

## City of Salem Board of Appeals

### Meeting Minutes

Wednesday, June 21, 2017

A meeting of the Salem Board of Appeals (“Salem BOA”) was held on Wednesday, June 21, 2017 in the third floor conference room at 120 Washington Street, Salem, Massachusetts at 6:30 p.m.

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

#### **ROLL CALL**

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

#### **REGULAR AGENDA**

Project            A continuation of a public hearing for a petition requesting a Special Permit per *Sec. 3.0 Table of Uses* to allow a historic carriage house to be converted into a dwelling unit.

Applicant        **LORRAINE BOUCHER**

Location        **13 ARTHUR STREET (Map 23 Lot 35)(R2 Zoning District)**

#### **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 – noted that the project was continued to allow the applicant to determine at the structure existing has remained in its current location since 1900. Boucher stated that the maps found from 5 neighboring towns indicate that the building was moved after the original owner purchased the neighboring lot. An engineer from the City of Salem guarantees that the structure was built prior to 1900. Chair Curran – noted that the shapes on the maps are different than the current shape of the structure and in a different location on the site. The by-law states that “...the building must exist at its present location.” Boucher stated that maps differ but the structure was there. Jaquith noted that Sanborn maps didn't survey each structure, the carriage house had been moved to the far corner of the lot, but it is the original structure. The present location can also mean ‘at 13 Arthur Street’ because it hasn’t moved off of the property. Boucher noted that map is from 1906 and the papers are from 1907. The engineer from Salem informed him that construction of the carriage house indicate that it couldn't have been built after 1900.

John of DeFalco Engineers, land surveyor. Worked with Frank DeFalco who indicated that the structure pre-dates 1900, probably the late 1800’s. Maps are a tool but there could be some

anomalies. It was common place to move a structure not tear them down, if it actually had been moved. The building could also have been placed off-center on the map. Requests a poll be taken rather than deny the approval of this petition.

Boucher noted that all neighbors questioned are in favor of this proposed project. Mr. Watkins – noted that the by-law is clear in stating that the structure must pre-date 1900, but there are some grey areas. He suggested that the City Solicitor provide some input and noted that there may be some case law on similar projects. Mr. Copelas – stated that the language does leave some space for interpretation, does moving it from another lot or within the same lot, and does that comply with the spirit of the ordinance. The Owner acknowledges that the structure may have been moved which could make it ineligible for the Historic Carriage House by-law.

St. Pierre – stated that he will need to read through the by-law to make a determination. Chair Curran – noted that they can look into the interpretation of the by-law and continue the discussion until it can be determined. Boucher requests a continuance.

**Motion and Vote: Mr. Watkins makes a motion to continue to the July 19th regular meeting to allow the Board to get an interpretation of the by-law from the City Solicitor regarding whether the ‘present location’ of the structure can allow it to have been moved but to an alternate location on the same site. The motion is seconded by Mr. Copelas. The vote was unanimous with five (5) in favor and none (0) opposed.**

Project	A continuation of a public hearing for a petition 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 occupied it will revert to a two-family dwelling.
Applicant	<b>GAIL M. RUSSEL f/k/a GAIL M. MAZZARINI</b>
Location	<b>19 DEARBORN STREET (Map 27 Lot 365)(R-2 Zoning District)</b>

#### Documents and Exhibitions

- **Application dated April 24, 2017 and supporting documentation**

Attorney Thomas Alexander of Alexander & Femino of Beverly, MA, was present to discuss the project and represent the owner Gail Russel and Sue (daughter and paralegal for Alexander & Femino).

