

City of Salem Board of Appeals

Meeting Minutes

Wednesday, May 17, 2017

A meeting of the Salem Board of Appeals (“Salem BOA”) was held on Wednesday, April 19, 2017 in the third floor conference room at 120 Washington Street, Salem, Massachusetts at 6:30 p.m.

**Ms. Curran (Chair) calls the meeting to order at 6:30 pm.**

**ROLL CALL**

Those present were: Rebecca Curran (Chair), Mike Duffy, Jimmy Tsitsinos, Paul Viccica (alternate), and Tom Watkins. Those not present were: Peter A. Copelas (Vice-Chair), Jim Hacker (alternate). Also in attendance Tom St. Pierre - Building Commissioner, Erin Schaeffer - Staff Planner, and Colleen Anderson – Recorder.

**REGULAR AGENDA**

**\*THE APPLICANT HAS REQUESTED A CONTINUATION TO THE NEXT REGULARLY SCHEDULED MEETING ON JUNE 21, 2017\***

Project

A public hearing for a petition of, seeking an amendment to existing Decisions dated July 2, 1984 and November 27, 1985 to remove a condition that the premises remain owner occupied, if the property ceases to be owner occupies it will revert to a two-family dwelling.

Applicant

**GAIL M. RUSSELL f/k/a GAIL M. MAZZARINI**

Location

**17 DEARBORNE STREET (Map 27 Lot 365) (R-2 Zoning District)**

**REGULAR AGENDA**

**\*THE APPLICANT HAS REQUESTED TO WITHDRAW\***

Project

A public hearing for a petition seeking A Special Permit per *Sec. 3.3.3 Nonconforming Single and Two Family Structures* of the Salem Zoning Ordinance, to construct an addition to the rear of the existing nonconforming three-family residential structure.

Applicant

**SALEM WATERFRONT DEVELOPMENTS, LLC**

Location

**76 LEACH STREET (Map 33 Lot 565)(B-1 Zoning District)**

**Motion and Vote: Mr. Duffy makes a motion to accept the Applicants request to withdrawal their petition without prejudice. The motion is seconded by Mr. Watkins. The vote was unanimous with five (5) in favor and none (0) opposed.**

**\*THE APPLICANT HAS REQUESTED TO WITHDRAW\***

Project	A public hearing for all persons interested in the petition of seeking a Variance for relief from <i>Sec. 4.1.1 Table of Dimensional Requirements</i> of the Salem Zoning Ordinance, to allow less than the required minimum lot area, lot frontage, and minimum lot width at the property.
Applicant	<b>MICHAEL MUNROE</b>
Location	<b>13 CHERRY HILL AVE (Map 14 Lot 225) (R-1 Zoning District).</b>

**Motion and Vote: Mr. Duffy makes a motion to accept the Applicants request to withdrawal their petition without prejudice. The motion is seconded by Mr. Watkins. The vote was unanimous with five (5) in favor and none (0) opposed.**

Project	A public hearing for a petition of, requesting a Special Permit per <i>Sec. 3.0 Table of Uses</i> to allow a historic carriage house to be converted into a dwelling unit.
Applicant	<b>LORRAINE BOUCHER</b>
Location	<b>13 ARTHUR STREET (Map 23 Lot 35)(R-2 Zoning District)</b>

Documents and Exhibitions

- Application dated March 28, 2017 and supporting documentation

Dean and Lorraine Boucher of 13 Arthur Street, and David Jaquith, Architect, of 81 Railroad Avenue, Rowley, MA were present to discuss the proposed project.

Chair Curran – Stated that at the last meeting there was some confusion over whether this structure met the criteria of the Historic Carriage House. Jaquith noted that the building is in the rear right hand corner of the property. A map found at Salem State from 1987 shows a stable behind the house. Chair Curran – stated that one of the bylaw criteria is that the structure must be shown in the same location as in the map. The documentation presented contradicts that. This building is a different shape and is shown directly being the house as opposed to in the rear corner. Jaquith replied that he presumed that the previous owner who also owned neighboring lots and moved the structure. Photos of the foundation and timber structure appear to predate 1900. Chair Curran – stated that the bylaw is specific regarding locations dates and locations of carriage house. Without definitive proof they cannot grant this petition under this bylaw. Duffy agrees. Copelas suggests they revisit the Registry of Deeds for sufficient evidence. St. Pierre - asked that they bring their 1901 plan to the next meeting.

