

City of Salem Planning Board
Approved Meeting Minutes
Thursday, April 19, 2018

A public hearing of the Salem Planning Board was held on Thursday, April 19, 2018 at 7:00 p.m. at City Hall Annex, 98 Washington Street, Large Public Hearing Room, Salem, Massachusetts.

Chair Ben Anderson opens the meeting at 7:00 pm.

I. ROLL CALL

Those present were: Chair Ben Anderson, Dale Yale, Noah Koretz, Carole Hamilton, Helen Sides, Bill Grisct, DJ Napolitano, Matt Venio (8)

Absent: Kirt Rieder (1)

Also in attendance: Ashley Green, Staff Planner, and Stacy Kilb, Recorder

II. REGULAR AGENDA

A. Location: 11-13 Dodge St., 217-219 Washington St., and 231-251 Washington St. (Map 34, Lots 404, 405 and 406)

Applicant: DODGE AREA, LLC

Description: A continuation of a public hearing for all persons interested in the amendment to the approved Site Plan Review, Planned Unit Development Special Permit, Flood Hazard Overlay District Special Permit, and Stormwater Management Permit for the property located at 11-13 Dodge St., 217-219 Washington St., and 231-251 Washington St. (Map 34, Lots 0404, 0405, and 0406). The applicant proposes changes to the proposed buildings, landscaping, hardscape, parking, utilities, and lighting, primarily in order to incorporate changes requested by other City boards and departments and to make the project economically feasible by reducing the maximum number of stories from six to five and constructing the project all at once rather than in phases. As amended, the applicant proposes to construct an approximately 146,000 square foot mix-use development with 52 residential units, commercial space including a 113 unit hotel, a parking structure with 212 parking spaces, associated landscaping and pedestrian and transportation improvements.

Representing the project is Attorney Thomas Alexander for Dodge Area LLC. Garage roof, garage ventilation and details on architecture were requested at the last meeting. They have been before the Design Review Board (DRB) for five meetings, and have done many revisions. The garage roof did not come up at those meetings.

Present for the applicant are:

- Mr. Thomas Alexander, Esq.
- Ken McClure, Project Manager, Dodge Area LLC
- Keith Kelly, Project Manager, Opechee Construction Corporation
- Barry Stow, Opechee Construction Corporation
- Drew Queen, Opechee Construction Corporation
- Erik Swanson, P.E., Civil Engineer, DCi

Ken McClure, project manager for Dodge Area LLC, presents. Cost and concepts for the green roof were discussed with the ownership group and the Recover Green Roof firm. The Hilton Brand, the project's hotel partner, would not support any sort of green roof with residential usage, outside of the hotel rooms. It is noted that the previous Plans included open space but not the convenience of a covered garage.

Andrew Queen presents the flythrough video/computer model. It is first presented from an elevated height, then also at street level. The focus was on the building and architecture, and how it fit in. The site and topography are not coordinated with Civil landscape documents but are as accurate as possible. This model was placed into Google Earth to show how it fits in, and this is shown as well.

Chair Anderson appreciates the presentation, which alleviates several of his concerns. Louvres for garage ventilation were shown and are highlighted. He is familiar with Recover Green Roof, but confirms that the Applicant's conversation was based on the assumption that there would be pedestrians back there. He suggests as an alternative making the green roof non-accessible to the public. This could have wild grasses, etc. There is an opportunity to do something low maintenance, not accessible by the public, but that would lessen the impact of the roof space. It would be important to know if there would be mechanics/ventilation on that roof, but would be positive to do something nice for both hotel guests and residents to reduce the impact of such a large roof.

Noah Koretz echoes the desire for a green roof, noting public art or other passive uses as possibilities. The view from residences of that roof was not shown in the flythrough. The Applicant must balance the need to drive the value of both hotel rooms and residences.

He asks about the lighter color materials on the Washington St. side of the building on the upper floors. Samples are shown. They are cementitious panels with surface applied color, warranty unknown. Noah Koretz wonders about the textures. He also asks about parking, and public/residential and valet entrances to the garage are outlined.