Atty. Alexander stated that the home is located on the corner of Dearborn & Walter Street and was purchase by Gail in 1970. The assessors map indicates that the home is 4,757 sq. ft. house with between 20-23 rooms. One unit is occupied by Gail and the other by Sue and her family. Gail's unit consists of; 2 bedrooms, 1 kitchen, 1 dining room, 1 living room, 1 sitting room, and 1 bathroom. Sue's unit consists of; 3 bedrooms, 1 kitchen, 1 dining room, 1 living room, and 1 sitting room. The other two units are tenant non-family occupants housing; each with 1 bedroom, 1 kitchen, 1 living room, and 1 bath, and 7 bedrooms are being used. The applicant would like to return it to a 2 family

building with 15 rooms. The approximate 13,000 sq. ft. lot has a 43x48 foot parking area for 8 cars (2 spaces for the 4 units). A Special Permit was granted in 1984 to convert the structure into a three-family, with a unanimous approval and a condition that it remains owner occupied, and if it did not it would revert to two family dwelling. A Spec Permit was granted in 1985, to convert the three-family into a four-family (which was new construction), with a unanimous approval and a condition that there be 6 parking spaces on site and the fourth unit be occupied by a blood relative. The applicant is seeking to have the family only use restrictions removed because, there is less of a need for large units and a higher demand for single or double occupancy units for the increased student population. The return of this structure to a two-family with 5-7 bedrooms each is not marketable in this economy or the neighborhood. Gail is on a fixed income and would need to cover the cost of a renovation which is not economically feasible. All units are in full compliance with 1985 building code; egresses, etc. and all Special Permit criteria will be satisfied by this proposal. All neighbors have been informed of the proposed project and 11 signatures were obtained through a petition along with a map highlighting the neighbors and abutters in favor, and all immediate neighbors are in favor.

Chair Curran – noted that a Special Permit is not being granted only a requests to remove a special condition. This would not have been approved back then and many conditions are not removed because those conditions could have been the reason the approvals were granted. St. Pierre – this particular condition has been removed in many instances with other projects. Mr. Watkins – noted that he is okay with removing this condition because other neighboring houses are most likely not owner occupied. Mr. Copelas – stated that this will set a precedent which is a concern. Chair Curran – noted that the previous approvals all had that same condition. St. Pierre – added that this was an impracticable condition back then for an applicant to construct an addition and then be told that they couldn't use it because of a special condition. Mr. Watkins – stated that it has been many years and asked how reasonable of a condition this is currently.

*Chair Curran opens public comment.*

Elizabeth Andrade of 15 Dearborn Street. She has lived there since the 1950's, remembers it as a two-family and the demolishing of an old barn to construct the addition. A student occupied building creates a noise concern in the neighborhood, as has happened in the recent past, and requests that only families be allowed to occupy it.

No one else in the assembly wished to speak.

*Chair Curran closes public comment.*

Mr. Hacker – stated that while on the Board in the 1980's, the Board's decision was based on believing that the structure would be better maintained if it was owner occupied, rather than being occupied by students.

Atty. Alexander noted that any modifications would conform to the Special Permit, however; the circumstances have changed in 30+ years. Petitions should be judged on a case by case basis and conditions have been removed in the past. Mr. Copelas – noted that the length of time that has

passed is favorable and both the building and lot size are generous. Chair Curran – noted that the neighborhood has no general issues.

**Motion and Vote: Mr. Duffy makes a motion to approve amendment of the existing Decisions dated July 2, 1984 and November 27, 1985 to remove a condition that the premises remain owner occupied and if the property ceases to be owner occupied it will revert to a two-family dwelling. All other special conditions would remain in effect. The motion is seconded by Mr. Watkins. The vote was unanimous with five (5) Rebecca Curran (Chair), Peter Copelas (Vice-Chair), Tom Watkins, Mike Duffy, Jimmy Tsitsinos in favor and none (0) opposed.**

Project	A public hearing for a petition requesting a Special Permit per <i>Sec. 3.3.3 Non-conforming Single and Two-Family Structures</i> , to construction a 5'x22' single story addition.
Applicant	<b>SINAN LIKA</b>
Location	<b>37 BOW STREET (Map 15 Lot 124)(R-1 Zoning District)</b>

#### Documents and Exhibitions

- Application dated May 15, 2017 and supporting documentation

Mr. Lika of 37 Bow Street was present to discuss the project. Mr. Lika stated that he purchase the house 16 years ago and wants to create a closed porch or mud room at the front of the house. It would run the length of the house and would be placed along the front property line. Stairs would be placed on both ends of the addition with the left stair leading to the driveway and the right stair leading around the right side and rear of the house.

