

**City of Salem Planning Board
Approved Meeting Minutes May 16, 2019**

A public hearing of the Salem Planning Board was held on Thursday, May 16, 2019 at 7:00 p.m. at City Hall Annex, 98 Washington St., Large Public Hearing Room, First Floor, Salem, Massachusetts.

calls the meeting to order at 7:00pm.

I. ROLL CALL

Those present were: Chair Ben Anderson, Matt Veno, Helen Sides, Carole Hamilton, Kirt Rieder, Matt Smith, Noah Koretz, Bill Grisct

Absent: DJ Napolitano

Also in attendance: Mason Wells, Staff Planner and Stacy Kilb, Recorder

II. REGULAR AGENDA

A. Location: 94 Washington Square East (Map 35, Lot 536)

Applicant: The Breakaway at Salem Common, LLC

Description: A public hearing for all persons interested in the application of THE BREAKAWAY AT SALEM COMMON LLC for the property located at 94 Washington Square East (Map 35, Lot 536) for an amendment to a Site Plan Review in accordance with the Salem Zoning Ordinance section 9.5 Site Plan Review. Specifically, the applicant proposes to amend an existing Site Plan Review Decision to allow roof top air conditioning and ventilation units to be installed on the roof of the two-story rear annex. The original approved Planning Board decision was for the restoration of the historic mansion and construction of a two-story addition to the existing one-story rear structure to return the property to residential use with associated improvements to the parking lot, site access, landscaping, and utilities.

Present for the Applicant are:

Attorney Scott Grover

Peter Pittman, Architect

Mr. Pittman notes that additional units are needed because, upon further explorations of the design, each dwelling will require two condenser units, vs. the one originally proposed. All units were originally planned to be in a well on the roof, but now 11 units must be on the roof itself along with an ERV. These will be held to the center of the building in all directions to minimize views. They would not be visible to abutters on grade; from second floor windows on Briggs St., neighbors would not see the units, except in the worst case scenario (applicant is trying to source a smaller unit). Even in the worst case scenario, from farther away, only one unit tip would be seen. Approved plans were not reviewed by Engineers, so until the mechanical engineers become involved, Applicants cannot be certain what will work. 8-9 compressors in a well were originally requested; now they need 17. Some will still be in the well along with the ERV fresh air exchange unit.

The original historic building is higher and wider so would block views of the units on the newer section. Helen Sides suggests there may be a way to screen units to make them one visual item; something industrial, dark and prescriptive. The Historical Commission has requested that the Applicant put a screen around the units.

Much discussion centers on this screening. Some Board members feel it should be an industrial-looking material, matte black or charcoal, to provide a uniform appearance. It should not look like a fence.

Other options include “celebrating” the units by installing a handrail with balusters, creating a Widow’s Walk. Making the units “disappear” in a gray matte cloud is another option. Screening the view from the windows of the second floor neighbors across the street is more of an issue than screening from the view of pedestrians.

There is much back-and-forth discussion as to whether screening is even necessary; the Applicant feels it is not as the units would not be visible, but the Board still has concerns. The Applicant is willing to provide screening if the Board insists.

Also discussed at length is how to proceed and whether or not the Applicant must come to a subsequent meeting with a proposal including materials, or if this can be done through the Planning Department. Another option would be to have the Applicant set up a mock-up of the units, and have the Board members conduct a site visit, either as a group or individually, to see if screening is warranted. However, it may also make sense to just install the units themselves and then view those.

It is suggested that the following factors should be considered if a screening for the units is required:

- Height
- Setback
- Material
- Color
- Opacity

Decibel attenuation is also discussed but noise is regulated by the Ordinance, and all units together are below the maximums.

Chair Anderson opens to the public.

Sharon Corrigan of 6 Briggs St. wonders how this happened, having missed that part of the conversation as she arrived late; the Chair and Applicant reiterate. The level of noise allowed by the Ordinance are also outlined.

Rose McMullen of 96 Washington Square asks about the well; this and the screening of the new proposed units is explained. She is concerned with noise, but the same sound requirements must be met no matter how many units (or one big unit) are used. They can’t meet the noise requirements with one large cooling tower. There is no place on the ground to place the units; it would also be aesthetically unattractive for residents and neighbors to do that. She comments that she has her 3 units on the ground; however the Applicant notes that even if one or two or three were placed on ground, this would not mitigate others on the roof. Code requirements for noise are again outlined; screening the units would probably further reduce noise. The Board of Health regulates noise and makes recommendations that are included in the Planning Board’s decisions.

Ms. McMullen asks if the Applicant also submits publicly viewable survey information; it is available in the Planning Dept.

