

CITY OF SALEM

APRIL 9, 2018

JOINT PUBLIC HEARING OF THE CITY COUNCIL
AND PLANNING BOARD

A Joint Public Hearing of the City Council and Planning Board was held in the Council Chamber on Monday, April 9, 2018 at 6:00 P.M. for the purpose of discussing five (5) separate amendments to Zoning to include:

Amending Zoning Section 3.0 – Table of Principal & Accessory Use Regulations amending scrivener's errors from 2009 recodification including allowing a dwelling above first floor retail, service or office in B1 Zone; allowing by right clubs, indoor commercial recreation, service, plumbing/carpentry/sheet metal, restaurants, manufacturing, storage, research/development and adult daycare in I zone; allowing by special permit outdoor commercial recreation and accessory structures in I zone

Amending Zoning Section 3.2.5 – Swimming Pool to require fencing

Amending Zoning Section 4.1.1 – Table of Dimensional Requirements establishing 1) max. height of fences and 2) dimensional requirements for B1 zone dwellings

Amending Zoning Section 10.0 – Definitions relative to dwelling unit; rooming, boarding and lodging house; general service establishment; assisted living residence; site plan review; and zoning board of appeals

Amending Zoning Section 8.4.9 – Parking Requirements subparagraph 4(a) of the NRCC zoning district to require 1.5 parking spaces per dwelling unit

Notice of this meeting was posted on March 21, 2018 at 3:23 P.M. and advertised in the Salem News on March 26, 2018 and April 2, 2018.

Councillor Stephen Dibble arrived at 6:15 P.M. (Informed the Council President was running late)

President Beth Gerard presided.

President Gerard introduced Tom Daniel, City Planner, Ashley Green, Staff Planner, Thomas St. Pierre, Director of Inspectional Services/Zoning Enforcement Agent and the Planning Board Members Helen Sides, William Griset, Kirt Reider, Carole Hamilton, Noah Koretz and Dale Yale

CITY OF SALEM

APRIL 9, 2018

JOINT PUBLIC HEARING OF THE CITY COUNCIL
AND PLANNING BOARD**#161 - Zoning Amendment Chapter 3.0 - Table of Principal & Accessory Use Regulations amending scrivener's errors from 2009 recodification including allowing a dwelling above first floor retail, service or office in B1 Zone; allowing by right clubs, indoor commercial recreation, service, plumbing/carpentry/sheet metal, restaurants, manufacturing, storage, research/development and adult daycare in I zone; allowing by special permit outdoor commercial recreation and accessory structures in I zone**

Tom Daniel, the City Planner, explained that Item A pertains to the B-1 Zone District and Items B, C & D pertain to the Industrial Zone. Tom explained that errors were found in the Industrial Zone and recommends keeping the hearing open to address those issues.

Tom St. Pierre, the Director of Inspectional Services/Zoning Enforcement Officer, talked about the scrivener's errors in B-1 Zoning District and read the uses from the old Zoning book, page 12, uses 1-21. The point of reading all this is to show that small traditional stores and shops were allowed in the B-1 and anything from R-3. The way it is written now none of it is not allowed. Don't think that was the intent but an error.

Councillor Turiel – We will continue this, but section 1 A is the easiest decision to make in my opinion. The traditional use of B-1 is retail and residential. Most of Derby St. would technically be illegal. Allow neighborhood businesses. Section A is fairly easy but the Industrial section more difficult

Councillor Sargent – Making a motion to keep hearing open and add to the ad-hoc committee for it to review. Seconded by Councillor Dibble

Councillor McCarthy continued with further discussion since we are all here, I agree with section A but in Section B do you have a list of which ones were scrivener's errors?

Tom St. Pierre - replied that the Industrial section of the old zoning book was very confusing and like to hold off on that until meet again. But would like to talk about B-1 because people are here for that.

Councillor Gerard – Continue whole amendment including A but have discussion about Section A now and hold off on Section B, C & D

CITY OF SALEM

APRIL 9, 2018

JOINT PUBLIC HEARING OF THE CITY COUNCIL
AND PLANNING BOARD

Councillor Madore – Would like to mention Bridge St. Neck Area especially in the ECOD in B-1 District. A lot of the uses we see right now are commercial on the bottom and residential above is already existing. But we have also seen changes in that district where a lot of the neighborhood retail has been flipped over to just residential. Through zoning we could encourage investors to keep the mix of uses which will keep the character of the neighborhood.

Councillor Sargent stated he understands what's allowed in the B-1 Zone but sometimes people have to make choices because other rules apply like set back and parking. You can't just say first floor retail, second floor offices and third floor residential because of the other requirements. All can't fit into one building. Also, you have to be a good neighbor to an abutter.

Tom St. Pierre – Wanted to remind everybody that we feel this was a scrivener's error and just trying to rectify that. If your desire is to change zoning than that's a different process. Felt this was allowed previously and new zoning prohibits it.