Chair Curran – Noted that the addition would be 5 feet wide with a hip roof and asked if the addition would be enclosed, if the fence would remain or be removed, if the window shown were new or existing. Lika replied yes, it would become an enclosed porch/mud room; the fence would be removed so the addition would go up to the front property line, and the windows are existing. The new structure would not be heated. Chair Curran – noted that both a front and 9 foot side yard setbacks are being requested.

Mr. Watkins – noted that there are no detailed plans. Mr. Copelas – added that typically more information is presented with details, materials, to see how the structure will impact the structure and lot lines. Mr. Tsitsinos – noted that he would prefer an open porch. Chair Curran – stated that she would prefer that it had windows.

*Chair Curran opens public comment.*

No one in the assembly wished to speak.

*Chair Curran closes public comment.*

Chair Curran – stated that more detail; materials proposed, material underneath the porch, window size, roof material, roof pitch, fascia make-up, that it is keeping with the character with the neighborhood, is desired and more detailed plans will be needed for a building permit. Mr. Watkins – agreed.

**Motion and Vote: Mr. Watkins makes a motion to continue to the regular July 19th meeting. The motion is seconded by Mr. Copelas. The vote was unanimous with five (5) Rebecca Curran (Chair), Peter Copelas (Vice-Chair), Tom Watkins, Mike Duffy, Jimmy Tsitsinos in favor and none (0) opposed.**

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Project	A public hearing for a petition requesting a Special Permit per <i>Sec. 3.1 Principal Uses</i> , to allow an indoor commercial recreational use including puzzle room and virtual reality experiences. The petitioner is also requires Variances for relief from <i>Sec. 3.3.4 Variance Required</i> to allow less than the required setbacks and <i>Sec. 5.1.8 Table of Required Parking Spaces</i> to allow less than the required number of parking spaces.
Applicant	<b>ALEXIS ABARE</b>
Location	<b>1 JEFFERSON AVE (Map 25 Lot 649)(I Zoning District)</b>

### Documents and Exhibitions

- **Application dated May 26, 2017 and supporting documentation**

Mr. Copelas recuses himself.

Atty. Scott Grover was present to discuss the project and represent the tenants Alexis Abare and Ben Selecky and Todd Wall (owner) of the property. Dan Ricciarelli of Seger Architects was also present to discuss the proposed plans.

Atty. Grover stated that this building located the Swift Meat Packing Company located next to the Salem Police Department that is currently used as warehouse. The building is just over 7,000 sq. ft. of interior space with a lot area of 24,000 sq. ft. Ben and Alexis are proposing an indoor entertainment center to operate on a year-round basis, with a high end haunted house during the Halloween season. Three new stairways will be constructed for access along three sides of the building and shipping containers will be placed along the back edges of the building as exhibit space for patrons to pass-through. The rear parking lot can provide 23 spaces. The property is located in an Industrial Zone and a use of indoor recreational space proposed is allowed by a Special Permit and this underutilized building will create jobs and tax revenue for the City of Salem. The Variance for parking states that 1 space must be provided for each 36 SF of floor area plus which totals 6,500 sq. ft. which would require 180 parking spaces, which is a hardship. The only time the demand for

parking would exceed what is provided is during the last two weeks in October. Ben and Alexis are proposing time-ticketed parking with on-line ticket purchasing to coincide with parking as well as an independent trolley for group drop-offs. This arrangement should allow a relief to be granted without substantial detriment to the neighborhood. Set-back relief is 30 feet and the existing is less than 30 feet. The new side stairs will increase that non-conformity and would require a Variance, so access couldn't be provided without new non-conformities, and with a literal enforcement access couldn't be provided. Councilor Lovely set up a neighborhood meeting to discuss the project and Ben attended a regular neighborhood association meeting for feedback. Atty. Grover noted that a 50 foot wide strip of land, owned by the MBTA, exists between the structure and the neighboring police station. They will look into formally leasing that property to provide additional parking spaces.