**Motion and Vote: Mr. Duffy makes a motion to continue the public hearing to the next regularly scheduled meeting on June 21, 2017. The motion is seconded by Mr. Viccica (alternate). The vote was unanimous with five (5) in favor and none (0) opposed.**

Project A public hearing for a petition of, requesting a Special Permit per *Sec. 3.3.3* of the Salem Zoning Ordinance, *Nonconforming Structures*, to allow the petitioner to build a nonconforming structure, a Variance to *Sec. 5.1.5* of the Salem Zoning Ordinance, *Parking Design*, to exceed the maximum width of entrance and exit drive.

Applicant **295 BRIDGE STREET ASSOCIATES**  
Location **293 BRIDGE STREET and 297 BRIDGE STREET (Map 26, Lots 634, 635)(B-4 Zoning District)**

### Documents and Exhibitions

- Application dated March 29, 2017 and supporting documentation

Attorney Joseph Correnti, 63 Federal Street, represents the applicant

Other presenters include:

- Mark McCloud, Turner Group (Engineer)
- Bob Matvichuk , F.W. Webb (Salem Store Manager)

Chair Curran - stated that at the last meeting information regarding lighting was requested since this project will undergo a Site Plan Review. The expansion of a non-conforming structure will require a Special Permit. The driveway openings will require a Variance and will be reviewed to see if their width could be minimized.

Atty. Correnti stated that he represents both 295 Bridge Street and The City of Salem. This petition is for the combined lots of the FW Webb lot and the City of Salem municipal parking lot. A single story 7,600 SF brick addition with glass storefront facing Bridge Street is proposed on the East side of the existing building. The 3 original curb cuts requested have been reduced to 2. 30 feet wide is the maximum allowed curb cut and the East curb cut has been reduced to 30 feet or less. The relief is requested for the West and middle curb cut to provide safer pedestrian access. A lighting plan has been submitted to prove there will be no light spill over at or beyond the property lines.

McCloud stated that the current plan will allow Webb to improve their operations and provide safer pedestrian access. Current deliveries required tractor trailers and large trucks must block Bridge Street traffic to back into the loading dock on the East side. The new plan will move loading to the West side of the building where trucks can pull completely in to the lot. The existing East curb cut in front of Webb is over 90 wide and the parking in that location has been reduced and the proposed curb cut is now 28 feet wide. A 67 foot wide curb cut is still proposed at the central opening to allow tractor trailers to enter the site from either direction on Bridge Street and make all of their turning movements on the site. The angle of the opening was adjusted and curves inward which reduced the parking by 1 space. The far West curb cut has been reduced to 30 feet which meets the maximum

allowed. A 9,000 square foot fenced off area will be dedicated to Webb product storage. The fixtures in the lighting plan are full cut off meaning lighting is all directed downward.

McCloud noted that the Board requested that the use of two separate entrances for tractor trailers entering from the East and West be studied. Multiple maneuvers will still be needed on site with two entrances. A single entrance and exit point will make it easier for drivers to navigate the site. A 50 foot curb cut at the middle driveway and a 40 foot curb cut West driveway are being requested. Review with the City Engineer resulted in the inward curling at the middle driveway for 67 feet at the street side and 56 feet at the Webb side. The two existing curb cuts are 30 feet wide at the parking lot and 90 feet wide in front of Webb.

Mr. Watkins – noted that traffic lines would keep drivers in their lane and make the pedestrian path easier to navigate. Chair Curran – stated that literal enforcement can be a hardship. If the two entrances were limited to two 30 foot openings would that limit the truck and other vehicle interaction as well as pedestrians. McCloud replied that a tractor trailer wouldn't be able to access the site. St. Pierre – asked if the West driveway would be exit only. McCloud replied yes, for tractor trailers only. Chair Curran – suggested that the wider driveway could be limited to trucks only and it is only used twice a day for each delivery and can be closed off with a break-away gate and drivers could call ahead to have the gate opened. McCloud replied that that was not considered but the newly proposed is an improvement and still not their ideal layout.

Chair Curran – asked what type of fencing will conceal the exterior pipe storage and if landscaping would be proposed behind it at the rear. McCloud replied that the fence would be chain link with slats at the openings. There are existing rear plantings, grasses, and pine trees were installed at the same time as the parking lot, however; new plantings are proposed to add more greenspace. Mr. Viccica – asked if there would be a rear fence. McCloud replied that more research is necessary to determine who the existing fences belong to but a new 6 foot high chain link fence is proposed.

