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MAYOR

CITY OF SALEM, MASSACHUSETTS BOARD OF APPEALS

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SALEM, MASS

November 29, 2017 Decision City of Salem Board of Appeals

Petition of NORTH SHORE COMMUNITY DEVELOPMENT CORP. (the "Petitioner") requesting a Comprehensive Permit pursuant to M.G.L c. 40B, § 20-23 to construct multi-family housing at 34 PEABODY STREET, 47 LEAVITT STREET and 38 PALMER STREET (Map 34, Lots 384, 136, 155).

A public hearing on the above Petition was opened on April 26, 2017 pursuant to M.G.L c. 40B, § 20-23 and continued to June 28, 2017, August 16, 2017, September 20, 2017, and November 15, 2017. The public hearing was closed on November 15, 2017 with the following Salem Board of Appeals members present: Rebecca Curran (Chair), Peter A. Copelas (Vice- Chair), Mike Duffy, Tom Watkins, and Paul Viccica (alternate).

The Petitioner is requesting a Comprehensive Permit pursuant to M.G.L c. 40B, § 20-23, to construct multi-family housing at 34 PEABODY STREET, 47 LEAVITT STREET and 38 PALMER STREET (Map 34, Lots 384, 136, 155).

Statements of facts:

1. In the petition date-stamped March 29, 2017, the Petitioner requested a Comprehensive Permit pursuant to M.G.L c. 40B, § 20-23, to construct multi-family housing at the property of construct multi-family housing at 34 PEABODY STREET, 47 LEAVITT STREET and 38 PALMER STREET (Map 34, Lots 384, 136, 155).
2. The Petitioner was represented during the hearings by Attorney Scott Grover and Jonathan Ofilos of Tinti, Quinn, Grover and Frey; David Vallecillos, North Shore Community Development Coalition (project manager); Michelle Apigian, Icon Architecture (architect); Steven Ventresca of Nitsch Engineering (civil engineer); Jeffrey Parenti of Nitsch Engineering (traffic engineer).
3. The City retained Bill Ross of New England Civil Engineering to provide civil peer review engineering and Gary Hebert of Stantec to provide traffic peer review services. The peer reviewers reviewed the conditions and proposals for 34 PEABODY STREET, 47 LEAVITT STREET and 38 PALMER STREET.
4. The Petitioner is seeking a comprehensive permit to construct two (2) mixed-use structures. One (1) structure will be located at 34 PEABODY STREET and consist of a 36,800 +/- square foot mixed-use building with twenty-one (21) residential units, approximately 756 +/- square feet of community space on the ground floor and associated parking. The second proposed mixed-use building will be located at 47 LEAVITT STREET and consist of twenty-five (25) residential units, approximately 1,529 +/- square feet of ground floor community or commercial retail space and associated parking.

5. The proposed mixed-use building sites are walkable to transit and other retail and commercial areas of the downtown. Further the sites are located within a 10 minute walk (34 Peabody Street) and 18 minute walk (47 Leavitt Street) to the commuter rail station. The sites are also located within a 5 minute walk of basic amenities including bus stops, parks, a community health center, restaurants, shops and more. The commuter line directly connects residents to the greater North Shore or Boston and local busses connect residents to nearby cities including Swampscott, Lynn, Revere and Boston.
6. Collectively, these two (2) mixed-use buildings on 34 PEABODY STREET and 47 LEAVITT STREET are known as "The Lighthouses". The petitioner is proposing to use the property located at 38 Palmer Street for dedicated parking to serve residents and visitors of 47 LEAVITT STREET. The three lots are separate and not contiguous.
7. The Petitioner is proposing to construct a total of 46 units, in compliance with the Commonwealth of Massachusetts Department of Housing and Community Development's ("DHCD") project eligibility determination for the project and the statutory affordability requirements for approval under M.G.L. c. 40B, §§20-23 and the provisions of 760 CMR 56.00 et seq.
8. At 34 PEABODY STREET, the Petitioner is proposing a mixed-use building that will include twenty-one (21) rental housing units consisting of four (4) 1-BR units; twelve (12) 2-BR units; and five (5) 3-BR units. The Petitioner is also proposing a 756 +/- ground level community room that will provide additional public amenities including a kitchen area and bathrooms to better support public activities and programming at Peabody Street Park.
9. 34 PEABODY STREET is currently a vacant lot that is approximately 10,237 square feet in size. The property is located in an R-3 Zoning District and is currently used by the North Shore CDC as a parking lot. This parcel is also located within a flood hazard overlay district.
10. At 47 LEAVITT STREET, the Petitioner is proposing a mixed-use building that will include twenty-five (25) rental housing units consisting of eleven (11) studio units; and fourteen (14) 2-BR units. The petitioner is also proposing a 1,529 +/- square foot ground floor community or commercial use. The applicant is not intending to use the proposed community/commercial space for either a bank or restaurant space.
11. 47 LEAVITT STREET lot is approximately 9,627 square feet and has an existing two (2) story residential building on the property.
12. The North Shore Community Development Coalition is proposing to demolish this existing Colonial Revival/Queen Anne located at 47 Leavitt Street. The building is wooden construction and was built in 1915. The property is located in a National Register District.
13. The Petitioner is proposing to provide approximately one parking space per dwelling unit. At 34 Peabody Street, the petitioner is proposing nineteen (19) parking spaces at grade, under the proposed mixed-use building. At 47 Leavitt Street the petitioner is proposing sixteen (16) parking spaces on site and an additional seven (7) parking spaces at 38 Palmer Street that will provide additional parking for 47 Leavitt Street.
14. Although the City of Salem meets the required 10% of affordable housing units, the applicant and the City both have demonstrated that there is a continued need for more affordable housing units.