Councillor Gerard asked the City Council and Planning Board Members if they have any further questions or comments. There being none Councillor Gerard opened it to the public.

Barbara Cleary – Salem Resident of 104 Federal St. - We have had four zoning amendments in the last year and there has not been one public informational meeting prior to the Public Hearing. Why can't the Planning Department just say we are going to have a public meeting anybody can come. I feel as though this is a waste of time for the Planning Board because there are things that haven't been ironed out yet. This is the first time we get to hear explanations and to speak. That being said she has no problem with residential above commercial in the B-1 especially with the requirements. She went on to say that she is totally confused by the scrivener's errors. Why are these scrivener's errors if we took them out of the tables? She found her files on the recodification of 2000, we had committee meetings, we meet with Mark Barbowski, we marked up the tables. What zoning are you talking about? No evidence of these being scrivener's errors.

Tom St. Pierre – Believed his explanation by reading what was allowed before 2009 and not allowed currently was clear enough to show that it was a scrivener's error. These uses were left out by omission and came to light over the years. The only zoning matter was to codify the code and not change the zoning.

CITY OF SALEM

APRIL 9, 2018

JOINT PUBLIC HEARING OF THE CITY COUNCIL
AND PLANNING BOARD

Barbara Cleary – Asked Tom St. Pierre if he is saying the scrivener's errors took place in 2000.

Tom St. Pierre responded the recodification took place in 2009.

Barbara Cleary stated before we just accept these as scrivener's errors we should clarify that. I see no evidence of these being scrivener's errors.

Noah Koretz –Planning Board Member - Just to clarify when people are talking about there should be more discussion on this, for these errors there should be additional review or make all these changes without proper review, what you are actually saying is that when the document was transferred what you are now suggesting to change was basically done without review by accident and what we are only doing now it putting back things prior to the mistake.

Tom St. Pierre replied yes.

Councillor Turiel stated any zoning changes we make whether a scrivener's error or an amendment change we do have a public process in place. It includes advertising, a Joint Public Hearing with the Planning Board where we ask questions and open it up to the public to ask questions, we refer to the planning board, they submit their recommendation back to the council and the council other makes changes or not.

Justin Whittier – Salem Resident of 10 River St. – I think what has been said tonight is that there needs to be a working group to talk about some of these matters that were brought up tonight and so details were raised, useful details, that is going to require further consideration which is going to delay this matter. I think that speaks to the usefulness of having prior information or informational sessions. My concern about the scrivener's errors is a question about the process here. They are being called errors or accidents but it strikes me that if a genuine accident it would be random and yet what we have here is essentially all Nos and all except maybe one is being made by right, so it doesn't seem to me as by accident. All errors going in one direction, but maybe not the case maybe larger selection of errors that were random and these are being selected still want to know why these are being selected.

Tyler Terry – Salem Resident 22 School Street – Dwelling Units above retail – the Building Inspector read what is allowed for retail but not dwelling unit above it. Currently its allow in the B-5 District and after looking at the old version of the zoning ordinance book I can justify why it's by right (read #16). By right in B-1

CITY OF SALEM

APRIL 9, 2018

JOINT PUBLIC HEARING OF THE CITY COUNCIL
AND PLANNING BOARD

seems to be missing. So dwelling units above retail in B-1 should be by special permit not by right.

Tom St. Pierre – Responded by saying the reason for reading all the uses in B-1 is that it starts by saying everything in R-3 which is multi-family residential is allowed in addition to commercial. That's why the new document is not correct. We recodified the old book because it was unreadable. Regardless of the errors or mistakes in the new book it is 10x, 30x 100x better than old book. That's why we felt the need for the new book, you always had to go back and read what was allowed and interpret it. The current book may need some tweaking, but it is much easier to read.

There was some discussion about forming an ad-hoc committee and that a councilor should submit an order by tomorrow at noon to go on to the Council agenda.

Councillor Sargent spoke to the fact that each body can have a public hearing because people are not allowed to speak at the Planning Board meeting.

Councillor McCarthy discussed the process.

Councillor McCarthy moved that the joint public hearing remain open and continued to Monday, April 30, 2018 at 6:00 P.M. It was so voted

#162 - Amending Zoning Section 3.2.5 – Swimming Pool to require fencing

Thomas St. Pierre, Director of Inspectional Services and Zoning Enforcement Agent stated that this language was omitted in the 2009 recodification document. A person appealed this decision and came in front of the City Council which upheld that the language should have been in the 2009 recodification document.

Council President Gerard asked if any Councillors had any questions or comments. There being none.

Council President Gerard asked if any Planning Board Members had any questions or comments. There being none.

Council President Gerard if any members from the Public were here appearing in favor. There being none.