Mr. Viccica – asked for their hours of operation and the proposed 20 foot high pole lights will be adjusted accordingly. McCloud replied 6:30AM-5PM and yes, the lighting would be reduced at night but will stay on for security.

Mr. Viccica – stated that several items on the proposed plan probably wouldn't have been allowed if this project were to go under Site Plan Review – dumpster location, snow storage, product storage. Chair Curran – asked about the rear pavers. McCloud replied that those were part of the storm water management which will be reviewed by the Conservation Commission and the Planning Board. Chair Curran – noted that the proposed dumpster at the rear property line is by the residential neighbors could be relocated next to the commercial neighbors. McCloud replied that the dumpster will house office waste and has been located close to the building for easy access by employees and maneuverability for the trash truck. Chair Curran – stated that the dumpster could be placed towards the center of the site next to the product storage fence and could still be easily accessed with a matching fence enclosure to make it less intrusive on the neighborhood.

Chair Curran – noted that the proposed concrete sidewalk tips down to meet an asphalt driveway entrance and asked that the entire sidewalk remain concrete even at the transition down to the driveway.

*Chair Curran opens public comment.*

Gerald of 122 Federal Street. Concerned with the applicant not having a Site Plan Review, noise impact by equipment being moved around in outdoor fenced area and equipment used to maneuver those products, the corresponding days and hours of operation at which the movement will occur. Chair Curran – asked the applicant to respond. McCloud replied 7AM to 5PM Monday through Friday and half a day on Saturday. Matvichuk noted that a forklift would be used within the fenced off area but it makes no noise. Atty. Correnti noted that City ordinance states that 6AM to 11PM is allowed.

Jane Arlander of 93 Federal Street. Their intrusive commercial and retail use is being moved to the more prominent side of the historic neighborhood, tractor trailer noise and vibrations can be heard by the residential neighbors and the dumpster is in their backyard. During the City Council meeting regarding their zoning change several Councilors agreed that the project should go before Site Plan Review. Mayor Driscoll sent a letter to the Councilors on July 15<sup>th</sup> asking them to support a resolution accepting Webb's proposal for a zone change to B4 for both parcels and also addressed the concerns with removing 293 Bridge Street from the NRCC zone and DRB review. After the Mayor spoke with Webb, Webb committed to an informal review that is not a B4 Zone requirement. Arlander also asked why a Variance is not required if Webb is proposing to construct a full height five story stairwell within the rear setback and how that does not increase the non-conformity. Chair Curran – asked St. Pierre to address the stairwell concerns. St. Pierre – replied

Lou Ciriani of Federal Court. Commitments were made by Webb to undergo Site Plan Review after the City Council meetings and requests that ZBA review all aspects of the proposed design or make Webb go through the design process. The five story stair is not included in the addition square footage and seems to violate the height restrictions. The curb cuts are excessive, can box trucks be used to make deliveries instead of tractor trailers. Earlier in the process trucks were supposed to make 1-2 deliveries a week and now its 1-2 a day, what has changed? The 9,000 square foot storage has increased in size and solid fences would probably be proposed if this project underwent a Site Plan Review. Why are there so many pavers and not more landscaping adjacent to the residences? Are there alternatives and who reviews the landscape design?

Chair Curran – asked Atty. Correnti to address the concerns of the letter from Mayor Driscoll to the City Council members and asked if they would participate in an informal design review. Atty. Correnti – replied that the City Council voted on a 16,000 square foot addition and approved it's rezoning. After numerous concerns about the proposed square footage Webb reduced the proposed project to a single story 7,600 square foot addition and additions of that size do not require Site Plan Review. In the Memorandum of Agreement signed by the City of Salem during the RFP process, states that if the plan needs to go before Site Plan Review it will also go to DRB for Design Review. The current project requires

neither Site Plan Review nor Design Review. The applicant does understand the Boards concerns but promises are not being broken and people are not being misled. In regards to the new stairway, the nonconformity is the height of the building and that is not being exceeded and neither is the rear yard setback since the proposed addition is not within the rear setback. St. Pierre – noted that even if the proposed 7,600 square feet is only the first floor addition, when adding the square footage of the four other floors of the new stairwell, it will not exceed 10,000 square feet. Chair Curran – noted that exceeding 10,000 square feet is what triggers a Site Plan Review and the ZBA cannot compel the applicant to submit for a Site Plan Review, however; the ZBA will include those items in its review.