According to ACS 2015 Census estimates for the City of Salem, over 60% of households make below the area median income of \$75,000 annually. In the Point Neighborhood, 78% of households make below the area median income of \$75,000 annually. Further, 48% of renters across the City are considered cost burdened whereby households are spending more than 30% of their income on rent. In the Point Neighborhood, 54% of renters are considered cost burdened.

15. The Lighthouses project is consistent with several goals and needs identified including in the Salem Housing Needs and Demand Analysis (2015), the Point Neighborhood Vision and Action Plan (2013) and the Point Neighborhood Commercial Corridors Revitalization Plan (2014).
16. The Salem Housing Needs and Demand Analysis (2015) by MAPC projects there will be an increase in demand of approximately 1,800 new housing units by 2030 for people who earn below 80% of area median income. The Lighthouses Project will provide housing opportunities for this target population.
17. The North Shore CDC recently rehabilitated 64 units in the Point Neighborhood to serve households earning 60% of the area median income or below. Moreover, in July 2016, the North Shore CDC received over 600 applications for the affordable unit lottery for twenty-four (24) available units.
18. Further, this mixed-use development proposal will help meet the goals identified in the Point Neighborhood Vision and Action Plan (2013) and the Point Neighborhood Commercial Corridors Revitalization Plan (2014) by supporting development that includes a mix of affordable housing types, businesses and office uses in the Point Neighborhood and housing that is affordable to different incomes.
19. At the public hearing five (5) members of the public spoke in support and four (4) members spoke in opposition to the petition.

Waivers and Exceptions:

Multi-family development is allowed by Special Permit from the Zoning Board of Appeals in the R-3 Zoning District. The following Zoning and Salem City Ordinance waivers are requested by the Petitioner:

| Salem Zoning Ordinance: | Zoning Board Determination: |
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| Section 3.1.2 and 3.1.3 - Principal Uses by Special Permit by Zoning Board of Appeals and Planning Board – The petitioner is requesting a waiver of the Special Permit for the uses from the Zoning Board of Appeals and Planning Board. | The Zoning Board of Appeals hereby waives Section 3.1.2 <i>Special Permit: Zoning Board of Appeals</i> and 3.1.3 <i>Special Permit: Planning Board</i> , to allow the proposed uses as conditioned through and governed by this Comprehensive Permit. |
| Sections 7.1.1, 7.1.2 and 7.1.3 – Multifamily Development- The petitioner is requesting a waiver of both the Special Permit for the use as well as the requirements in Section 7.1.1, 7.1.2 and 7.1.3 , to allow the proposed development as conditioned through and governed by the Comprehensive Permit. | The Zoning Board hereby waives the requirement of a special permit for the use as well as the requirements in Section 7.1.1, 7.1.2, and 7.1.3 <i>Multifamily Development</i> , to allow the proposed development as conditioned through and governed by this Comprehensive Permit. |