CITY OF SALEM

APRIL 9, 2018

JOINT PUBLIC HEARING OF THE CITY COUNCIL
AND PLANNING BOARD

Council President Gerard if any members from the Public were here appearing opposed:

Polly Wilbert – Salem Resident 7 Cedar St. – She stated she is concerned about the process. She went back to the City Council and Planning Board minutes and there was no record or discussion in 2009 so again concerned about the process being called an error. She also asked if this restricts to a single gate? Is having a second gate permissible if the gate is locked or does a person need to go to the ZBA? Polly would be for a person being able to have more than one gate.

Tom St. Pierre – This language is for a homeowner pool not for commercial pools. In the past, when a home owner needed a second gate it was granted as long as the second gate had a permanent lock or padlocked. The intent of this language is for the people gate needs to swing closed behind you to keep toddlers out of the pool area.

Councillor Milo asked before we go any further can we get a definition of what scrivener's error is.

Councillor Gerard answered that a scrivener's error is a correction of an error that was accidentally omitted, not something willfully omitted. It should have been included, but wasn't included accidentally

Councillor McCarthy asked Tom St. Pierre if this language was in the zoning ordinance book prior to 2009 and was just left out

Tom St. Pierre replied yes, it was in the previous book before it was recodified

Councillor McCarthy stated then that's a scrivener's error. We wanted to take the book as it was in 2008 and make it easier to read, more user friendly by including tables, etc. Mr. St. Pierre stated these were things that were always in the Zoning Book and somehow were inadvertently left out or not accurately reflected. If it was in there before 2008 then it needs to go back

Councillor Sargent is more concerned about the other amendments or scrivener's errors giving more rights to developers, but this one is easy we have to have fences around a pool.

Tom St. Pierre stated that prior to recodification this language could be found in Section 7.10 subsection F. A resident challenged this language and somehow their appeal ended up in front of the City Council which upheld the old language.

CITY OF SALEM

APRIL 9, 2018

JOINT PUBLIC HEARING OF THE CITY COUNCIL
AND PLANNING BOARD

Kirt Rieder – Planning Board Member - asked for clarification if the Planning Board is being asked to approve this precise language or add to it. Does the word fence defined elsewhere in the code as self-latching, no openings under a fence or between the sections of fence can be greater than four.

Tom St. Pierre states that the language in this section defines what kind or type of fence and the opening required.

Councillor Dibble asked to talk briefly about the 25' rule. When he bought his house, it had a pool and had the building inspector over to see if any changes had to be made. His fence was more than 25' away from the pool but it was approved. I'm sure there are others that have a fence around their entire back yard greater than 25 ft. away. People don't want to have two fences in their back yard. So, asked the Planning Board to think about that in their deliberations.

Tom St. Pierre language before talked about 25ft away in reality as long as a yard was fenced in it was ok but the 25ft. was so the fence cannot be so far away that it is no longer effective. But we can enforce exactly 25 feet.

Councillor McCarthy moved that the hearing be closed. It was so voted

Councillor McCarthy further moved that this matter be referred to the Planning Board for their recommendation. It was so voted

#163 - Amending Zoning Section 4.1.1 – Table of Dimensional Requirements establishing 1) max. height of fences and 2) dimensional requirements for B1 zone dwellings

Tom Daniel, City Planner, explained that this amendment, unlike the swimming pool amendment, is not 100% a scrivener's error. The height of the fence was an omission and is looking to correct that. Adding a table to show the maximum height of fence is 6ft. for residential and 10ft. for commercial. Also adding in Section 3 a new asterisked notation and inserting the asterisks in the B1 column heading: "****B1- All dwelling units constructed in the B1 Zoning District shall comply with dimensional requirements of the R3 Multi-Family Residential Zoning District. This was something that was lost in the recodification process.

Tom St. Pierre – The loophole that was left open was B1 had no lot area per dwelling unit specified and they struggle with that. Anyone could buy B-1

CITY OF SALEM

APRIL 9, 2018

JOINT PUBLIC HEARING OF THE CITY COUNCIL
AND PLANNING BOARD

properties and add as many units as they could find parking spaces for without any restrictions other than parking. The fences were an omission.

Councillor Turiel stated that the lack of any restriction for dwellings in the B-1 was a situation we had to deal with last year in my ward. There was a block of properties that we rezoned from B-1 to R-2. This was the only way to get control over dimensional requirements that we did not have before. There are no realistic restrictions on B-1 other than having enough parking.

Councillor Sargent asked how many square feet per unit in R-3.

Tom St. Pierre replied 3500 sq. ft. dimensional requirement per dwelling unit in R-3.

Councillor Sargent asked as opposed to allowing R-2 dimensional requirements. What is the difference there?

Tom St. Pierre replied R-2 is 7500 sq. ft.

Councillor Sargent you can debate if allow dimensional requirements could allow R-3 as well as R-2.

Tom St. Pierre stated the reason it is being worded this way is to get in what was missed. The way the previous zoning book read uses in the B-1 allowed in R-3 and was expecting R-3 would follow along in the new book, so trying to get in what was missed.