Justin Whittier of 10 River Street. Page 2 of the ordinance stated both structures and premises. Their proposed site alterations should be included in their square footage calculations which exceed 10,000 square feet. Chair Curran – replied that that would be a question for the Building Commissioner but that is not the ZBA's call to make. Whittier also stated that Webb will add retail to their wholesale business. On Exhibit A of the disposition documents those uses were not checked-off on the use table and those uses are not allowed in a B4 Zone. How that a special permit be granted for a use not allowed in this zone? St. Pierre – replied that the term premise applies to square footage of the building. Atty. Correnti replied that this use has been categorized as Industrial (wholesale, warehousing, or distribution facility) and sale & storage of building supplies, which are both permitted in a B4 Zone.

Meg Twohey of 122 Federal Street. The co-applicant, the City of Salem, is not listed on the notice. Does this project fit the criteria for granting a variance? How can they claim hardship when they chose to purchase/signed an agreement for a contaminated site? Thanked the Board for working on issues that directly relate to and impact the neighborhood, and invites them the Board to make a site visit. Chair Curran – stated that a literal enforcement of the curb cut would allow Webb to function but not well since delivery trucks would need to park on the street. Can relief be granted without substantial detriment? The location of the existing building and where to place the addition is the challenge as well as the condition that a literal enforcement would create.

Lisa Spencer of 17 ½ River Street. Read a letter from her husband Fred Bevisheimer, President of the Federal Street Neighborhood Association about Webb's commitment to participating in an informal design review which would be in the best interest of the neighborhood and the City of Salem. Chair Curran – replied that the square footage no longer triggers the review requirement.

Councilor at Large Sargent. Asked if a review can be applied as a condition of the special permit as a way to make the applicant keep their word. Chair Curran – relied that she would discuss with Council on whether that could be a legal condition.

Jeremiah Jennings of 18 River Street. The addition is 25 feet high, is the square footage is measured by volume and not floor area which would trigger Site Plan Review. If tractor trailers cannot get through a 30 foot curb cut they should be using box trucks for deliveries, that shouldn't be considered a hardship.

Josiah Fisk of 358 Essex Street. Would any review have been triggered through the NRCC when the addition was over 10,000 square feet? Mr. Duffy – replied that a Site Plan Review would have been triggered for any structure over a one or two family structure.

Connie Arlander of 91 Federal Street. If the ordinance hours are 6AM to 11PM could Webb's hours of operation change? Some neighbors have complained that they've heard trucks as early as 5:30AM. Will the lights also be a condition? St. Pierre – replied that 6AM to 11PM is the ordinance on loading and unloading. Chair Curran – replied that their hours of operation can and will be conditioned.

*Chair Curran closes public comment.*

Chair Curran – stated that the resolutions to the Site Plan Review items discussed, including the hours of operation limitation, will help to maintain the neighborhood character.

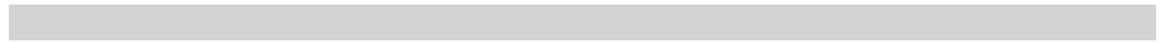
Mr. Viccica – stated that he is still concerned with pedestrians navigating a 50+ foot wide opening with both cars and tractor trailers. By not creating options to keep the driveway closed, and have drivers contact the store so employees know when to open and close the gate, this dangerous entrance will remain a dangerous pedestrian condition throughout the day. Chair Curran agrees. McCloud replied that this layout concentrates the entrance and improves a very wide existing entrance. Cars will now pull out onto Bridge Street and will easily see the pedestrians rather than backing up towards them. Mr. Tsitsinos agrees with McCloud. St. Pierre – stated that a rumble strip or heaving striping will make the pedestrian are more noticeable and lane striping at the driveway entrance. Mr. Viccica agrees and adds that the city traffic engineer should off their input.

Chair Curran – stated that additional landscaping at the perimeter along the residential areas. McCloud noted that the pavers will provide storm water storage and drainage. Mr. Viccica – asked if they would consider pervious pavement in the outdoor storage area to manage the water there and add plantings at the rear. Mr. McCloud replied they would like to maintain the parking lot storm water design because the soils below are contaminated. A cap on digging at the rear property line is unknown which is why minimal site work is proposed. The rear storm water area will keep water from being trapped behind the building. Mr. Viccica – asked if more natural methods were considered, such as constructed wetland or a rain garden. McCloud replied no. Atty. Correnti noted that AUL clean-up was under EPA and DEP monitoring who was aware of the rear residential neighbors. The applicant will take a condition to add additional rear greenspace along the rear residential properties if it is allowed under the AUL restrictions. The plan will be submitted to the Planning Department for review. Matvichuk noted that the existing rear storage area will remain storage and behind and that area is fence off at the rear by existing neighboring fences.