| Salem City Ordinance | Zoning Board Determination: |
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| Section 4.1- Dimensional Standards- All dimensional requirements including minimum lot area, minimum lot area per dwelling unit, minimum lot frontage, minimum lot width, minimum lot coverage, minimum front, rear and side setbacks and maximum height of buildings (in both feet and stories). The petitioner is proposing the dimensions attached in Addendum "A" attached hereto. | The Zoning Board of Appeals hereby waives all dimensional requirements of Section 4.1 <i>Table of Dimensional Requirements</i> and the buildings will comply in accordance with the dimensions as proposed in Addendum "A" attached hereto for the properties of 47 Leavitt Street and 34 Peabody Street. |
| Section 5.1 Parking- The Petitioner is requesting a waiver of the parking requirements for residential and commercial uses proposed. | The Zoning Board of Appeals hereby waives requirements of Section 5.1 Parking. The parking spaces shall comply in accordance with the dimensions, design and number of parking spaces as shown in the Record Plans. |
| Section 8.1- Flood Hazard Overlay District Special Permit- The Petitioner is requesting a waiver of the Planning Board review and requirements of the Flood Hazard Overlay District. | The Zoning Board of Appeals hereby waives the requirements of Section 8.1- Flood Hazard Overlay District, to the extent the requirements are inconsistent with the Record Plans submitted as part of Petitioner's approval. However, the applicant shall comply with the conditions set forth in Paragraph 12- <i>Flood Mitigation and Safety</i> of the Special Conditions Section below. |
| Section 9.5 – Site Plan Review- The Petitioner has requested a waiver of the Site Plan Review Special Permit from the Planning Board. | The Zoning Board of Appeals hereby waives the requirement of Section 9.5- Site Plan Review, which requires a site plan review special permit from the Planning Board. The Planning Board has provided comments to the Zoning Board of Appeals for consideration and the Zoning Board of Appeals is the permit granting authority under M.G.L. c. 40B, §§20-23 and the provisions of 760 CMR 56.00 et seq. |
| Part III. Chapter 2. Section 2-702- Board of Health- The Petitioner is requesting a waiver of any procedures, rules and regulations and requirements of the Board of Health adopted pursuant to City Ordinances to allow the proposed development as conditioned by the Comprehensive Permits and as requested by the Massachusetts State Sanitary Code M.G.L. c 1.1.1., Section 128C and regulations thereunder to the extent applicable to the proposed development. | The Zoning Board of Appeals hereby waives the rules, regulations and requirements of the Board of Health. However, the petitioner shall comply with the "Board of Health" conditions set forth in Paragraph 10- Board of Health of the Special Conditions Section below. |

| Salem City Ordinance | Zoning Board Determination: |
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| Part III. Chapter 2. Section 2-1572- Demolition of Buildings- The applicant is requesting a waiver of the ordinance prohibiting the demolition of any building more than 50 years old to allow for the demolition of the existing building at 47 Leavitt Street. | The Zoning Board of Appeals hereby denies the Petitioner's request to waive the demolition delay ordinance requirement Part III. Chapter 2. Section 2-1572- Demolition of Buildings. The Petitioner shall comply with Section 16- Historic Preservation of the Special Conditions Section below. |
| Part III. Chapter 4. Section 4 –Signage- The applicant is requesting a waiver of any approvals required by the City Ordinances to erect signs in connection with the proposed development. | The Zoning Board of Appeals hereby denies the Petitioner's request to waive any approvals required by City Ordinances to erect signs in connection with the proposed development. The Petitioner shall submit proposed signage and be subject to all City Ordinances to erect signs in connection with the proposed development. |
| Part III. Chapter 50 –Wetlands- The applicant is requesting a waiver of the provisions of the City Ordinance governing the protection of certain wetland resource areas. | The Zoning Board of Appeals hereby waives the local wetlands ordinance, however, to the extent the proposed development affects any such areas defined in Chapter 313, s. 40 and regulations thereunder, the Conservation Commission of the City of Salem will maintain its jurisdiction to ensure that appropriate conditions are imposed on the proposed development to safeguard protected areas. |
| Filing Fees, Bond and Security and Related Requirements- To the extent applicable to the proposed development, the applicant requests a waiver of any fees, bonds and related security requirements. | The Zoning Board of Appeals denies the request to waive the fees, bonds and related security requirements. |

The Salem Board of Appeals, after careful consideration of the evidence presented at the public hearing, and after thorough review of the petition, including the application narrative and plans, and the Petitioner's presentation and public testimony, makes the following **findings** that the proposed project meets the provisions of M.G.L c. 40B, § 20-23:

Jurisdictional Findings and Rulings

1. The Petitioner is eligible to receive a subsidy from the DHCD (the "Subsidizing Agency") after a Comprehensive Permit has been issued and which, unless otherwise governed by a federal act or regulation, complies with the requirements of the Subsidizing Agency relative to a reasonable return on the Project as evidenced by the project eligibility letter dated February 21, 2017, issued by the Department of Housing and Community Development of the Commonwealth of Massachusetts and submitted to the Board. The letter of approval indicates that the proposed project complies with the requirements of the Subsidizing Agency relative to reasonable return on the Project. The applicant may assign the Comprehensive Permit Decision issued to a single purpose entity in order to facilitate the

Applicant's receipt of Project funding, including, but not limited to Low Income Housing Tax Credit funding.