Councillor Sargent stated we have to take a good look at what was allowed before and after the recodification or not and when and if any errors were made and do we like the errors.

Councillor Turiel stated we do not like this B-1 restriction – no dimensional requirements could build as long as could find parking. The recodification does not refer to B-1 having R-3 requirement of 3500 sq. ft. as the previous zoning book had.

Council President Gerard asked if there were any questions or comments from the Planning Board. There was none.

Council President Gerard asked if there was anybody appearing favor. There was none.

CITY OF SALEM

APRIL 9, 2018

JOINT PUBLIC HEARING OF THE CITY COUNCIL
AND PLANNING BOARD

Council President Gerard asked if there was anybody appearing opposed:

Mike Becker – Salem Resident of 2 School St. Ct. and developer stated he was opposed to this change. He explained how Bridge St. Neck was the most run-down area now probably the highest square foot in Salem for Condos. It became a nice area. City spent money on sidewalks, lighting and clean up and developers made investments to match. The cleanup of the area would not have been possible without this loophole or error. If you look at B-5 there is no minimum lot size per dwelling relative to each unit. So, if B-5 has no lot size how is B-1 any less beneficial. The way it is encourages people to buy up old properties and fix them up. You still need the requirement of 1.5 cars per dwelling.

Councillor Turiel – A follow-up for Tom St. Pierre in that case would that be a hardship variance if size requirement put a burden on a plan can they come to ZBA for a variance. If we take away by right, then there is still a process. Look at Bridge St. good example. Dense pockets but improvements. Businesses on ground floor and residential above. We shouldn't leave B-1 as unlimited but need mechanism to look at these case by case.

Tom St. Pierre replied as a counter to that as we need regulations in place. The Planning Board and City Council can always review zoning changes. We are not shutting down all venues. The attempt tonight is to fix the document to get things under control of what is out of control.

Barbara Cleary - Salem resident of 104 Federal St. – Would like to speak about scrivener errors but not at this moment. For this amendment to be decided is putting the cart before the horse because need to decide first if B-1 and Residential is a scrivener's error or a change you want to make and that hasn't been done yet. Reasonable that there wouldn't be dimensional requirements for residential uses because no residential uses in the zoning book as published. What do you want for dimensional requirements? My concern is about height requirements if Residential in B-1 going from 30 to 50 is a significant increase. These are neighborhoods that are established. She asked the Planning Board to take a hard look at this to see if this is appropriate. She also asked for the Public Hearing regarding this subject matter remain open.

Mike Becker – Agrees with Barbara Cleary that 45 to 50 feet is too high. 30 ft. currently which is less than R-2. B-1 is often for entrance corridors if this restriction is put in it's rare to find a lot over 10,000 sq. ft. that is not already a 2

CITY OF SALEM

APRIL 9, 2018

JOINT PUBLIC HEARING OF THE CITY COUNCIL
AND PLANNING BOARD

family and need 10,500 sq. ft for a 3 family not in keeping with neighborhoods in a B-1 zone.

Councillor Sargent – Regarding B-1 Zone for business and housing there are different parking requirements. Residential 1.5 parking spaces and Business so many square feet depending on business. So, will this be total spaces? You cannot use 1 space for both purposes.

Tom St. Pierre – You will need to meet all the requirements for parking i.e. 1.5 per residential and so many for business. If you cannot then you would need relief from that from the ZBA.

Jennifer Firth, President of Historic Salem – Asking for clarification on dimensional requirements. Does this mean that the dimensional requirement in R-3 which is 45 ft in height apply to B-1 which is only 30 ft. height currently?

Tom St. Pierre – This just came to our attention. This is why it's so difficult. Trying to avoid unattended consequences. May want to revisit this and take a look before jumping back to R-3.

Jennifer Firth – Lot of concerns about this increase in height i.e. historic houses extra floors put on top of them. shadows on houses. Should allow all neighborhoods to have a formal review process to look at this more closely.

Councillor Turiel – As the speaker earlier said we are putting the cart before the horse. In B-1 right now it is legal to put dwelling units in B-1 by themselves without mixed uses. What we are looking at right now is the "N" stating that you cannot but residential units above retail, but we have a huge amount of those and in my opinion that is what B-1 was intended for have mixed use.

Councillor Sargent – If in B-1 zone, wouldn't the overriding height be the B-1 height and not R-3 height. Just because you are allowing R-3 Density you are not changing the land to R-3 therefore not allow R-3 height, B-1 rules override.

Tom St. Pierre – We need more discussion on this and keep it open. The way it is worded tonight is to change it back to R-3 regulations. To fix this and to change it would need a different process.

Tom Daniel – The process would be the same Joint Public Hearing, advertise, etc., but the intention here was to mirror the R-3 for density not the height so

CITY OF SALEM

APRIL 9, 2018

JOINT PUBLIC HEARING OF THE CITY COUNCIL
AND PLANNING BOARD

need to modify the language. We can achieve goal by keeping this public hearing open and revise the language.