DJ Napolitano asks about the height of the building; it is five stories tall; the Starbucks building next door is only two stories tall. It looks nice and should fit well in the neighborhood, but it is hard to visualize. Noah Koretz opines that the corner on Washington St. makes it look "abrupt." Chair Anderson notes that attention and care were given to street edge, the materials and the interaction with the building there. That is the level at which human interaction will occur. He understands that height must be as it is to make the project economically feasible, so while he appreciates DJ's comments, the building will not be experienced from far away/above. Helen Sides notes that the Design Review Board (DRB) was also mainly focused on how the project would be seen by people walking around the building, and approved of the materials and variety, which she thinks will work well there. She also wonders why the roof did not come up in those discussions and does feel that it is a large bare expense, and could be different things in different areas. It does not have to be accessible by people, but a green area could be away from the building and could even be separated a bit, with green more near the middle.

Chair Anderson opens to the public.

Josh Turiel, 238 Lafayette St., Ward 5 City Councilor

Is looking forward to the project being built. He notes that the project was designed to work within the hill/slope; previous renditions were much more massive. Transitions are done well, and he is comfortable with the Washington St. side. The Dodge St. side is largest profile, but it has to go around a certain way and is designed well. He approves of the look and scale. He is not as impressed as he was with the original design, and an issue that remains is with the garage roof. He discusses tradeoffs, but the blank featureless

roof must be rectified. It is too bad that they have lost the opportunity for public access, but this must be changed regardless.

Noah Koretz thinks the roof issue is more of an Site Plan Review (SPR) than a DRB issue. This Board would have this issue with any undifferentiated parking lot due to the massive amount of space.

Chair Anderson comments that he is not comfortable reviewing the draft decision and voting before getting feedback on the plans for roof. There is no equipment proposed for garage roof; it is all on the hotel and residential roof. Helen Sides asks if the Applicant considered any non-accessible use; from their perspective, they wanted to add value, so only considered an amenitized space; a non accessible green roof would not add value to the project. If an amenitized space, they could increase rents, as it would be a main attraction. The Applicant will review the financials again to see which options are possibilities. Chair Anderson states that it would make hotel rooms and residential units more pleasurable to be in. Sustainability is also something that can be played up. Helen Sides says it can be seen as a landscape, a combination of planting and hardscape with pervious surfaces. Water collection is a possibility; that would make it interesting to look at with an environmental function. Noah Koretz says that there is value, especially for units on the inner side of corridor; if showing to prospective tenants on a July day, a bare garage roof will not be a selling point, and would show a lack of attention to detail.

Opening the space to hotel guests but not residents is not feasible, as this would be a conflict of interest with residents having to put up with hotel guests who are only there temporarily. The Applicant also considered separating the roof into two spaces, but this is an egress issue, as they would need to change the entire configuration to accommodate two separate exits. Noah Koretz opines that the real value added in any design is to the apartments, not the hotel, because residents live there year round. Chair Anderson agrees. Noah Koretz suggests they examine other public art in the area to explore that opportunity.

Attorney Alexander notes they will explore more options for the roof but wants to be sure that that is the only unresolved issue so they can plan on the work starting in July. The Applicant will be seeking a decision at the next meeting. The Chair states that this is the only outstanding issue, but that final Plans must be seen before the next meeting. Other Board members agree.

Chair Anderson notes that in the past, Applicants have not had enough time to address all issues appropriately, but if they feel they can be ready by the meeting on May 3rd, he is fine with that, but would also be willing to continue this item to 17th if the Applicant has a better chance of submitting a complete project with more time. Mr. McClure wants to touch base on the 3rd to get a sense as to whether or not the Board approves of the work so far, even if they are not completely ready to seek a decision. The Board would need materials at least a few days before the meeting to review. Noah Koretz also wants to see real progress, and feels it would take more than two weeks to do this.

It is decided the applicant will appear before the Board on the 3rd to discuss progress, and the Board will vote on the decision on the 17th. Thus the Applicant will submit materials on May 3rd for update, then will submit revisions more in advance of the meeting on the 17th.

Matt Veno comments that he likes the project, but could love it with a thoughtful contribution to this space. Attorney Alexander asks which members will still be eligible to vote at the May 17th meeting. Noah Koretz and Dale Yale will not be present on May 3rd but can listen to the recording and vote. Bill Grisct will not be at the meeting on the 17th.

A motion to continue to the May 3rd, 2018 meeting, is made by Helen Sides, seconded by Matt Veno, and passes 8-0.