Dan Ricciarelli stated that there will be minimal architectural work, other than cleaning up the façade, repairing window, providing new sprinklers, a fire alarm system, and providing accessibility to the building. Parking will circulate through a one-way driveway around the building. People will queue in the front along Jefferson Avenue, which is currently a garage. Participants will walk through the building and the shipping containers. St. Pierre – asked Ricciarelli to clarify the new accessibility. Ricciarelli replied that a new lift on grade will provide access to the first floor level approximately 4 feet above grade. Abare noted that the shipping containers will be at grade and accessible from the outside. Chair Curran – Asked what will be housed at the second floor. Abare replied Administration offices. Atty. Grover noted that an existing cookie company will continue to occupy some of the first floor space.

Selecty stated that this project will be year round business with the haunted house in October only. Virtual reality and puzzle room for small parties (6-20 people) will be by private reservation only during the remainder of the year. Abare noted that a shuttle will eliminate additional parking in the neighborhood as it has been done elsewhere with attractions. All these items will be listed on their website and the trolley service will be free. Selecty noted that they will pay for employee parking, along with Lyft and Uber, to eliminate additional vehicle parking. They will make it known that parking is extremely limited and they will do their best to deter on-site and street parking and will encourage the use of public lots and the MBTA garage, since some no parking signs are put up in the neighborhood in October. The parking officer informed him that there is quite a bit of on-street parking on Jefferson Avenue that is also available.

Chair Curran - asked if the shuttle was year round. Selecty replied no, it would only be used during the Halloween season, the 13 busiest days of the year. Atty. Grover stated that a parking variance would still be needed because of the change of use. Chair Curran – stated that data regarding hours of operation, length of time of events, and anticipated traffic will be useful to the Board. Egress proposed in the garage is on grade and the remaining spaces are raised. Ricciarelli replied yes.

Chair Curran – asked if the bakery was separate. Selecty replied yes, and it is placed centrally so it is next to the kitchen. It is not currently operating but it will be to provide goods for their retail space and pop-up shops and they hope to work with them to provide concessions. Abare noted that it an industrial kitchen with no retail hours. Chair Curran – asked for hours of operation. Selecty replied 10 & 10:30PM would be the last show time but will go along with what time is required in the ordinance. The start time will be in the afternoon, Halloween will have minimal traffic with a skeleton crew (12-6PM) and the full show will begin at 6:30 or 7PM. Abare replied that in regards to

traffic and trip generation: Year round (11 months) 9AM to 10PM for possibly 12 people. Selecky noted that they could be open 4 nights a week for 10 people and not all time slots may not be fully booked. The virtual reality will be at night for groups of 6-20. Limiting the supply of tickets will limit the traffic. The tour is estimated to be 20 min with up to 200 people in queue for those 13 nights and traffic will continuously flow.

Mr. Duffy – asked how many puzzle rooms there will be. Abare replied that they will start with two. Selecky added that the same room from the haunted house would be utilized and nothing will run simultaneously. Mr. Watkins – asked about the number of employees. Selecky replied 40-50 including police detail and others during the Halloween season, and 12 year round and the employees will be reimbursed for parking elsewhere. The building will be sound-proofed to keep the sound inside. Mr. Duffy – Noted that people will be walking in driveway. Abare replied that the pedestrian area will be fenced off and parking attendants will be one site. Chair Curran – asked why shipping containers are being added. Abare replied to give a different environment during Halloween and they will not be used during the off-season. Selecky stated that there was very good neighboring responses and petition in favor of this project. He met with 2 out of 3 neighbors across the street and those two are in favor. Chair Curran – asked about food and alcohol. Abare and Selecky replied that no alcohol will be served, just possibly packaged food to keep people moving through the site, and there will be no chairs or tables to encourage lingering.

*Chair Curran opens public comment.*

Stephen Robinson of 3 Downing Street. Asked if timed-ticketing will apply to all customers? Selecky replied yes, during October 300 people will be the maximum number of people on site with up to 200 people queued up during October, and 12-24 people during off-season. The show times will vary and similar establishments to 1 hour each and sell 3-4 per night.

Chair Curran – asked if 100% of the ticketing will be on-line. Abare replied yes, and all the information will be on website.