Tom St. Pierre – We will look back at the previous documents to see if we can make this justification

Councillor Turiel – Can this be fixed in Section 3 by inserting a comma (,) excluding height?

Tom Daniel – need to revisit this. The intent was for density regulations not height.

Polly Wilbert – Salem Resident of 7 Cedar St. Question again about the process. If we continue the public hearing does this meet the sunshine ordinance that the average citizen would understand what is happening just by reposting this. Also, for the average citizen to view the Zoning Map they would have to come down to the City Clerk's office to see the Map because the one on-line is six years old and is not updated. If we close the public hearing tonight then we close the public hearing on the planning board side because if it does, then people need to understand this.

Councillor McCarthy – If Tom and Tom come back to us and say that this needs to be modified or changed then we have to re-advertise and start again. But if they come back and says the prior intent fits into this document then we can continue the public hearing. But again, would like clarification from City Solicitor.

Councillor Gerard – Would like to schedule a date for the continuation of the Joint Public Hearing. Need at least 48 hours to post the meeting.

Councillor Sargent - There is a lot in front of us tonight and we need to form a working group and iron out these different matters that are remaining open.

Tim Jenkins - Salem resident of 18 Broad St. – Same concern about the Zoning Map not being updated. It is from 2012 and need be updated. No state requirement of when the map needs to be updated, but maybe we can make 90 days after a zoning amendment is passed. Also concerned if one was to go for a curb cut variance the public has to be notified and abutters and abutters to abutters, but not for a Zoning Joint Public Hearing. The more informed the public is the better it is

Polly Wilbert – R-3 dimensions how do we have 3.5 stories if not realistic.

CITY OF SALEM

APRIL 9, 2018

JOINT PUBLIC HEARING OF THE CITY COUNCIL
AND PLANNING BOARD

Tom St. Pierre – There are definitions in the zoning book to define what a full story is and what a half story is. i.e. attics – don't really see ½ stories any more

Councillor Dibble – Like Councillor Sargent's comments about having a working group- This should be hammered out before we come back.

Councillor McCarthy – Two separate issues going one. One is to keep the public hearing open and the second is to bring in an order by noon tomorrow to form an ad-hoc committee

Councillor McCarthy moved that the joint public hearing remain open and continued to Monday, April 30, 2018 at 6:00 P.M. It was so voted

#164 - Amending Zoning Section 10.0 – Definitions relative to dwelling unit; rooming, boarding and lodging house; general service establishment; assisted living residence; site plan review; and zoning board of appeals

Tom Daniel explained that the first three items in Section 1 subsection a, b and c are amending or correcting definitions that were existing; dwelling unit, rooming, boarding or lodging house and General service establishment and the last three definitions under subsection f are new definitions to conform to the state definitions, assisted living, site plan review and zoning board of appeals.

Noah Koretz – Planning Board Member- asked if under section a is “no more than three (3) people ...” is that a definition directly from the Mass General Law or added in some other way?

Tom St. Pierre answered that the Mass General Law defines a rooming house as four (4) or more unrelated so we use the number three not to trigger the definition of a rooming house.

Polly Wilbert – 7 Cedar St. Point of information there are two typos so talking about scrivener's errors. The first being in Section 1 subsection b. Second Paragraph first line “A house were lodgings...” should be “A house where lodgings...” Section 1 subsection d last sentence “are not design for people...” should be “are not designed for people...”

Councillor Sargent asked if we are going to delete and replace the definition of rooming, boarding or lodging houses does anybody have the before wording?

CITY OF SALEM

APRIL 9, 2018

JOINT PUBLIC HEARING OF THE CITY COUNCIL
AND PLANNING BOARD

Councillor McCarthy asked is this new definition consistent with the Mass General Law.

Tom Daniel responded yes.

Tom St. Pierre read the old definition. If anybody was to propose a rooming house then they have to go in front of the Zoning Board of Appeals for a Special Permit.

Councillor Sargent stated that our old definition had a limit of no more than 6 and the new language keeps it open ended four or more. There could be an issue with this.

Council President Gerard asked if there were any more questions or comments from the Councillors. There were none

Council President Gerard asked if there were any more questions or comments from the Planning Board Members. There were none

Council President Gerard asked if there were any members from the public to speak in favor. There were none.

Council President Gerard asked if there were any members from the public to speak in opposed.

Mary Madore – Salem Resident of 31 Forrester Street – She can speak from personal experience that there was a house on her street that a person bought and had 16 people living in it. These were 16 people with issues. The owner was receiving \$114/person/day from the state. And there were numerous problems such as these residents urinating in public, setting fires, etc. There needs to be a limit of the number of people allowed in a rooming, boarding or lodging house. It took years for the neighbors to straighten this out and with the help of Bob St. Pierre we were finally able to.

Polly Wilbert – 7 Cedar St. – Question on subsection (d) – Assisted Living Residences – about Legality of Language and conflict in wording. This should be clarified.