- B. Location:** 132-134 Canal Street, 142 R. Canal Street, and 144 Canal Street (Map 33, Lots 5, 6, and 8)
- Applicant:** CANAL STREET WAREHOUSE LLC, CANAL STREET REALTY DEVELOPMENT LLC and CANAL FURNITURE LLC
- Description:** *The applicant requested a continuance to the regularly scheduled meeting on THURSDAY, May 3, 2018* of a continuation of a public hearing for all persons interested in the application of Canal Street Warehouse LLC, Canal Street Realty Development LLC, and Canal Furniture LLC for the properties located at 132-134 Canal Street, 142 R. Canal Street, and 144 Canal Street (Map 33, Lots 5, 6, and 8) in accordance with the following sections of the Salem Zoning Ordinance: Section 7.3 for a Planned Unit Development, Section 9.5 for a Site Plan Review, Section 8.1 for a Flood Hazard Overlay District Special Permit, and Section 6.7 for a Drive-Through Special Permit, and a Stormwater Management Permit in accordance with Salem Code of Ordinances Chapter 37. Specifically, the applicant proposes the redevelopment the site by razing the buildings at 132-134 and 144 Canal Street and constructing three (3) new buildings with associated driveways, parking spaces, landscaping, utilities, and drainage systems for stormwater runoff. Construction of a new three-story, mixed-use building with approximately 7,000 square feet of retail on the first floor and 20 residential units on the upper floors is proposed at the north side of the site. Construction of a three-story building with 30 residential units and parking below; and a 2,500 square foot retail building with a drive-through is proposed at the south side of the site. The existing buildings located at 138-142 Canal Street will remain with some site improvements.

A motion to continue to the May 3rd, 2018 meeting, is made by DJ Napolitano, seconded by Noah Koretz, and passes 8-0.

- C. Location:** 16, 18 and 20R Franklin Street (Map 26, Lots 400, 401 and 402)
- Applicant:** JUNIPER POINT INVESTMENT CO LLC
- Description:** **The applicant requested a continuance to the regularly scheduled meeting on THURSDAY, May 3, 2018* of a continuation of a public hearing for all persons interested in the application for a Site Plan Review, Flood Hazard Overlay District Special Permit, and Special Permits associated with the North River Canal Corridor Neighborhood Mixed Use District in accordance with the following sections of the Salem Zoning Ordinance: Section 9.5 Site Plan Review; Section 8.1 Flood Hazard Overlay District; Section 8.4 North River Canal Corridor Neighborhood Mixed Use District; and a Stormwater Management Permit in accordance with Salem Code of Ordinances Chapter 37. Specifically, the applicant proposes to replace the existing junk yard with a residential development consisting of forty-three (43) units in five (5) buildings with parking under each building, in addition to an independent garage and some surface parking resulting in 69 parking spaces. The project also includes landscaping throughout, and public access along the riverfront with walking paths.

Noah Koretz asks for an update on this project. It is on the agenda for the DRB next week. The Applicant only had architectural plans ready; civil plans are still under development. Ashley Green was

assured they will be ready on May 3rd after receiving DRB input. There is no time limit, but their concern was running out of voting Planning Board members. Noah Koretz and Dale Yale will be out on May 3rd, but as of now Noah Koretz has not missed any meetings on this item. DJ Napolitano, Bill Griset, and Matt Veno are ineligible to vote.

A motion to continue to the May 3rd, 2018 meeting, is made by Noah Koretz, seconded by Dale Yale, and passes 8-0.

III. OLD/NEW BUSINESS

- A. Location:** 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)

Applicant: JUNIPER POINT 9 SOUTH MASON STREET LLC

Description: *The applicant requested a continuance to the regularly scheduled meeting on THURSDAY, May 3, 2018 of a report to the Planning Board regarding Design Review Board recommendation, and changes to the architectural plan.*

A motion to continue to the May 3rd, 2018 meeting, is made by DJ Napolitano, seconded by Noah Koretz, and passes 8-0.

- B. Deliberate and vote on recommendation to City Council on two (2) separate proposed Zoning Amendments listed below:**

1. To amend the City's Zoning Ordinance Section 8.4.9. Parking Requirements by deleting 4(a) in its entirety and replacing it with: "One and a half (1.5) parking spaces per dwelling unit."
2. To amend the City's Zoning Ordinance Section 3.2.5. Swimming Pools to correct Scrivener's errors from the 2009 recodification of the Salem Zoning Ordinance by inserting a new paragraph at the end of this section as follows: "2. Pools shall be surrounded on all sides by a permanent wall or fence at least four (4) feet high and located no further than twenty-five (25) feet from any side of the pool. Fences shall be constructed of pickets, stockade or chain-link type material. Rail fences shall not be permitted. The fence shall have only one (1) opening, three (3) feet maximum in width, with a locking and closing device so as to keep the gate shut at all times."