2. The Project is fundable by a Subsidizing Agency within the meaning of Section 56.04(1)(b) of the Chapter 40B Regulations since the Subsidizing Agency, DHCD, issued a written Determination of Project Eligibility, dated February 21, 2017, under a Low or Moderate Income Housing subsidy program.
3. The Massachusetts Department of Housing and Community Development, will be the Subsidizing Agency within the meaning of Section 56.02 of the Chapter 40B regulations (760 CMR§ 56.02).
4. The applicant controls the site and qualifies as a recipient of a Comprehensive Permit for this Project as required under Section 56.04(1)(C) of the Chapter 40B Regulations.
5. Although the City of Salem meets statutory minima set forth in M.G.L. Chapter 40B that low income and moderate income housing units in Salem do exceed 10% of Salem's total housing units, the Board finds that there is still a significant city-wide need for affordable housing. Further, the development as proposed in the Application and other supporting documentation is consistent with local needs within the meaning of M.G.L Chapter 40B, Section 20 and Section 56.02 of the Chapter 40B Regulations (760 CMR 56.02).

On the basis of the above statements of facts and findings, the Salem Board of Appeals voted five (5) in favor (Rebecca Curran (Chair), Peter A. Copelas (Vice- Chair), Mike Duffy, Tom Watkins, and Paul Viccica (alternate) and none (0) opposed to grant a Comprehensive Permit pursuant to M.G.L c. 40B, § 20-23 to construct multi-family housing at 34 PEABODY STREET, 47 LEAVITT STREET and 38 PALMER STREET (Map 34, Lots 384, 136, 155) subject to the following conditions:

Special Conditions:

1. Conformance with the Plan
 - a. Work shall conform with the set of plans entitled, "The Lighthouses," prepared by Icon Architecture and Nitsch Engineering dated November 15, 2017:

| Title | Page | Revision Dates |
|---|--------|-------------------|
| The Lighthouses NSCDC- Cover Sheet | G-000 | November 15, 2017 |
| Notes, Legend and Abbreviations | C-1.00 | March 24, 2017 |
| Lighthouse-47 Site Demolition Plan | C-2.00 | August 16, 2017 |
| Palmer Street Lot- Site Demolition Plan | C-2.01 | August 16, 2017 |
| Lighthouse 34- Site Demolition Plan | C-2.02 | August 16, 2017 |
| Lighthouse 47- Erosion and Sedimentation Control Plan | C-3.00 | August 16, 2017 |
| Palmer Street Lot- Erosion and Sedimentation Control Plan | C-3.01 | August 16, 2017 |
| Lighthouse 34- Erosion and Sedimentation Control Plan | C-3.02 | August 16, 2017 |
| Lighthouse 47- Site Layout Plan | C-4.00 | August 16, 2017 |