Councillor Sargent – Sometimes rooming house go by the number of bedrooms so if 4 bedrooms then 4 people. Councillor Sargent made a motion to keep this

CITY OF SALEM

APRIL 9, 2018

JOINT PUBLIC HEARING OF THE CITY COUNCIL
AND PLANNING BOARD

public hearing open and send to the ad-hoc committee. Councillor Dibble seconded.

Councillor Dibble under further discussion asked the City Planner and the Building Inspector who wrote this definition for rooming, boarding or lodging house?

Tom Daniel replied that this definition mirrors the state definitions

Councillor Dibble asked if the state definition has no limits

Tom Daniel replied that is his understanding. If something was missed we can check

Tom St. Pierre stated in his 20 years of service there has yet to be a new lodging house approved. Only B&Bs which is by Special Permit and is limited by parking spaces. We have a number of lodging houses we try to manage now. We can look at putting a cap on it.

Councillor Turiel – Remember we are looking at the basic definitions not looking at the permitting process. Maximum number is not part of definition just 4 or more. Basic Definition is simple

Councillor Sargent moved that the joint public hearing remain open and continued to Monday, April 30, 2018 at 6:00 P.M. It was so voted

**#165 - Amending Zoning Section 8.4.9 – Parking Requirements
subparagraph 4(a) of the NRCC zoning district to require 1.5 parking
spaces per dwelling unit**

Tom Daniel stated this was very straight forward. The NRCC has the highest parking space requirement in the whole city. Residential is only 1.5 spaces and the B-5 is only 1 space. The goal is to bring this into conformance with the other residential zones and mixed-use districts. Given the proximity to transit and walkability to downtown it's the right thing to do. Also, by having a higher parking requirement it increases the cost; more spaces mean more paving, more costs to developers, it also lessens the green space. Also, an informal review of parking utilization of 28 Goodhue Street and 190 Bridge Street overall shows less than 1.5 spaces being utilized. 28 Goodhue showed 1.29 spaces and 190 Bridge Street showed .95 parking utilization.

CITY OF SALEM

APRIL 9, 2018

JOINT PUBLIC HEARING OF THE CITY COUNCIL
AND PLANNING BOARD

Councillor Gerard stated there is a lot of building going on in Ward 6, especially in the NRCC that are in the process of being approved or have been approved so it would be helpful. She would like to see more green space than parking. At 28 Goodhue Street they could have had a patio or outdoor spaces but instead they have a parking lot that is empty. This would give us more outdoor space. It's the right thing to do. When the NRCC was created the thought was let's get the cars off the road and into lots now is very different. People have changed. They not buy cars like they use to.

Councillor Madore asked if we vote to change this to decrease the number of parking spaces required would it grandfather current dwellings such as 28 Goodhue or 190 Bridge or proposed building?

Tom Daniel stated that 28 Goodhue and 190 Bridge since they are built would have to go through a process to decrease the number allowed. Projects that have been permitted and under construction, for example the Community Life Center the parking requirements are shared by the residential and commercial, Flynn Tan had a reduction in parking due to commercial spaces. Ones that have been presented but not started can file an amendment to decrease parking and increase open space.

Councillor Madore asked if a building such as 190 Bridge want to reduce the number of parking space would the only allowed use by open space or would any other uses be allowed.

Tom St. Pierre – Since that building is already built they would have to come to board to get relief and open space or green space is all the could do. They couldn't rent out the unused parking spaces to commuters.

Councillor Madore was concerned that this would be a windfall for existing developers; it would allow them to free up land area and allow more units for the development. And also, would you see this delaying or change any projects be reviewed. Would the developers wait to find out our decision and delay their project?

Tom Daniel stated the project on Franklin Street (the junkyard) is going through permitting and they were already intending to seek relief from the ZBA on the number of parking spaces, so they would not have to go to ZBA for that and have the project delayed. They still need to go to the ZBA for other relief but not parking.

CITY OF SALEM

APRIL 9, 2018

JOINT PUBLIC HEARING OF THE CITY COUNCIL
AND PLANNING BOARD

Councillor McCarthy – So by reducing the parking requirement would that allow developers to put up another floor or add another structure? Or does it go to lot coverage so if already maxed out it would only give them more green space?

Tom St. Pierre responded that density requirements are still there. A developer could maybe reshape the units to add a few but can't see many being added. Still need the 1.5 parking requirement and the density setback.

Tom Daniel – Most likely result in only more open space.

Councillor Sargent – NRCC the committee was thinking to go by the number of bedrooms, some were 2 and some were 3 so didn't want to make three and that's where the two came from. Change the requirement then they are going to park out on the street so isn't it better to have more for off-street parking especially in the winter of for more visitor spaces? We are giving bonuses to developers in the NRCC. If made green then can go back to parking spaces but if reduce then can't expand because used all the land especially going by the Old Ferris Junk yard on Franklin Street cars go into the neighborhoods.