1. Change parking requirements for NRCC district from two to 1.5 spaces per dwelling unit

DJ Napolitano feels that this change would pose a burden, but he was not a Planning Board member when the discussion regarding this issue occurred. Carole Hamilton notes that this is an amendment the Planning Board specifically pushed for because of difficulties with Site Plan Review (SPR) on buildings in that area. It is close to the train station and does not warrant that kind of space. It is the largest parking requirement of anywhere in the city, yet is right in the heart of the City.

Noah Koretz observes that data from the City on existing developments in that Zone indicate that they do not even see usage even at the level of 1.5 spaces per dwelling unit in their current use, so the Ordinance is forcing developers to build more parking when they could be adding other site amenities instead. Good planning practice is to push for Transit Oriented Development (TOD), yet more parking is required in the NRCC than in any other downtown parking site. The Board wants to avoid having seas of parking, and allow Applicants to avoid being required to seek variances from the Zoning Board of Appeals (ZBA). All sites that this Board is aware of are self contained, fully parked on the site, and not using public parking, which Noah Koretz feels is something they should be doing. He feels that lowering the requirement to 1.5 is

still a compromise and that it could be lowered further. It would be better to have multi-purpose parking; for example, the T garage is almost empty at 5:30 or 6PM, so could be used for residential parking at night. He concedes that this is not a political reality but reducing the required spaces is a step in the right direction.

Matt Venio says that the approval of the NRCC district was something he voted on in City Council as a member years ago, and he remembers the process and its politics. Councilors were doing their best and considering what “might be needed” in a brand new zone. The Planning Board, now having the benefit of over a decade of actual development under these rules, and having data on the usage of parking in projects it has approved, is simply acknowledging that learning and is making well informed and judicious changes to the zoning to accommodate that knowledge. As previous ward councilor, he would not have supported less parking, however being on this Board gives a different perspective and he thinks 1.5 spaces per dwelling unit will work. Chair Anderson notes that this is a City, an urban environment; we must think far enough ahead to attract transit oriented residents and businesses, so managing development must be considered. This is a progressive step, if a small one, forward.

Noah Koretz agrees, adding that Salem is a city in a regional housing crisis, and is out of space. Developments must be more dense in order for people to continue to be able to afford to live here as they get priced out of Boston. This affects our market.

Matt Venio opines that these are all zero sum game projects in that more parking means less green space and fewer amenities, so requirements must be considered along with other project goals. Chair is concerned that those opposed are not really considering the environment that they are in. They think they are in a rural environment but they are not, and this is a difficult change for some. Helen Sides notes that when improvements were made and downtown got busier, merchants on Front St. complained that when meters were installed, that they could no longer park in front of their own shops (as if that was desirable). This is no longer “just a quiet town.” You cannot drive and park anywhere as there are businesses everywhere now.

Noah Koretz notes that the Board is in “repair mode,” fixing an erroneous decision made when “cars were king.” Every vibrant downtown has a “parking problem” because people want to be there. There are many ways that this Board controls development in this City, but using the overbuilding of parking as a way to control development is fundamentally harmful; there are better ways. Those engaging in political conversations make the argument that “buildings will get bigger if we have less parking,” but the converse of that is to have small buildings dominated by parking otherwise. Chair Anderson cites Hartford CT, a sea of parking with small footprint buildings. Noah Koretz states that he sympathizes with concerns but advocates smart growth.

Noah Koretz opines that based on various comments, he is not convinced that this will pass, so in that case, the inclusion of an explanation from the Board to City Council is important. Matt Venio notes that the deliberation the Board just had is good, so the Council should be presented with these minutes.

Chair Anderson notes that the Board has voted to approve a proposal with less parking than what was required, but then the Applicant must go before the Zoning Board of Appeals. If the Ordinance is changed, they will need to go before the ZBA if they are seeking to include fewer than 1.5 spaces per dwelling unit, not fewer than 2 as they have in the past.

Noah Koretz feels that an explanation will help the City Council make a decision in favor of this change. Ashley Green will summarize the discussion and run it by Chair Anderson, then a letter from him will be sent to the Council highlighting important issues. A copy of these minutes will also be attached for reference.

A motion to recommend that the language be changed is made by Helen Sides, seconded by Matt Veno, and passes 8-0.