| Title- Continued | Page | Revision Dates |
|---|--------|-------------------|
| Palmer Street Lot- Site Layout Plan | C-4.01 | August 16, 2017 |
| Lighthouse 34- Site Layout Plan | C-4.02 | August 16, 2017 |
| Lighthouse 47- Site Grading Plan | C-5.00 | August 16, 2017 |
| Palmer Street Lot- Site Grading Plan | C-5.01 | August 16, 2017 |
| Lighthouse 34- Site Grading Plan | C-5.02 | August 16, 2017 |
| Lighthouse 47-Site Utility Plan | C-6.00 | August 16, 2017 |
| Palmer Street Lot- Site Utility Plan | C-6.01 | August 16, 2017 |
| Lighthouse 34- Site Utility Plan | C-6.02 | August 16, 2017 |
| Erosion and Sedimentation Control Details | C-7.00 | August 16, 2017 |
| Site Details | C-7.01 | August 16, 2017 |
| Utility Details | C-7.02 | August 16, 2017 |
| Water Utility Details | C-7.03 | August 16, 2017 |
| Lighthouse 47- Ground Floor Plan Option 2 | A-101A | November 2, 2017 |
| Lighthouse 47- 1 st Floor Plan | A-102 | March 24, 2017 |
| Lighthouse 47- 2 nd Floor Plan | A-103 | March 24, 2017 |
| Lighthouse 47-3 rd Floor Plan | A-104 | March 24, 2017 |
| Lighthouse 47- Palmer Street Parking Plan (Remote to Main Site) | A-105 | August 8, 2017 |
| Lighthouse 34-Ground Floor Plan Option 2 | A-106A | August 8, 2017 |
| Lighthouse 34- 1 st Floor Plan | A-107 | August 8, 2017 |
| Lighthouse 34- 2 nd Floor Plan | A-108 | August 8, 2017 |
| Lighthouse 34-3 rd Floor Plan | A-109 | August 8, 2017 |
| Lighthouse 34- 4 th Floor Plan | A-110 | August 8, 2017 |
| Lighthouse 47- Elevations & Perspectives | A-201 | November 11, 2017 |
| Lighthouse 47 – Elevations & Perspectives | A-202 | August 8, 2017 |
| Lighthouse 34- Elevations & Perspectives | A-203 | August 8, 2017 |
| Lighthouse 34- Elevations & Perspectives | A-204 | August 8, 2017 |
| Lighthouse 34-Perspectives | A-205 | August 8, 2017 |
| Lighthouse 47- Shadow Studies | A-206 | July 26, 2017 |

2. Amendments:

- a. Any amendments to the approved plans shall be reviewed by the City Planner and if deemed necessary by the City Planner, shall be brought to the Zoning Board of Appeals for review.

Any request for an amendment to the conditions of this Decision shall require the approval of the Zoning Board of Appeals.

3. As-Built Plans

- a. As-built plans for each building shall be stamped by a Registered Professional Engineer and shall be submitted to the Department of Planning and Community Development, Building Department and Engineering Department for review and approval prior to the issuance of a Certificate of Occupancy.

4. Traffic Safety, Circulation and Mitigation

34 Peabody Street

- a. The Petitioner shall work with a traffic engineer or design firm of its choice to design and construct an ADA compliant speed table or crosswalk connection between the proposed exterior staircase adjacent to the building and the City owned Peabody Street Park prior to the issuance of a Certificate of Occupancy and subject to the review and approval of the Engineering Department.
- b. The Petitioner shall install an audible and visual device that is ADA compliant to allow for safe pedestrian crossing in front of the proposed garage entrance/exit driveway subject to the approval of the Engineering Department prior to the issuance of a certificate of occupancy.
- c. The Petitioner shall paint or otherwise delineate entrance and exit lanes at the entrance of the garage prior to the issuance of a certificate of occupancy.
- d. The Petitioner shall install wheel stops or bollards at the rear of the garage to protect the existing retaining wall from being hit by vehicles prior to the issuance of a certificate of occupancy.
- e. The Petitioner shall provide key fobs to allow residents and their guests to have access to the proposed parking area. Parking spaces shall be designated as compact or full size spaces and management shall adopt a parking policy to enforce tenant compliance with said designations, including, without limitation, signage to differentiate the spaces and monetary fines for failure to comply with the parking policy.

47 Leavitt Street

- a. The Petitioner shall install an audible and visual device that is ADA compliant to allow for safe pedestrian crossing in front of the proposed garage entrance/exit driveway subject to the approval of the Engineering Department prior to the issuance of a certificate of occupancy.
- b. The Petitioner shall work with a traffic engineer or design firm of its choice to design and construct an ADA compliant speed table or crosswalk connection from the corner of 47 Leavitt Street to 30 Leavitt Street and 47 Leavitt Street to 117 Congress Street prior to the issuance of a Certificate of Occupancy and subject to the approval of the Engineering Department. Approved plans shall be filed with the Department of Planning and Community Development and the Building Department.