Further discussion on the procedures occurs; installation of screening or not can be tied to the issuance of a Certificate of Occupancy, ensuring that the process gets done. The additional units must be installed regardless.

Chair Anderson feels that, given comments from the Historical Commission and the public, a screen is desirable. Other Board Members are uncertain and feel that screening would be redundant if the units are not visible, and feel that the Board should get a better idea of the view before it makes a determination.

A motion to close the public hearing is made by Noah Koretz, seconded by Carole Hamilton, and the motion carries.

A Draft Decision is available. Ultimately the Board moves to:

- Approve the installation of 18 condensers on the roof
- Prior to installation, a mock up of the size and location of all condensers will be made so that Planning Board members can view during a site visit (Applicant need not attend). Placement and massing of the mock-ups will be the same as the proposed units to be installed
- This site visit should occur before the Certificate of Occupancy is issued, and at a future meeting, the Board will determine whether screening will be required, and this determination relayed to the Applicant. If required, Applicant will present a proposed solution at a subsequent meeting.
 - In that case, the proposed concealment should include details regarding:
 - Height
 - Setback
 - Material
 - Color
 - Opacity

Noah Koretz comments that 2(a), Conformance to the Plan, should be stricken, as said Plan has changed. The Decision should reference the updated Rooftop Mechanical Plan and a date should be referenced. Plans will be amended and re-submitted.

A motion for approval of the amended decision with the above conditions and edits is made by Matt Veno, seconded by Carole Hamilton, and passes with all in favor.

III. OLD/NEW BUSINESS

A. Opportunities to Improve the Permitting Process - Tom Daniel, Director of Planning & Community Development

This is an open dialogue with Planning Board members for suggestions about how the permitting process can be improved.

Tom Daniel notes that the Planning Department and the City are always looking to improve their processes; this Board has gotten more rigorous in its management and the Department makes its expectations clear to Applicants. Staff reports have also been modified. This is helpful for projects that go before multiple Boards. The goal is to have the process be run as smoothly as possible. He commends the Board on the quality of its work and commends its members for serving.

Broadly, time in the Department has been spent on housing policy and work, but also economic development, transportation and sustainability. He cites the Overlay District the Board worked on, and tools in addition to zoning amendments will be before the Board, specifically the permitting process for housing projects. A more streamlined process for approving affordable housing is desired, but to change the formal process is too difficult, so making the existing infrastructure more efficient is a better idea. Also under discussion is transportation, particularly traffic and parking, as the public is always concerned with these. Options such as a municipal car share, intra-city shuttle, bicycle and pedestrian options are all being explored.

Economic development and opportunity, and the role housing plays in those, are discussed. There are four thousand people who both live and work in Salem. 17,000 live here but work elsewhere, and another 17,000 live elsewhere but work here. People who work in the service and tourism industries, which are obviously mainstays in Salem, cannot afford to live here. Some would prefer not to have to commute to Boston.

Mr. Daniel wonders how the Planning Department can support the Board administratively, and how Applicants can also be supported. Ambiguity should be avoided and Applicants should be made aware of the process, which Mr. Daniel describes. Applicants meet with various Departments in a One Stop meeting, where procedures and stretch goals are outlined.

Helen Sides feels that it is important for the Planning Board to be aware of the thought processes and decisions of other Boards such as the Design Review Board and Conservation Commission. She is concerned about shortening the process, as this Board is extremely thorough, and this is necessary and what they are supposed to be doing; all discussions on all Boards are important to projects and the City. Developers may feel that a process is “drawn out,” however regulations and laws must be applied. The Board must also be diligent as expansion raises public concern and make it tougher for members of the public to be on board.

Tom Daniel notes that he meant clarity should be provided and that there might be other processes to support affordable housing differently. For example, prescriptions regarding trees could be provided to Applicants at the front end, at the One Stop meeting. He also wonders if the Planning Department would be able to assist the Board in its review. Helen Sides comments that prior delivery of the notebooks is helpful, as are access to DRB staff summaries and tools.

Ben Anderson agrees with the intent to streamline, feeling that the Board comments on and discuss the same themes many times, though related to a specific project: aesthetics, landscaping, and placement of buildings get repeated to almost every Applicant. These issues could be headed off at the pass if there was an upfront document or “cheat sheet” of what the Board usually discusses, that could be provided to developers so that they can anticipate the questions the Board may ask.

Matt Smith notes that many communities have created design standards that are provided to developers, so they know what the Board looking for and what is desirable; it is not about streamlining, but has more to do with adding predictability and clarity. Manuals like those do that, and while they don’t make it easier to get an approval, they do make it easier for developers to do their homework before presenting. They are not robust enough for buildings. Chair Anderson feels that 4-5 standards in the City could be consolidated and could be visually represented. Design standards make developer’s jobs easier.