Councillor Turiel – In June of 2004 the draft of the NRCC said 1 space per unit, then in committee 1.5 spaces and Planning Board recommended 1.5 spaces and the Council passed it for first passage. City Council changed it to two spaces before passing it for first passage. Based on this 1.5 is a reasonable number. Trend in that neighborhood is 1 car. Most of them are commuters. We don't have this 2-space requirement anywhere else in Salem and this area being near the MBTA it makes sense to reduce it to 1.5 spaces.

Noah Koretz – Planning Board member - Doesn't understand why 2 spaces required in the most transient area. 1.5 is still fairly high. Spillover to neighborhoods have data that says no it doesn't. I don't want it to look like a Wal-Mart parking lot. We are creating a problem that doesn't need to be there. Developers usually want enough parking for their units due so they can sell them.

Councillor Dibble – This is clearly a zoning change. Was it advertised as zoning change and not error?

Tom Daniel replied yes.

CITY OF SALEM

APRIL 9, 2018

JOINT PUBLIC HEARING OF THE CITY COUNCIL
AND PLANNING BOARD

Councillor Dibble asked how many units together on North St., Boston St., Franklin St., 28 Goodhue, Flynn Tan, Gateway, Salem Oil and Grease, 9 South Mason St. That's a sizeable growth for one area (mainly ward 6). If reduce from 2 to 1.5 how many more units could be built?

Tom Daniel didn't have the exact numbers with him and didn't want to give incorrect information. Tried to go through the numbers.

Councillor Dibble that it added up to about 400-500 number of units. Would like know in reducing number of parking spaces from 2 to 1.5 how many more units can be built if do this. Act cautiously before doing this.

Councillor Gerard stated that the Building Inspector already answered this stating density requirements are still in effect and parking requirements.

Councillor Turiel still set back requirements and dimensional requirements. Not any substantial change. Still looking at 1.5 units per dwelling unit.

Councillor Flynn – Talked about Visitor Parking. Around supper time when go to visit all the visitor spaces are taken up. Wouldn't it be better to keep it at 2 spaces?

Tom Daniel – Developer knows if want to sell the units they put in the correct number of parking spaces for residents and visitors. There's only so much you can do on a piece of land and trying to meet various requirements, function for people to live there and for the neighborhood.

Councillor Flynn – Is there a formula for visitor parking spaces

Tom Daniel stated we look at this on a project to project basis some development is residential only and some are a mixed use of commercial and residential. So, for example Flynn Tan is commercial and residential and its shared parking with the understanding that not all spaces will be used at the same time. Senior Center, Commercial and Residential Units will have shared parking.

Councillor Gerard cannot emphasize enough that 28 Goodhue only uses 1.3 spaces and they are the farthest away from train. 190 Bridge St. uses less than 1 space.

Councillor Gerard asked if there were any more comments or questions from the City Council or the Planning Board. There were none

CITY OF SALEM

APRIL 9, 2018

JOINT PUBLIC HEARING OF THE CITY COUNCIL
AND PLANNING BOARD

Councillor Gerard asked if anyone here was in favor.

Mike Decker – 2 School St. Ct. – As a developer and real estate broker, if you don't have the parking you can't sell the units. B-5 allows for use of municipal garages up to 1,000 ft. away. So, adding pavement and decreasing green spaces may add another unit or two but you still have the other setback requirements.

Polly Wilbert – 7 Cedar St. – Cautious about how you do this. For example, at the Community Center if you have a successful restaurant, and event at the senior center at night and all the residents are home then there is no where else to park. You can't park on Bridge St. only Boston St. the surrounding streets do not have the band width to absorb overflow of cars. In New England snow is inevitable it's the reality of what happens. Developers say they will remove snow off site but they don't. No safety valve in place need snow emergency parking

Tim Jenkins – 18 Broad St. – Impact on neighborhoods is worth another discussion. A lot of projects permitted. If we want more green space than asphalt, then how do you encourage this. Not one project has been built below density. Problem at Gateway is you cannot park on Bridge St. and not enough parking on Boston St. Review what is happening in the NRCC.

Noah Koretz – Planning Board Member - To encourage more green space is to not make them build parking spaces that people don't want. Then it won't have all asphalt. On sites more complex then more discussion on shared parking. We are only talking about residential spaces. Developers don't have green space because need to show parking.

Carole Hamilton – Planning Board Member – Ditto Noah's remarks. Also, the planning board comments and developers agree that these projects in the NRCC could be a much better design if not 2 spaces and they encourage the developers to go to the Zoning Board of Appeals for parking space relief because two is too many.

Anne Sterling – Salem Resident of 29 Orchard St. – Would like to speak on Councillor Dibble's question on number of units coming online all at once in Ward 6. She would like to keep the 2 parking spaces. There are four lots next to Ferris that will be bought and Furlong Park is right next to Ferris as well. Little League parents who are travelling park on both sides and watch from vans, kids are darting back and forth across street. Keep density down as far as possible.