2. Swimming Pool fencing requirements

There is some question as to whether this is correcting a scrivener's error from 2009 or if there was another change in between. The timing is unclear.

One comment brought up the question if one opening was enough; the Chair thinks it is not. The building inspector indicated he would be comfortable approving one fence around the entire yard, even if it did not meet the 25 foot requirement. The language needs clarification. Bill Griset notes that this is not guidance, and that an ordinance is a requirement.

It is noted that swimming pool and fencing requirements are laid out in the code used at the state level, the Building Officials Code Administrators International (BOCA) code. Bill Griset notes that that code has many details, so there is no need to redevelop Salem's code. There is some question as to whether Salem's mirrors that code. Bill Griset cites a section of the BOCA National Building Code from May 1, 1999, section 421.10.1, "Barriers and Fencing." Noah Koretz notes that these are developed industry standards providing greater detail and safety than what is proposed.

Chair Anderson notes that administratively, the Board must vote yes or no on the language before them, but he senses that members are not comfortable with it so recommends a no vote with recommendations for further changes. However, if the language is not changed, this still presents an opportunity for homeowners building pools to challenge the Building Inspector/Zoning Enforcement Officer since there is currently no language at all in the Zoning Ordinance. The missing language was accidentally omitted during the recodification. All construction must comply with building code regardless of zoning, but those are not in sync and they should be. Chair Anderson notes that if the Board votes no and the City Council does too, there would be no guidance in the Zoning Ordinance but pools and fencing would still have to meet Building code.

Additional discussion of what State Code vs. Salem's Ordinance says occurs. It is unclear whether the City's matches the Building Code. Chair Anderson cites section 3.2.5, "Swimming Pools." Bill Griset notes that the State code adopts the International Pool and Spa Code, and that the section above states that pools must conform to those, but there is no mention of fencing.

It is noted that the conversation in the Council meeting as well as the language itself are confusing. Is it more desirable to have this confusing language vs. no language at all for a period of time? It is again noted that the City Council will vote on the language as it is, regardless of Planning Board input, but that commentary and explanations can be provided. The Board can note that this is an urgent matter that it is recommending being approved due to the need to have some language, not because it is appropriate and complete.

Ultimately whether the Board votes no or yes, with guidance, does not really matter.

A motion to recommend that the City Council so amend item 2 re swimming pool fences is made by Noah Koretz, seconded by DJ Napolitano, and fails to carry in a roll call vote with Ben Anderson, Dale Yale, Helen Sides, Noah Koretz, DJ Napolitano, and Carole Hamilton, and Matt Veno opposed (8 opposed, 0 in favor).

Noah Koretz notes that since the ordinance references building code, instead of matching the building code, if it needs to go above and beyond that, is acceptable but the Council must understand why and what the language should be.

DJ Napolitano requests an Osborne Hill update. Several complaints from the residents have been addressed. Stantec is on board to return as Clerk of the Works, and there will be a meeting next week to walk the site with the Clerk and Mr. DiBiase to review outstanding items. Mr. DiBiase is very anxious and has been reaching out, but Stantec has not had time to review the scope of work yet.

Noah Koretz asks how an ad hoc committee in City Council works. One can be created at any time by any City Councilor, for further study of any item. Timing of the ad hoc committee meetings and participation of Board members is discussed; Planning Board members are not required to go to meetings to which they have been invited, and do not need to accept the invitations if they feel they do not have enough information. The process at the City Council meeting was convoluted, confusing and not well organized. If Planning Board members do attend the ad hoc committee, no more than four of them can go due to quorum/open meeting issues.

The meeting on the 30th is joint Planning Board/City Council meeting, and this Board must have a quorum of five as it is a public hearing. City Council must have a quorum as well. Noah Koretz notes that it should also be made clear that this is the public hearing. Such meetings should be the end point of discussion, not the starting point.

IV. APPROVAL OF MINUTES

A. Regular Planning Board Meeting held on April 5, 2018

B. Special Joint Planning Board and City Council Meeting held on April 9, 2018

This item is tabled until the May 3rd, 2018 meeting as minutes are not yet available.

V. ADJOURNMENT

A motion to adjourn is made by Noah Koretz, seconded by Helen Sides, and passes 8-0.

The meeting ends at 8:42PM.

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-2018-decisions>

Respectfully submitted,
Stacy Kilb, Recording Clerk

Approved by the Planning Board on 05/03/2018

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