- c. The Petitioner shall provide key fobs or a related mechanism to allow residents and their guests to have access to the proposed parking area. Parking spaces shall be designated as compact or full size spaces and management shall adopt a parking policy to enforce tenant compliance with said designations, including, without limitation, signage to differentiate the spaces and monetary fines for failure to comply with the parking policy at the properties of 34 Peabody Street, 47 Leavitt Street and 38 Palmer Street.
 - d. The Petitioner shall provide plans to the Department of Planning and Community Development and Engineering Department for review and approval to ensure that the end bays at grade along Naumkeag Street are designed in such a way as to provide clear sight lines with a twenty (20') foot sight distance from the driveway entrance and exit to ensure that pedestrians can see exiting vehicles and drivers can see pedestrians prior to the issuance of a building permit.
- 5. Fire Department
 - a. All work shall comply with the standard requirements of the Salem Fire Department.
- 6. Building Inspector
 - a. All work shall comply with the standard requirements of the Salem Building Inspector.
- 7. Maintenance
 - a. Refuse removal, ground maintenance and snow removal shall be the responsibility of the applicant, their successors or assigns. As used herein, the term "Refuse removal" shall include recycling. The applicant shall provide adequate facilities to ensure all users are able to recycle. The applicant, their successors, or assigns, shall enter into a contract with a company of the owner's choice to arrange pick-up of all trash and recyclable material. A copy of the contract shall be submitted to the City Engineer prior to the issuance of an occupancy permit.
 - b. The Petitioner, their successors or assigns shall be responsible for the shoveling and/or snowplowing of the sidewalk for all building frontage along 34 Peabody Street, 47 Leavitt Street and Congress Street, and 38 Palmer Street.
 - c. Winter snow in excess of snow storage areas on the site shall be removed off site to ensure that all parking spaces are available year-round at 34 Peabody Street, 47 Leavitt Street and 38 Palmer Street.
- 8. HVAC
 - a. HVAC units shall be located on the roof as proposed and be visually screened. The method for screening the unit shall be submitted to the City Planner for review and approval prior to installation at 34 Peabody Street and 47 Leavitt Street.
 - b. HVAC units shall be sufficiently buffered and the applicant shall take steps to further mitigate noise emanating from the HVAC unit(s) if the Board of Health receives any complaints and it is established that the noise emanating from the HVAC unit(s) is in violation of the relevant provisions of the Building Code
 - c. Notwithstanding the foregoing, the permissible noise levels shall be governed by the applicable provisions of the building code.

9. Office of the City Engineer

- a. All work shall comply with the standard requirements of the City Engineer.
- b. The Petitioner shall provide results of pipeline CCTV inspection of sewer and drain pipes and results of water main and service mapping to the City Engineer prior to the issuance of a demolition permit.
- c. The Petitioner shall also cut and cap all live or abandoned water sewer, or drain services entering or leaving the properties at the City main in the street as required prior to the issuance of a demolition permit.
- d. The Petitioner shall submit construction plans and associated technical letters to the Department of Planning Community Development, Building Department and Engineering Department to demonstrate adequate capacity and conditions for each system, prior to issuance of a building permit. The City may request an additional civil peer review, at the applicant's expense, to confirm the adequacy of capacity for each system. Any deficiency in the construction plans shall be corrected by the applicant, at the applicant's expense, to the reasonable satisfaction of the Engineering Department.
- e. Any deficiency in capacity and/or condition of each system, which the Petitioner plans to utilize as part of this development, shall be improved at the expense of the applicant and be in accordance with the approved construction plans submitted and approved by the City Engineer prior to the issuance of building permit.
- f. The Petitioner shall provide title information regarding the ownership of the existing retaining wall and provide a statement from a structural engineer, licensed in the Commonwealth, to the Department of Planning and Community Development and Engineering Department to demonstrate that the proposed project will not adversely impact the existing retaining wall, road, or sidewalk on Ward Street. The applicant's statement and project plans regarding any impacts to the existing retaining wall shall be reviewed by a peer reviewer, at the petitioner's expense, prior to the issuance of a building permit. Any deficiency in the construction plans shall be corrected by the applicant, at the applicant's expense, to the reasonable satisfaction of the City Engineer.

Water System

- a. The Petitioner shall revise submitted civil plans to make connections to the twelve (12") inch waterline. The Record Plans still include some connectivity issues between the six (6") inch and twelve (12") inch water lines. The applicant shall confirm the existing conditions to be incorporated into the plans prior to the issuance of a building permit at 34 Peabody Street and 47 Leavitt Street.
- b. The Petitioner shall provide a plumbing plan to the City Engineer that demonstrates 100% of the roof runoff will be collected and conveyed by the drain pipe stubs identified on the civil drawings prior to the issuance of a building permit.

- c. The proposed section of water line to be abandoned shall be cut and capped at both ends where the existing line will connect to the proposed relocated line prior to the issuance of a building permit.
- d. A Licensed Plumber shall provide a letter to the Engineering Department stating the condition of the existing water service pipes on the property are adequate to be reused for the proposed development prior to the issuance of a building permit.
- e. A Licensed Plumber shall evaluate the existing and proposed potable water demand (for consumption, fire protection, and process requirements) and confirm existing is, or recommend new water meter(s), of appropriate size prior to the issuance of a building permit.
- f. A Licensed Professional Civil Engineer shall provide a letter to the Engineering Department stating that the City water mains to serve the proposed development have adequate flow and pressure. Back-up data, including engineering calculations and the results of hydrant flow tests, shall be included in the letter. The site utility plan shall be revised to show location of existing water service connection to the City water main prior to the issuance of a building permit.