Matt Smith comments that Salem has a suburban zoning code, which is not appropriate for a city. As an example he cites the requirement that there be 15,000 square feet for one unit of housing. The City of Somerville rewrote its zoning because nothing there was conforming, and it was not in character with the City. He also cites the case here in Salem of the Adaptive Reuse Overlay district. The underlying zone was R2 but the code does not reflect the character of our community. If the Board must approve larger projects to get affordability, we must address issues that will allow those projects to happen. This conversation is preliminary if that main issue is not addressed.

Kirt Rieder would like to hear the Planning Director state that job of this Board is Site Plan Review, which incorporates transportation, parking, and landscape design, but perhaps not signage. Mr. Daniel does concur that this is the role of the Planning Board.

Kirt Rieder feels that projects originating from the City progress through a department but don’t benefit from Planning resources, e.g. the Engineering Department does not take into account pedestrian or traffic issues. This Board does not need to be a clearinghouse but the City could better leverage the expertise that it has, including coming before the Planning Board. For example, the removal of trees for an art installation in the Point went before the Conservation Commission, not before the Tree Commission, so Kirt Rieder does not have standing to say anything. City streetscapes and transportation are also concerns.

Matt Smith comments that, in the instance of the Traders Way project, the fact that adding multi-family units yields the density needed to make public transit possible, does not factor into the discussion. This discussion needs to include ways to create more sustainable communities, and why density works in some places. While traffic is a legitimate concern, higher densities can offer opportunities to reduce congestion through better means. Discussion about the suburban mentality, necessity and even desirability of density, and the need to educate the public on these matters, continues.

Any narrative given to developers should be thoughtful and specific, not rote. It is noted that better projects, such as the PEM addition, quickly go through the Site Plan Review process. In that case, the Applicant had a world class architect, and their professionalism, content, and approach to the board, made it work. It was a pleasant experience. Difficult projects are the ones where the applicant is combative, doesn't want to make changes, or they are value engineering to reduce cost and it will affect the project, or else the narrative and content are ill prepared to come before the Board. Projects should not come the Board until they are "fully cooked" and the Planning Department has a reasonable expectation of meaningful discussion.

Bill Griset comments that he thinks about the museum presentation regularly; it was not only the world class quality, but they seemed to have anticipated every question the Board could have, and they spent time looking at the criteria. It is not necessary to have a world class architect, but if an Applicant knows what to expect, they can meet those expectations.

Noah Koretz notes that that was a team no one else could have afforded to hire; for an average team without resources to do that kind of homework, guidelines would be helpful for those not familiar with this Board or working in Salem. For example, many developers seem to think that the Board desires "faux historic" style simply because this is Salem. An FAQ brochure could allow a developer who has good intentions, but not the wherewithal, to be more aware of the Board's expectations.

Kirt Rieder feels that Salem's Site Plan Review is not an onerous process, and that the Board is not irrational in its application, but calibrates its work to each Applicant.

Helen Sides is not in favor as far as being prescriptive regarding design guidelines, which could be dangerous they date themselves too quickly, and are too unwieldy. She cites as an example the NRCC. Urban design guidelines such as distance from the street are appropriate, but not dictating style.

Chair Anderson comments that the Board does not make many comments regarding style; this should be left up to the developer. There should be written principles rather than diagrams. Noah Koretz suggests sample language such as, "Buildings are placed to encourage pedestrian-first usage rather than auto-centric use." says Koretz. The Board should share goals for what Applicants should do in the context of an urban environment.

Ways to go about this are discussed. It is easiest to modify procedures. Matt Smith notes that guidelines should be changed to allow for only one curb cut, not two, and that placing parking in front of a building should not be allowed. Precedents such as that should not be set, for example, as in the Canal St. project where Departments did not communicate. In order to make Boston St. more pedestrian friendly and multi-modal, it should be re-zoned now for clarity to developers in the future, rather than investing in a complete street. This would be the Board's preference, but zoning allows undesirable setups. Updating zoning is thus an urgent need.

Kirt Rieder notes his conversations with Tom Daniel with regards to administrative changes to decisions made by the Board. For example, in the case of the Peabody Essex Museum, the Board gave the Applicant the latitude to make a minor change via a condition. The Applicant then went to the Planning Department, who forwarded the change to Kirt, who approved it. In two other cases, however, Applicants came back administratively so projects circumvented the process to make changes to what was approved. Kirt Rieder would like the process to be more

uniform. Tom Daniel comments that his default is conservative as to administrative approvals. In one of the matters before them tonight, the Applicant requested administrative approval, but was denied and told to come to Board. In other instances, he felt an administrative approval was appropriate, but it turned out that Mr. Rieder felt differently. He wants to be proactive; Mr. Daniel comments that when a request for a change comes in, he reviews it with the staff planner to determine whether it is significant and should come before the Board. Communication between him and staff is crucial.