Chair Curran – stated that a rear fence would be more appropriate to conceal the rear storage from the residential neighbors as well as evergreens to be maintained and replaced if damaged. The dumpster would be moved and screened with a chain-link fence with slats. Building and site lighting must be adhered to the submitted plan and would get reduced one

hour after closing until one half hour before opening with lighting details to be reviewed by the Building Department. Their hours of operation are 6:30AM to 5PM Monday through Friday, 6:30AM to 8PM Thursday, and 7AM to 12PM Saturday. Rumble strips will be placed at the opening with a review by the City Engineer, the sidewalk will continue as concrete (a voluntary condition) all prior to the issuance of a building permit. Drainage design is subject to an order of conditions by the Conservation Commission. Landscaping will be added between the building and the residential neighbors.

**Motion and Vote:** Mr. Duffy makes a motion to approve the petition for a Variance to *Sec. 5.1.5* of the Salem Zoning Ordinance, *Parking Design*, to exceed the maximum width of entrance and exit drive as demonstrated on a plan showing the maximum width to be 67 foot external width and a 56 foot internal width. A motion is also approved for a Special Permit per *Sec. 3.3.3* of the Salem Zoning Ordinance, *Nonconforming Structures*, to allow the petitioner to build a nonconforming structure subject to the following special conditions; a voluntary condition to continue the concrete sidewalk, to install rumble strips/traffic easing at the 67 foot curb cut to be submitted and approved by the Engineering Department prior to the issuance of a building permit. The dumpster should be moved next to the proposed outdoor storage area and to be screened from the street and rear residential yards in accordance with the dumpster ordinance. Lighting system controls be added to the parking lot and building to be reduced one half hour before opening and one hour after closing with shielded lighting fixtures on site and at the building perimeter with low foot-candles required for security after hours to be approved by the Planning Department and in accordance with the plan submitted and prior to the issuance of a building permit. The petitioner will submit a plan for additional landscaping or screening with plantings and/or fences allowed under AUL restrictions to be reviewed by the Planning Department prior to the issuance of a building permit. The hours of operation shall be limited to 6:30AM to 5PM – Monday, Tuesday, Wednesday, and Friday, 6:30AM to 8PM on Thursday, and 7AM to 12PM on Saturday, and the showroom only by appointment only between 10AM to 3PM. The chain-link fence surrounding the exterior storage area shall be 8 feet high and screening as approved by the Planning Board. Approval by the Conservation Commission. The motion is seconded by Mr. Viccica. The vote was unanimous with five (5) in favor and none (0) opposed.



Project	A public hearing for a petition seeking a Special Permit per <i>Sec. 3.3.3 Nonconforming Single and Two Family Structures</i> , to construct an addition to the rear of the existing nonconforming three-family residential structure.
Applicant	<b>CARMINE DEFALCO</b>
Location	<b>13 OAK STREET (Map 26, Lot 21)(R -2 Zoning District)</b>

Documents and Exhibitions

- Application dated April 25,2017 and supporting documentation

Carmine Defalco was present to discuss the project. Defalco stated that this home was purchased by his daughter and after some leaking on the second floor that level was removed and reconstructed. She is now partially disabled and an additional first floor bedroom and expanded kitchen, 18 feet x 26 feet, is needed for he and his wife to move into the home.

Chair Curran – asked if the addition will be in-line with the existing house and asked how far the house next door is from the property line. Defalco replied yes, that line is approximately 8 inches from the property line and the neighboring house is approximately 4 feet from the property line. St. Pierre – noted that Defalco has made significant restoration to this home to date and the same level of quality is expected moving forward.

Chair Curran – asked if parking would be impacted by this addition. Defalco replied that the three existing spaces will not be impacted by this addition.

*Chair Curran opens public comment.*

No one in the assembly wishes to speak.