Sewer System

- g. A Licensed Professional Civil Engineer shall provide a letter to the Engineering Department stating that the City sewer system to serve the proposed development has adequate condition and capacity to accommodate existing and proposed sewer flows. Back-up data, including engineering calculations and the results of all sewer inspections and existing sewer flow measurements, shall be included in the letter. A video inspection of the sewer system, as specified by the City Engineer, will be required to understand the current condition of the sewer system to determine if it is in good condition to accommodate flows from the proposed addition. A copy of the video and logs shall be submitted with the letter. Continuous flow measurements in the existing sewer may be necessary to understand the current capacity of the sewer system and to confirm the additional flow from the development can be accommodated. Results of the flow measurement shall also be included with the letter to the City Engineering Department prior to the issuance of a building permit.
- h. In the event that any of the above inspections and/or reporting find inadequacies in the existing property or supporting City infrastructure, the applicant shall submit corrections to the Engineering Department for review and approval, appropriate mitigation or improvement measures to the property and/or City infrastructure at the cost to the applicant prior to the issuance of a building permit.
- i. Prior to issuance of a certificate of occupancy from the City, the applicant shall submit a revised site plan showing the As-Built relocation and/or updates of all utilities.
- j. Prior to issuance of a certificate of occupancy from the City, the applicant shall submit a Drainage Alteration Permit to the Engineering Department.
- k. Prior to issuance of a certificate of occupancy from the City, the applicant shall demonstrate that the City's water and sewer systems have the capacity and condition to accommodate the flow requirements of the proposed addition.

The owner shall comply with the following specific conditions issued by the Board of Health:

- a. The Petitioner shall notify the Health Agent of the name, address, and telephone number of the project (site) manager who will be on site and directly responsible for the construction of the project.
- b. If a DEP tracking number is issued for this site under the Massachusetts Contingency Plan, no structure shall be constructed until the Licensed Site Professional responsible for the site confirms that the site meets the DEP standards for the proposed use.
- c. A copy of the Licensed Asbestos Inspector's Report must be sent to the Health Agent for 47 Leavitt Street, if asbestos is determined to be located at the 47 Leavitt Street property.
- d. A copy of the Demolition Notice sent to the DEP, Form BWPAO6, must be sent to the Health Agent.
- e. The Applicant shall deliver to the Health Agent a copy of any 21E report commissioned by the Applicant for the properties
- f. The developer shall employ a licensed pesticide applicator to exterminate the area prior to construction, demolition, and/or blasting and shall send a copy of any resulting exterminator's survey report, treatment plan and treatment reports to the Health Agent.
- g. The developer shall maintain the area free from rodents throughout construction.
- h. The developer shall submit to the Health Agent a written plan for dust control and street sweeping which will occur during construction.
- i. The developer shall submit to the Health Agent a written plan for containment and removal of debris, vegetative waste, and unacceptable excavation material generated during demolition and/or construction.
- j. Noise levels from the resultant establishment(s) generated by operations, including but not limited to refrigeration and heating, shall not increase the broadband sound level by more than 10 dB(A) above the ambient levels measured at the nearest abutting residential property line.
- k. The developer shall disclose in writing to the Health Agent the origin of any fill material needed for the project.
- l. The resultant establishment shall dispose of all waste materials resulting from its operation in an environmentally sound manner as described to the Board of health.
- m. The drainage system for this project must be reviewed and approved by the Northeast Mosquito Control and Wetlands Management District.
- n. The developer shall notify the Health Agent when the project is complete for final inspection and confirmation that above conditions have been met in Health Agent's reasonable discretion.

11. Construction Practices

All construction shall be carried out in accordance with the following conditions:

- a. The applicant shall submit three (3) hardcopies of a construction management plan for 47 Leavitt Street and 34 Peabody Street to the Department of Planning and Community Development, Engineering Department, and Building Department for review and approval by the Engineering Department prior to the issuance of a demolition permit at 47 Leavitt Street and prior to the issuance of a building permit at 34 Peabody Street. The applicant shall use best efforts to plan the construction in such a way as to have no long-term street closures.