CITY OF SALEM

APRIL 9, 2018

JOINT PUBLIC HEARING OF THE CITY COUNCIL
AND PLANNING BOARD

Justin Whittier – Salem Resident of 10 River St. Who wouldn't want less asphalt and more green space. Long term looking forward. The train is getting more and more crowded and people are getting turned off by the train. If require fewer spaces more units will be put in. He and others may take the train during the day to work but he still has a car for weekends and normal errands.

Tyler Terry – Resident of 22 School St. – Person living at the Bell parks her car in the visitor space so allow visitors to park in her dedicated spot. Tyler said he doesn't park in his driveway when visitors are coming over. He will park on Buffum and allow his guests to use his driveway because they may not find parking on his street. Why does parking have to change just change regulations.

George O'Brine – Salem resident of 5 Locust St. Spoke about the Ferris development 48 units is a disaster reducing the number of parking spaces to 1.5 makes no sense. Two parking spaces is reasonable. The NRCC did a good job.

Jane Arlander – Salem resident of 93 Federal St. – Not in favor of reducing the parking requirement to 1.5. She used Riverview Plan Project as an example. It has 130 units and was permitted with 2 parking spaces per unit. When the project went through the Design Review Board the three buildings were taking up most of the 1.54 acres they would build a parking garage without a roof. When MassDEP reviewed project, they decided you can't but residential on first floor because it is too close to the river and the developer had to take out those units. The parking garage without a roof when it floods it collects until the valve to the sewer system is opened. When asked how many of the cars would be affected they said 50%. Where are these cars going to go? Also, all the properties in the NRCC are all different the Ferris property and Riverview place are similar and flood maybe want to build in extra parking there. When Salem Suede had to decrease their parking instead of decreasing the number of units they just decreased the size of the units they made them smaller to about 600 square feet.

Judy French – Salem Resident of 16 Foster Street – Ferris's parking spaces are under the building. Goodhue vs Ferris. Ferris will have 48 units most are 2 & 3 bedrooms. Goodhue has 1-2 bedroom so can see why 28 Goodhue underutilized but with Ferris 3 bedrooms mean more cars. Not a fair comparison. Two parking space requirement good thing to keep in place. Special permitting overriding things in the NRCC zoning all the time anyways. But should be taken individually Ferris shouldn't be compared to 28 Goodhue. Don't know any families who have less than 2 cars and if adult children then 3 cars usually. Should be case by case

CITY OF SALEM

APRIL 9, 2018

JOINT PUBLIC HEARING OF THE CITY COUNCIL
AND PLANNING BOARD

Councillor Gerard wanted to clarify that the Design Review Board proposed because Salem Suede was building micro apartments 1 space per unit was all they needed. The Zoning Board of Appeals voted that down. There still may be some CH. 91 issues.

Councillor Turiel – We are not talking about one specific project in the NRCC this zoning amendment is talking about the general requirement. It's to be 1.5 spaces per residential dwelling use in the NRCC; nothing to do with commercial.

Barbara Cleary –Salem Resident of 104 Federal St. Feels like she is hearing everyone wanting more green space but nothing in proposed ordinance that states green space requirements. If decrease parking then developers are going to build more. It's a numbers game for them.

Kirk Rieder – Planning Board Member – Mutual beneficial open space can be codified as offset to parking and building. The trend is towards deleting parking requirements.

Carol Carr – Salem Resident of 7 River St. – If reduce number of spaces not guaranteed more open green space. We do have parking problems in Salem especially during snow emergency and Halloween. Use as bargaining chip – if developer come in maybe can reduce parking you give us something in return.

Ann Whittier – Salem Resident of 10 River St. – If I lived in San Francisco then I might be able to get along without a car, but in Salem there is a parking problem. I have 3 adults in home and we have 3 cars. The question shouldn't be framed as parking spaces versus green space but should be framed as what a developer can be allowed to do and push out to the neighborhood.

CITY OF SALEM

APRIL 9, 2018

JOINT PUBLIC HEARING OF THE CITY COUNCIL
AND PLANNING BOARD

Councillor Madore – I would rather build housing for people then spaces for cars especially in the NRCC where it is a transient area. Many families including hers only has 1 car others she knows do not have a car at all. These people take advantage of car services, Zip cars, walking, train. We are supporting households that want to have 1 car or less to move here who want the walkability like retirees, empty nesters, young couples. If reduce parking requirement, then people move here to walk. Many cities require open space. I think it's a good idea to decrease the parking requirement to meet our other city standards. It's a good idea moving forward.

Councillor McCarthy moved that the hearing be closed. It was so voted

Councillor McCarthy further moved that the matter be referred to the Planning Board for their recommendation. It was so voted.

On the motion of Councillor Furey the hearing adjourned at 8:45 P.M.

ATTEST:

ILENE SIMONS
CITY CLERK