

**City of Salem Planning Board
Meeting Minutes July 11, 2019**

A public hearing of the Salem Planning Board was held on Thursday, July 11, 2019 at 7:00 p.m. at City Hall Annex, 98 Washington St., Large Public Hearing Room, First Floor, Salem, Massachusetts.

Chair Ben Anderson calls the meeting to order at 7:00pm.

I. ROLL CALL

Those present were: Chair Ben Anderson, Carole Hamilton, Kirt Rieder, Bill Griset, Noah Koretz

Absent: Matt Smith, DJ Napolitano, Helen Sides, Matt Veno

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

II. REGULAR AGENDA

A. Location: 9-11 Franklin Street (Map 26, Lot 375)

Applicant: Gerren LLC

Description: An application of Gerren LLC for the property located at 9-11 Franklin Street (Map 26, Lot 375) for a Site Plan Review and Flood Hazard Overlay District Special Permit in accordance with the Salem Zoning Ordinance section 9.5 Site Plan Review and section 8.1 Flood Hazard Overlay District. Specifically, the applicant proposes the reconstruction and enlargement of a commercial building destroyed by fire in 2017. The other existing light industrial/commercial building on the site will remain and access to the proposed building is provided through the existing curb cuts and parking area. Additional parking will be provided adjacent to the new building. A stormwater management system will be installed as well as new utility services to the proposed building.

Present for the Applicant is Attorney **Bill Quinn**.

Six members of the Commission would be needed to vote on this item; lacking a quorum, the matter is continued.

A motion to continue to the July 25, 2019 meeting is made by Bill Griset, seconded by Carole Hamilton and passes 5-0.

B. Location: 129 Lafayette Street, 20 Harbor Street, 135 Lafayette Street (Map 34, Lot 307)

Applicant: Harbor Point Properties LLC

Description: An application of Harbor Point Properties LLC for the property located at 129 Lafayette Street, 20 Harbor Street, 135 Lafayette Street (Map 34, Lot 307) for an amendment to a Planned Unit Development Special Permit and Site Plan Review decision in accordance with the Salem Zoning Ordinance section 7.3 Planned Unit Development and section 9.5 Site Plan Review. Specifically, the applicant proposes to amend the September 17, 2010 decision to allow 9 additional dwelling units bringing the new total to 85 dwelling units. The former St. Joseph's rectory building would increase from 8 units to 13 units and the former school

building would increase from 17 to 21 units. There are no changes to the exterior of the buildings, except for handicap ramps added to the rectory building and the school building. There are no changes to the parking plan and all units will have at least one parking space as required by zoning.

Present for the Applicant is Attorney Joseph Correnti, 63 Federal St.

Six members of the Commission would be needed to vote on this item; lacking a quorum, the matter is continued.

A motion to continue to the July 25, 2019 meeting is made by Carole Hamilton, seconded by Bill Grisct, and the matter carries.

II. OLD/NEW BUSINESS

A. Staff report back on Planning Board request to City Solicitor regarding Footprint Powerplant special permit authority

Mason Wells reviews comments made by Beth Rennard, City Solicitor. Attorney Buckley from Iberdrola, the company originally contracted to do the work in question, is present.

Footprint required an approval of project change from the Energy Facilities Siting Board (EFSB) because the City Engineer did not have the authority to alter the drainage of the approved plan. Iberdrola was to relocate the drain. The EFSB has issued a certificate allowing construction, but the Planning Board retains enforcement authority. The EFSB felt that no filing of project changes were necessary in order to leave the old drain in place. The Planning Board should not take any action re location of the drain.

Chair Anderson asks for a recap.

The project underwent Site Plan Review and Special Permit review, then was superseded by the EFSB. That State Board, declared the project under their jurisdiction, and took from the Planning Board. However, at that point all Project materials were submitted to the EFSB, who determined project changes and plans. Subsequent project changes including to the drain were submitted by Footprint and approved by the EFSB.

The question is whether the Planning Board and the City would have had a say, previously. If the EFSB had not allowed the change or had an issue, then there would be an issue before the PB. Chair Anderson thought that if PB had an opportunity to send a letter of objection to the EFSB, they could take it under consideration, but this had to happen before the EFSB ruled, so now it is too late.

Kirt Rieder notes that the Applicant came in, discussed the issues, and the Planning Board voiced its discontent with the approval by the EFSB, but was never asked to vote or weigh in. The Applicant did try to respond. Bill Grisct notes that the letter suggests that the Planning Board had and still has no say, once the EFSB took jurisdiction. Any letter sent from the Planning Board would have been advisory.

Kirt Rieder comments that the Board spent months working to approve the project; if the EFSB had stepped in earlier, could the process have been truncated? This is uncertain. He wonders about the process; if the Planning Board rules, can the EFSB then contest it? How does the EFSB get involved?

There was an appeal of the PB decision that brought Footprint to the EFSB. Bill Griset says it would have been helpful to have someone come and walk PB through the process of EFSB vs. Planning Board, though it may be too late.

Kirt Rieder reiterates his concerns about infrastructure. He is also concerned about all the time and effort spent trying to help shape and confirm establishment of public open space, which EFSB does not care about. There were changes (not necessarily worse) to the open space that came before EFSB but not Planning.

Bill Griset comments that while Footprint has been a good neighbor so far, the Planning Board should understand its role if the Applicant makes further changes.

Attorney Buckley comments that there is confusion because the EFSB does not truncate the local permitting authority. The second letter states that the PB retains jurisdiction to enforce its permits, and in the original Special Permit for the 48" line, this was a significant issue. The requirement was to relocate the line: "Applicant shall relocate that line, area TBD w/City Engineer." The Engineer said not to relocate, so Footprint should have come before the PB again, but submitted to EFSB a landscaping plan and other minor changes including a fence and material to be placed on top of the existing line. The EFSB approved, but does not consider whether the underlying permit was viable or not.

Attorney Joseph Correnti of 63 Federal St. represents Footprint Power. He notes that Iberdrola was terminated from the job over a year ago. He comments that Footprint went to EFSB regarding this issue, and feels that the PB retains jurisdiction over its decisions, however cannot trump the EFSB's decisions. The City Solicitor explained clearly, that this Board could claim jurisdiction over a condition that the EFSB took out. No notice of project change regarding the relocation of line was required,

Councilor Furey notes that this is Salem's opportunity to get a new pipe and cites the Board's efforts expended on the matter. Chair Anderson will follow up. Carole Hamilton would like to know if it is a relocation or replacement, and clarification is needed.

Kirt Rieder comments that the City Engineer made a determination at the Department level but did not come back to this Board, so he wonders, as a volunteer, whether it is wrong to spend time on such a lengthy process only to have changes executed with no public deliberation. It is a question of enforcement and action with no transparency. Clarification is needed.

B. Receive and File: Notice of Revised Environmental Notification Form for Amite Fiber Optic Submarine Cable System

No action needed.

III. APPROVAL OF MINUTES

A. Regular Planning Board meeting minutes for June 6, 2019.

Not complete, no vote taken at this time.

B. Regular Planning Board meeting minutes for June 20, 2019.

A motion to approve the Regular Planning Board meeting minutes for June 20, 2019, with minor corrections, is made by Kirt Rieder, seconded by Bill Grisct, and the motion carries.

Noah Koretz feels that the Planning Board should get notice of the title owners and developers involved in the development of the property in advance, to avoid any conflicts of interest. This should happen earlier in the process. Mason Wells will look into this.

III. ADJOURNMENT

A motion to adjourn was made by Noah Koretz, seconded by Carole Hamilton, and the motion carries.

The meeting ends at 7:30p.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 07/25/2019

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