*Chair Curran closes public comment.*

**Motion and Vote: Mr. Watkins makes a motion to approve the petition for a Special Permit per *Sec. 3.3.3 Nonconforming Single and Two Family Structures*, to construct an addition to the rear of the existing nonconforming three-family residential structure. The motion is seconded by Mr. Viccica. The vote was unanimous with five (5) in favor and none (0) opposed.**



Project            A public hearing for a petition seeking Special Permits per *Sec. 3.3.2 Nonconforming Uses* and *Sec. 3.3.3 Nonconforming Structures* to extend a non-conforming use and reconstruct a non-conforming building, and a Variance per *Sec. 3.3.4 Variance Required* and *Sec. 4.1.1 Table of Dimensional Requirements* to change a nonconforming structure in such a manner as to increase an existing nonconformity and for relief from the rear and side yard setbacks requirements.

Applicant        **BRIMPTS REALTY, LLC**  
Location        **15 BROADWAY (Map 32, Lot 55)(I Zoning District)**

## Documents and Exhibitions

➤ Application dated April 25, 2017 and supporting documentation  
Attorney Scott Grover was present to discuss the project and represent the owner David Clark.

Atty. Grover stated that Broadway is populated by many commercial and industrial uses. The owner uses the structure for his own construction business and currently rents the yard space to small contractors. In the process of downsizing the owner will demolish the existing building, currently turned perpendicular to Board, and is proposing to construct a new approximately 3,000 square foot structure parallel to Broadway that will house 4 small contractor workshop bays, each 750 square feet with work and storage space and a mezzanine for a small office or additional storage space. The 11 new parking spaces comply with parking requirements including company vehicles, employees, and square footage.

Atty. Grover stated that one of the reliefs requested is based on use because Contactor Workshops/Yards are not permitted in an Industrial District. The existing non-conforming use allows that use to continue and be expanded. A dimensional relief is also being requested because of the two side yard and rear yard setbacks are all 30 feet because lot areas are anticipated to be 40,000 square feet when 10,000 square feet is what exists. Because this is not a one or two family structures the BOA cannot issue a Special Permit, a Variance must be granted with two exceptions; if a new nonconformity is created or an existing is increased, and if the extension of the wall is at the same distance. The proposed building is being moved further away from the left side property line, the rear wall will be less of nonconformity by being move further away from the rear property line, and the right side will remain encroached within the setback.

Atty. Grover stated that in regards to grounds for the relief the new structure must be less detrimental and in this case the site is underutilized, the building is not in good shape and the proposed cedar shingle structure with a new paved parking in front will be an improvement and will clean-up an industrial use and bring usable space inside. The Special Condition is that there is a small industrial lot with large setbacks. A literal enforcement of the setbacks would only allow for the construction of a 2 bay structure. Many abutters are in favor and petition in favor of this project has been signed by them and submitted to the BOA.

Chair Curran – asked if any abutters were residential. Atty. Grover replied that a rear diagonal abutter is residential, the neighbor of the gas station along Canal Street behind this property. Mr. Watkins – asked if 13 and 17 Broadway were residential. Atty. Grover replied that the owner at 17 operates a plumbing business and lives there. Clark has spoken with him and he didn't sign the petition but has not stated that he is opposed to the proposed project. 13 Broadway is the Lafayette Social Club and they signed the petition. Clark noted that all lots on Broadway are commercial/industrial.

Mr. Watkins – stated the literal enforcement creating only two bays is a financial hardship cannot not be considered a hardship and asked if the building could be moved forward. Atty. Grover replied that two side yards and rear setbacks are scaled for large scale industrial

use. Clark replied that gates are proposed at the front. St. Pierre – noted that the City would prefer that cars not back onto streets. Mr. Grover noted that there is no curb cut or sidewalk. Clark added that there is an existing 20 foot wide gate the property line. Chair Curran – stated that the opening could be limited to 30 or less

Chair Curran – asked if the 7 foot left side yard setback could be kept and 16 feet be given to the residence on the right. Atty. Grover replied that that would be acceptable as a condition.

Mr. Watkins – asked if commercial trash through the City would be utilized. Clark replied that the tenants all handle their own trash and no dumpster is proposed.

*Chair Curran opens public comment.*

No one in the assembly wishes to speak.

