bill Griset, Tony Mataragas, Dale Yale, Helen Sides, Matt Veno).*

### IV. OLD/NEW BUSINESS

#### Discussion of expanded role of the Design Review Board (DRB)

Amanda Chiancola describes the roles of DRB, which is an advisory Board to the Salem Redevelopment Authority and the Planning Board. If this Board is interested in expanding the role of the DRB, it would need to determine what such an expansion would include, for example, size and location of projects, or perhaps a certain overlay as a threshold for requiring applicants to appear before the DRB. She suggests that considering the entrance corridor overlay district would be a good starting point for the discussion. The DRB has not yet discussed this matter.

Comments/Concerns of the Board members:

- As the City has been able to become more selective about allowing projects to move forward, they have been able to *request* that developers appear before the DRB, but they do not have to do so. Developers may also meet with a modified DRB of two members. That is an informal process that helps, but it is not enough, Helen feels that the process should be transparent and involve all Board members. In Cambridge it is all entrance corridors, and in Wellesley it is all projects no matter where they are over a certain size, which

is wonderful control to oversee any project that is not a house. She does not expect DRB to take on more work or meet twice a month to handle a larger load. Although it adds another layer of review, she feels that the review is invaluable, and that all DRB-reviewed projects had positive outcomes, and developers were grateful for the input. Residents have wondered why the DRB does not have more oversight.

- Noah Koretz feels the role of the DRB would be hugely beneficial, as he has witnessed cases in his line of work where design review in critical corridors of the Haverhill has to be a goodwill conversation with the developer, but there is no oomph behind it. He acknowledges that we are blessed in Salem to have boards comprised of professionals with design expertise, but asks Helen about DRB turnover, as he is concerned that design review is only as good as the people on the board. Helen Sides feels that even if the board had turnover, there are enough qualified and interested individuals in Salem and moving to Salem to fill the Board and effectively provide professional input, so she has no fear of having qualified people available to participate.
- Noah Koretz also comments that there should be two triggers one is specific corridors, and one is any project over x number of square feet. While he sees the appeal of a quick and easy permitting process for developers for cities that are not as desirable for development right now, but he does not believe Salem has that problem. In addition, developers are benefiting from the process since they are getting access to consultants on these boards that are making their projects better. As long as the city has this good market where adding this extra step is not a burden for developers and there is a sufficient pool of qualified people to be Board members, he is in favor.
- Helen Sides comments that she is on the DRB but is not representing the DRB since it is not appropriate for her to summarize what the DRB thinks. She also notes the limitations of the Planning Board's jurisdiction, which generally does not extend to design, and that the design review expertise should stay within the realm of the DRB. People attend DRB to hear about design, while people attend Planning Board to hear about site plan review.
- Chair Anderson generally agrees with what has been said, and supports requiring DRB review of entrance corridor overlays. But to a point, specified among square feet. Smaller residential development may not be able to afford it. He has heard that developers find the extra review expensive, as it increases the cost and Performa of development. Which in his mind are good things, but he worries the about the effect of too much design oversight, e.g. attracting developers and getting the reputation of the city being difficult to getting permitted and approved. He would potentially be supportive of entrance corridor overlays at a certain square footage since those corridors are very important to the City, but not extending it beyond that. Certainly commercial development, he is not sure about residential, or what size development should trigger design review.
- Dale Yale recommends consistency with SPR triggers, e.g. over 6 residential units.
- Noah Koretz comments he is more comfortable with a size trigger rather than use because he does not want to discourage developers from building commercial in the entrance corridor.
- The pros and cons of requiring DRB review of projects over a certain square footage vs. a certain usage are discussed, as is the balance between streamlining the permitting process for developers while ensuring that projects are well designed.
- Helen Sides comments that the Master Plan was previously renewed in the 11<sup>th</sup> hour, but the definition of “downtown” was not expanded. She feels it would be great if it were expanded.
- Matt Veno asks about the procedure and it is clarified by Amanda Chiancola. He would also like the perspective of the City Council regarding the reputation of Salem as a City that has a difficult permitting process (if so).
- Amanda Chiancola outlines the next steps to begin the discussion with the DRB.

## V. ADJOURNMENT

*A motion to adjourn is made by Helen Sides, seconded by, Matt Veno and the motion carries with all present in favor, 6-0.*

The meeting ends at 9:00PM.

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-2016-decisions>

Respectfully submitted,  
Stacy Kilb, Recording Clerk

Approved by the Planning Board on 7/21/2016

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