Schaeffer – noted that the variation of occupancy numbers needs to be clarified as well as trolley seating capacity. Selecky replied that the largest trolley can hold 50 people max, they also have standing room, and more than one trolley can be made available. Mr. Duffy – asked about group sizing. Selecky replied 2 minimum and 6-8 is expected, and groups will start every few minutes to maintain the flow of the groups through the haunted house. Abare noted that ticket sales will be grouped and monitored.

Schaeffer asked about the square footage of the queueing area and if 200 people be able to fit safely. Ricciarelli replied that the garage capacity will meet the building code requirements for standing room and the capacity will be capped.

Emily Stuart of 114 Margin Street. Asked if exterior lighting and exterior signage will be added. Abare replied that the additional lighting will be minimal to keep the haunted house mood but it will be safe and will direct the flow of participants and around the site and stairs. A blade sign is proposed. Selecky noted that several people in law enforcement will advise them on their security practices and there will be interior security during the Halloween season.

Councilor at Large Sargent. 200 guests is a concern to the neighborhood. Many times employees park on the street. Residents believe their customers will drive there anyway and create a parking concern for the neighborhood and will continue downtown afterward without moving their cars. Where will residences park when they come home at night or how long will they need to wait for visitors to leave?

Mary Beth Bainbridge, direct abutter, is opposed to this use year round. Employee and customer numbers for parking exceed their available space the other 11 months of the year. Employees will fill up the parking spaces. Streets in Salem downtown are too congested to transport people by trolley through the City within 30 minutes so more than one trolley will be needed. This attraction will bring in additional cars, noise, trash, etc.

Joe Welsher of Prescott Street. Parking is a challenge throughout the year, especially during October. This attraction is not needed in Salem or desired in this neighborhood. Visitors will be on the sidewalk and generating a lot of noise for the neighborhood.

Atty. Grover noted that all neighborhoods have posted no parking signs which will deter them from wanting to park in the area and the measures set in place will be effective.

Councilor Steve Lovely. Foot traffic and noise is a big concern for the neighborhood for those 13 days. Suggests that the hospital parking lot could be used, since it is mostly vacant at night. Asked how will these things be restricted. Respectfully requests a continuance to determine a better parking plan and parking restrictions. Jefferson Avenue is now an entrance corridor, however; giving life to underutilized properties is a good thing.

Jane Tricomi of 52 Winthrop Street. Asked where will the trolley stop. Noted that signs will not deter people from parking there and they hasn't in the 7 years she's lived in the neighborhood. Noted that earliest time slot of 6pm is the same time as people coming home from work which will have a huge impact on the neighborhood.

No one in the assembly wished to speak.

*Chair Curran states that the public comments will remain open.*

Chair Curran – stated that additional detail on traffic and industry standards is needed with specifics on trolley sizes, stopping locations, meeting spaces, the route around the city, trash removal on site, crowd control, policing the parking lot to make sure people don't remain parked there, etc., especially during the month of October. A special permit is needed and won't do that unless they know that it won't be more detrimental to the neighborhood. Times can be limited during Halloween with conditions. Exterior lighting proposal is also required. Detail on total and occupants as it will change throughout the year. Schaeffer – added that fencing detail as it related to pedestrians and circulation safety. Negotiate parking nearby; hospital, MBTA, etc. Mr. Tsitsinos – suggested entering on the left of the property, the same side as the garage, and the trolley parking at the front of the building. Schaeffer – parking mitigation (crosswalks at the driveway and across the street) should be included since some may be walking across the street and this is a dangerous intersection and curve. 300 people will create a lot of foot traffic around the building. Mr. Watkins – suggested that the City Parking Director review this project or make it a condition. Schaeffer –

replied that requesting that the applicant work with the City Engineering Department could also be a condition. Chair Curran – added that the Traffic Engineer should provide their input on which way the one-way go around the site and how best to handle the pedestrians. Schaeffer – added that fiscal indication in terms of infrastructure will also be needed.