*Chair Curran closes public comment.*

**Motion and Vote: Mr. Duffy makes a motion to approve the petition for Special Permits per *Sec. 3.3.2 Nonconforming Uses* and *Sec. 3.3.3 Nonconforming Structures* to extend a non-conforming use and reconstruct a non-conforming building, and a Variance per *Sec. 3.3.4 Variance Required* and *Sec. 4.1.1 Table of Dimensional Requirements* to change a nonconforming structure in such a manner as to increase an existing nonconformity and for relief from the rear and side yard setbacks requirement and allow a 67 foot left side yard setback, a 16 foot right side yard setback, and a driveway opening of 30 feet or less. Paving along the front before occupancy, a fence at the perimeter, and no outside storage of any construction materials. The motion is seconded by Mr. Watkins. The vote was unanimous with five (5) in favor and none (0) opposed.**



Project	A public hearing for a petition seeking a Variance from <i>Sec. 4.1.1 Table of Dimensional Requirements</i> to allow less than the required 30 foot front yard depth for a new Valvoline Instant Oil Change facility.
Applicant	<b>HENLY SALEM, LLC</b>
Location	<b>10 PARADISE ROAD (Map 20, Lot 4)(B-2 Zoning District)</b>

Documents and Exhibitions

- Application dated April 25, 2017 and supporting documentation

Ed Pesche of Pesche, LLC present to discuss the project to represent Henly Salem, LLC a subsidiary of Henly Enterprises in Newton that operates Valvoline facilities in

Massachusetts. Randy Kazazian, Director of Real Estate for Henly Enterprises, was also present.

Pesche stated that dimensional relief from the front yard setback is being requested. One way entrance and exit is proposed while closing an existing curb cut closest to the intersection and filling it in with curbing. The shape of this corner lot and soils contamination makes this site unique and there are site activity use limitations (AULs) on it. The shape limits the size of the building and a previous rear relief was granted on the existing building. A literal enforcement would create a hardship; a new 3 bay Valvoline facility is proposed to make the project cost effective though 4 bays are typical for these facilities. The impervious material and greenspace will increase, a larger setback will be created for the rear abutter, and the new building will look be more appealing. The hours will be 7AM – 7PM

Chair Curran – asked if the building could be shifted to the rear. Pesche replied that the building has been located to maintain the required setback for parking at the rear and the existing curb cuts. The proposed setback on Paradise Road is 15.1 feet and 25.2 feet on the Vinnin Street side, where 30 is required on a corner lot and the greenspace is now at the corner to make it esthetically pleasing. Chair Curran – asked if the building could be moved feet. Pesche replied that that would restrict the amount of queuing space at the rear for vehicles waiting to be serviced. Unlike other companies the customer waits in the vehicle, drive into the building for service, and leave the premises after being serviced. The 7 parking spaces are for employees, and all vehicles leave the premises at the end of the day.

*Chair Curran opens public comment.*

Randy Kazazian of Henly Enterprises, 4 Chapman Street, Newton, MA. They also have a facility at 87 North Street in Salem.

Councilor at Large Sargent. Noted that closing up the corner curb cut will be good for the intersection. Was concerned for the safety of pedestrians on the sidewalk in the winter, where snow is usually pushed to clear the site of snow, but sees that it will be landscaped along the sidewalk which should be safer for pedestrian. Wants to see the sidewalk continue and not have the site paving go directly to the street.

St. Pierre – noted that he receives many building and trash complaints about the existing gas station but has never received a complaint regarding the North Street Valvoline facility.

*Chair Curran closes public comment.*

Chair Curran – stated that the sign will need approval from the Planning Department. Pesche noted that there will be directional signage for customers and a building sign. The building sign is typically back-lit but can be down lit with gooseneck fixtures. The sign will be off at night but the building perimeter and security lighting will remain on. Mr. Viccica – asked if the existing lighting will be removed. Pesche replied that the existing locations tend to be replaced but it can be reduced if the locations no longer make sense with the proposed layout.

**Motion and Vote: Mr. Watkins makes a motion to approve the petition for a Variance from *Sec. 4.1.1 Table of Dimensional Requirements* to allow less than the required 30 foot front yard depth for a new Valvoline Instant Oil Change facility. The motion is seconded by Mr. Duffy. The vote was unanimous with five (5) in favor and none (0) opposed.**

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Project            A public hearing for a petition seeking a Special Permit per *Sec. 3.3.3 Non-Conforming Structures* to allow an expansion of a non-conforming structure and Variances for relief from *Sec. 4.1.1 Table of Dimensional Requirements* from a year yard setback and number of stories.

Applicant        **ROBERT CAMIRE**  
Location         **160-162 BRIDGE STREET (Map 35 Lot 35)(B-4 Zoning District).**

#### Documents and Exhibitions

- Application dated April 25, 2017 and supporting documentation

Attorney Bill Quinn of Tinti, Quinn, Grover & Frey, 27 Congress Street, Suite 414, Salem, MA 01970, was present to discuss the project and represent the owner Robert Camire and John Camire.