There is extensive discussion on the public's lack of understanding about the process. Many felt that the Planning Board ignored their comments [in the case of the Adaptive Reuse Overlay District] during the joint meeting with the City Council. Perhaps in the letter submitted by the Board to the City Council, there could have been an introduction paragraph acknowledging the statements made by members of the public, but that the Board, in its independent deliberation, disagreed. Political compromise should not come into play in the Board's deliberations; the Board's job is to issue technically correct advice. Public comment should only be taken into account on its technical merits, not from an emotional or political standpoint; thus the Board does not always agree with public comment.

The letter of recommendation that the Board wrote to the City Council regarding the above matter may have been a missed opportunity to note that the Board did hear the public's input, but is doing a technical analysis. It should also be made clear in such joint meetings that the Planning Board's recommendation is just that, a recommendation to the City Council. Bill Griset notes that this is the law, and to soften the obligation is not the role of the Board. To have to deal with the reactions of the public (usually negative) is beyond the scope of the work of the Board, which is to interpret, debate, and make recommendations. However, the "passion" of the process is not relayed when the letter is handed to City Council; the efforts of the Planning Board are not apparent.

Matt Smith comments that the case of the Adaptive Reuse Overlay District proposal made it clear that misinformation is abundant, but this is not addressed during the process. E.g., one opponent showed a Google map with much more than what would be allowed under the change, but people believed this could happen. The Planning Department or other City spokesperson should discuss why this is not allowed to be referenced. There is a need to counter such misinformation and provide examples of what such development would actually look like, even just a sketch.

People have the right to present their ideas, and it is the Board's and Councilor's responsibility in a joint meeting clarify that such items are not appropriate, so this was a missed opportunity. There must be a response to illegitimate information. Also in that case, "should be allowed to be underlying only" is a false argument, because in that case, the type of housing the public was advocating for would not be possible. A 7500 square foot, single unit dwelling is not possible, and there is no good compromise. If projects were only allowed the same density as the neighborhood, it would have been a different discussion.

Tom Daniel comments that the public did not understand the independence of the Board or why there was not acknowledgement of what they said.

B. Update on Easement for Public Access to Commercial Street for Ice Cream Way Condominium development at 9 South Mason Street, 3A Buffum Street Extension; and 23 Mason Street (also including 23 ½ Mason Street and 23R Mason Street (Map 26, Lots 73, 74, 79)

In the January 12, 2017 Planning Board decision for the above referenced property, condition 2(c) states that "the developer shall provide a report to the City Planner on efforts to obtain public access to Commercial Street through the site prior to issuance of a certificate of occupancy." The

developer has notified City staff that they obtained an easement from the Knights of Columbus on their property at 18 Commercial Street for pedestrian access on the westerly side of the building.

No action required by the Planning Board.

However, it is noted that the light on top of the building not approved by the Planning Board; when questioned, the developer noted that he wanted to highlight his building. This came up during a DRB meeting but no enforcement action has been taken yet. Mason Wells will follow up.

IV. APPROVAL OF MINUTES

A. Regular Planning Board meeting minutes held on May 2, 2019.

One project is noted to be under the Salem Redevelopment Authority, so would automatically go before the Design Review Board.

A motion to approve the minutes is made by Noah Koretz, seconded by Bill Griset, and the motion carries.

Councilor At Large Tom Furey is concerned about the change in plans at the Footprint Power site. The City Engineer, David Knowlton, waived the replacement of a 55 year old pipe. He wonders what will happen if this pipe is not replaced. Tom Daniel clarifies that the permit in question is through the state, with the EFSP

Tom Daniel clarifies: permit process – permit is a state permit with the Energy Facilities Siting Board; the Planning Board has been part of the process to provide other modifications during Site Plan Review regarding design. The City Engineer approved that change to the pipe, but Tom Daniel can follow up with Planner Tom Devine regarding specifics. Because the city engineer approved the change, the process is complete. The original plan was to relocate the pipe, but now the Applicant will use the existing 55-year old pipe. This was the reconfiguration of the earth form before the Planning Board.

V. ADJOURNMENT

A motion to adjourn is made by Kirt Rieder, seconded by Noah Koretz, and the motion carries.

The meeting ends at 9:00 p.m.

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: <https://www.salem.com/planning-board/webforms/planning-board-2019-decisions>

Respectfully submitted,
Stacy Kilb, Recording Clerk

Approved by the Planning Board on 06/20/2019

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