- b. All provisions in the City of Salem's Code of Ordinance, Chapter 22, Noise Control, shall be strictly adhered to.
- c. All reasonable action shall be taken to minimize the negative effects of construction on abutters. Advance notice shall be provided to all abutters in writing at least 72 hours prior to commencement of construction of the project.
- d. Drilling and blasting shall be limited to Monday-Friday between 8:00 AM until 5:00 PM. There shall be no drilling or blasting on Saturdays, Sundays, or holidays. Blasting shall be undertaken in accordance with all local and state regulations.
- e. Construction vehicles shall be cleaned prior to leaving the site, as necessary, to avoid leaving dirt and/or debris on surrounding roadways as they leave the site.
- f. All construction shall be performed in accordance with the approved plans, construction management plan, this decision, and all applicable State regulations..
- g. All construction vehicles left overnight at the site must be located completely on the site or alternative location specified in the approved construction management plan.
- h. All construction will occur in accordance with the submitted and approved construction management plan. Any deviation from this shall be approved by the Engineering Department, Building Department.
- i. Any roadways, driveways, sidewalks, or landscaping damaged by Petitioner, or its contractors or during construction shall be restored to their original condition by the applicant.

12. Flood Mitigation and Safety

- a. As 34 Peabody Street and 47 Leavitt Street are in the flood zone, Petitioner shall have an emergency management plan for 34 Peabody Street and 47 Leavitt Street that and submit a copy to the Fire and Police Departments prior to the issuance of a Certificate of Occupancy.
- b. The applicant shall meet the requirements of the Flood Hazard Overlay District Special Permit as follows:
 - i. There shall be adequate convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent streets and property, particularly in the event of flooding of the lot or adjacent lot caused by either overspill from waterbodies or high runoff as set forth in the Record Plans.
 - ii. Utilities, including gas, electricity, fuel, water and sewage disposal, shall be located and constructed so as to protect against breaking, leading, short-circuiting, grounding or igniting or any other damage due to flooding, as set forth in the Record Plans.

13 Affordable Housing

- a. The applicant shall place an Affordable Housing Restriction on twenty-five (25%) percent of the total number of units in the project and shall be in accordance with the eligibility criteria for DHCD's Subsidized Housing Inventory for the purpose of ensuring that these dwelling units will be restricted as affordable housing for households whose annual incomes are eighty percent (80%) or less of Area Median Income ("Low Income Households") with a sales or rental price affordable to said households as determined by DHCD for a period of fifty (50) years from the date of the original conveyance. The Affordable Housing Restriction(s) shall be registered with the Essex South Registry of Deeds.

14. Use Restrictions

- a. The proposed commercial space at 47 Leavitt Street shall not be used for a restaurant or bank as these commercial uses have the highest parking demand.

15. Design

34 Peabody Street


- a. The applicant has proposed overhangs over the existing sidewalk on Ward Street. The overhangs shall be reviewed and approved by City Council prior to the issuance of a building permit. In the case that the City Council does not approve the overhangs, the petitioner shall utilize the alternate design as proposed in the plan that eliminates the overhangs.

34 Peabody Street and 47 Leavitt Street

- a. The applicant shall not use a white external material on the building facades. The Applicant shall use a color palate that is more compatible to the adjacent buildings to better fit with the character of the existing neighborhood to be reviewed and approved by the Department of Planning and Community Development staff planner.

16. Historic Preservation at 47 Leavitt Street

- a. The applicant shall document the interior and exterior of the structure at 47 Leavitt Street in photographs prior to the issuance of a demolition permit. The petitioner shall submit the interior and exterior photographs to the Department of Planning and Community Development prior to the issuance of a demolition permit, including three-quarter view photographs, of all building elevations.
- b. The applicant shall salvage historically significant features and building materials. All materials from the structure shall be demolished in such a way as to preserve and recycle any historically significant features or materials including, but not limited to, stained glass, windows, interior carved moldings or other related features original to the building.


Rebecca Curran, Chair
Board of Appeals

A COPY OF THIS DECISION HAS BEEN FILED WITH THE PLANNING BOARD AND THE CITY CLERK

Appeal from this decision, if any, shall be made pursuant to Section 17 of the Massachusetts General Laws Chapter 40A, and shall be filed within 20 days of filing of this decision in the office of the City Clerk. Pursuant to the Massachusetts General Laws Chapter 40A, Section 11, the Variance or Special Permit granted herein shall not take effect until a copy of the decision bearing the certificate of the City Clerk has been filed with the Essex South Registry of Deeds.