**Motion and Vote: Mr. Duffy makes a motion to continue to the regular August 16, 2017 regularly scheduled meeting. The motion is seconded by Mr. Watkins. The vote was unanimous with five (5) Rebecca Curran (Chair), Peter Copelas (Vice-Chair), Tom Watkins, Mike Duffy, Jimmy Tsitsinos in favor and none (0) opposed.**

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Project	A public hearing for a petition requesting a Special Permit per <i>Sec. 3.1.2 Table of Uses</i> , to allow a historic carriage house to be converted into a dwelling unit.
Applicant	<b>COOPER REALTY, LLC</b>
Location	<b>104 BRIDGE STREET (Map 36, Lot 114)(R-2 Zoning District)</b>

#### Documents and Exhibitions

- Application dated May 30, 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 land owner Cooper Realty, LLC, Mr. Bates and Mr. Bates, both part owners.

Atty. Quinn stated that a large 3 story dwelling is referred as a 6-8 unit building on the assessors map, and is currently used as 6 unit with two flats on each of the three floors. It is a historic carriage house according to the by-law. 1897 assessors map has a key which indicates that this structure is a "Barn, Stable, or Shed." The shed is the same and has all the characteristics of a historic carriage house, and the smaller stable shown on the map was demolished. The proposed development is to renovate and downsize the main building from 6 units to 4; 2 flats on the first floor and two townhouses on the second and third floors. The carriage house in the rear will become the 5th unit. A parking plan has been submitted and the dirt side yard will house 6 legal parking spaces for the 5 units. More could be added if the side yard was eliminated and a new curb cut proposed, but that would eliminate greenspace and patio. The interior of the carriage house was never developed and the structure has only been used as a storage shed. This renovation would recognize it as a historic structure without burdening the neighborhood and it will increase the property value.

Chair Curran – asked if the parking remain below. Atty. Quinn replied no, and no design plan has been presented since it is not required, but it can be provided. The hay bail doors will remain for visual appeal and it will become a 2 story residential structure.

Mr. Watkins – asked how the parking spaces were accessed. Atty. Quinn replied from the curb cut off of Saunders Street.

*Chair Curran opens public comment.*

No one in the assembly wished to speak.

*Chair Curran closes public comment.*

Chair Curran – stated that she is in favor of the project but would like to see a plan and elevation of the proposed project, to show all of the proposed changes and to make sure it is in keeping of the neighborhood and characteristics of a carriage house, especially since it is outside of the district and the usual board haven't reviewed it. Mr. Duffy and Tsitsinos agree.

Mr. Copelas – asked if the Planning Board will review it. Atty. replied that it is not required. Chair Curran – stated that the Historic Commission should review the project. Schaeffer – noted that the Historic Commission will review structures outside of their districts. Mr. Joe Bates stated that the renovation will be in character and he has no issue with receiving input from other boards.

**Motion and Vote: Mr. Duffy makes a motion to continue to the regular July 19th meeting. The motion is seconded by Mr. Watkins. The vote was unanimous with five (5) Rebecca Curran (Chair), Peter Copelas (Vice-Chair), Tom Watkins, Mike Duffy, Jimmy Tsitsinos in favor and none (0) opposed.**

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## **APPROVAL OF MEETING MINUTES**

Mr. Copelas stated that despite being quoted in the minutes, he was not present in the last regular meeting. Also, Henly Salem, LLC, the Valvoline petitioner was listed as a duplicate applicant for two projects.

**Motion and Vote: Mr. Watkins makes a motion to approve the May 17, 2017 minutes as amended. Seconded by Mr. Copelas. The vote was unanimous with five (5) in favor and none (0) opposed.**

## **OLD/NEW BUSINESS**

None

## **ADJOURNMENT**

**Motion and Vote: Mr. Duffy made a motion to adjourn the June 21, 2017 regular meeting of the Salem Board of Appeals, seconded by Mr. Watkins, and the vote was unanimous with five (5) in favor and none (0) opposed.**

**The meeting ends at 9:00 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://salem.com/Pages/SalemMA\\_ZoningAppealsMin/](http://salem.com/Pages/SalemMA_ZoningAppealsMin/)

Respectfully submitted,  
Erin Schaeffer, Staff Planner