Atty. Quinn stated that there are two buildings off of Bridge Street, one behind the other, on a long narrow lot. This arrangement predates the zoning ordinance and in 2016 the lots were sub-divided into two legal non-conforming lots. Robert is proposing to sell the rear 3 family building to John. John would like to add a 16 foot x 16 foot addition to the rear of the third floor unit which will add more living space and some coverage to an existing exterior stair that serves all three levels. Atty. Quinn stated that a narrow winding stairway existing at the front of the rear building and there is also a proposed to turn a front third window into a door that will lead to a new outside stair. An existing outside stair currently leads up to a second floor door, and this new stair would cross over the lot line and connect the new front third floor egress door to that stair, which already leads down to grade. The two buildings would be connected by a share stair only by easement.

Atty. Quinn noted that a Variance is required because the pitched 2 ½ story roof will become flat which makes it a third story. A dimensional Variance is also being requested because the rear addition will add to the non-conformity. The Special Permit requested is to expand a non-conforming use in a two-family zone. The two adjacent buildings will have a zero setback across the lot lines. The rear building will be renovated which is not more detrimental to the neighborhood or to its inhabitants, and the front building in the future.

The 10 car parking at the rear will not be affected and an existing parking easement has been in place. In terms of hardship, both the building shape and configuration are unusual.

Mr. Viccica – asked if the basement was occupiable space for a unit and if it Basement counts as a story. Robert Camire replied no, the Basement is not part of a unit. St. Pierre – replied no, it is a 2 ½ story being converted to a 3 story.

Chair Curran – asked if that would make the two buildings a five family. St. Pierre – replied no and as an open stair it would not have to be sprinklered. Chair Curran – asked why there was a need for a second outside stair. Atty. Quinn replied that two egresses are required and an existing front stair exists and is grandfathered but is not considered an adequate egress. John Camire noted that the front stair to the second floor already exists but a new stair will be extended up to the third floor. Atty. Quinn noted that egresses have to be remote from one another, the left side is over the driveway and very tight, and the right side is over a neighbor's yard, this location makes sense since it meets up with the existing stair.

*Chair Curran opens public comment.*

Ann Reardon of 155 Bridge Street. Is in favor of this proposed project.

Louis XXXX of 164 Bridge Street. Wanted to make sure this project will not affect any future sale of his property. St. Pierre – replied that his footprint will not change along the driveway side of the property and will not affect any future sale of his property.

Councilor at Large Sargent. Finds their proposed exterior stair to be creative and safer structure and is in favor of this project which will also give the interior more space.

*Chair Curran closes public comment.*

Mr. Viccica – asked if the existing easement was a permanent and if the interior means of egress was being removed and two exterior, uncovered, combustible stairs would be in place at the permanent means of egress, and if that was allowed. Atty. Quinn replied yes, the easement is permanent and recorded. St. Pierre – replied that the proposed egresses will be reviewed for adequacy and code compliance.

**Motion and Vote: Mr. Watkins makes a motion to approve the petition for a Special Permit per *Sec. 3.3.3 Non-Conforming Structures* to allow an expansion of a non-conforming structure and Variances for relief from *Sec. 4.1.1 Table of Dimensional Requirements* from a year yard setback and number of stories. The motion is seconded by Mr. Tsitsinos. The vote was four (4) Rebecca Curran (Chair), Mike Duffy, Jimmy Tsitsinos, and Tom Watkins in favor and one (1) Paul Viccica (alternate) opposed.**

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## APPROVAL OF MEETING MINUTES

**Motion and Vote:** Mr. Wakins makes a motion to approve the April 19, 2017 minutes. Seconded by Mr. Duffy. The vote was unanimous with five (5) in favor and none (0) opposed.

## OLD/NEW BUSINESS

None

## ADJOURNMENT

**Motion and Vote:** Mr. Watkins made a motion to adjourn the May 17, 2017 regular meeting of the Salem Board of Appeals, seconded by Mr. Duffy, and the vote was unanimous with five (5) in favor and none (0) opposed.

The meeting ends at 10:15 PM.

*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://saalem.com/Pages/SalemMA\\_ZoningAppealsMin/](http://saalem.com/Pages/SalemMA_ZoningAppealsMin/)

Respectfully submitted,  
Erin Schaeffer, Staff Planner