

**City of Salem Planning Board
Meeting Minutes June 20, 2019**

A public hearing of the Salem Planning Board was held on Thursday, June 20, 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 7:04pm.

I. ROLL CALL

Those present were: Chair Ben Anderson, Matt Venio, Helen Sides, Carole Hamilton, Kirt Rieder, Matt Smith, Bill Grisette, DJ Napolitano

Absent: Matt Smith, Noah Koretz

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

II. REGULAR AGENDA

No Items

III. OLD/NEW BUSINESS

A. Amendment to the Salem Zoning Ordinance

Deliberate and vote on a recommendation to the City Council for an amendment to the Salem Zoning Ordinance that adds “Municipal and Religious Reuse” as a use permitted in RC, R1, R2, R3 and I zoning districts upon the issuance of a special permit by the Planning Board. The amendment provides, among other things, eligibility, dimensional requirements, Site Plan Review, Historical Commission and Design Review Board advisory comments, and parking and loading requirements.

A joint meeting was held on Monday with the City Council; some Planning Board members were present.

P. 1: Use of “currently” was debated; whether it was supposed to reference the current time or date we are in, and whether or not it was appropriate. “Currently” will be removed.

Suggestions on affordability language were included in the public discussion, but the Planning Board decides that its inclusion would not be appropriate for this section, as inclusionary zoning will be in a future amendment.

It is noted that some members of the public wanted more than one parking space per dwelling unit, however raising the requirement for parking spaces is not feasible. Many of the buildings in question were constructed before any ordinances were in effect, in neighborhoods, so meant to be accessed by pedestrians. Additional parking requirements would make some projects undevelopable.

P.1 Table of principal and accessory uses

	RC	R1	R2	R3	B1	B2	B4	B5	I	BPD	NRCC
Municipal or religious reuse	PB	PB	PB	PB	N	N	N	N	PB	N	N

It is unknown if there are structures within the excluded zones (NRCC), but the list was made for the City Council and can be requested.

Several changes from the previous version are in section 6.11.2. The previous version discussed large additions and separate structures; this version is specific to the historic structure itself.

It is unknown if any buildings are less than 4,000 square feet, but most buildings under that size would be single family residential, and limited to 6 units. The special permit applies only to the building and not to the lot.

Matt Veno comments that, in section 6.11.3 item 3, “in” should be deleted.

There is some discussion about “extensions and alterations... may not be detrimental...” This language is not referring to an additional structure, but rather mobility devices without which the building would be otherwise inaccessible. One example would be the City Hall elevator on the rear of the building. As a matter of course, such extensions and alterations are excluded because they must happen to allow health, safety, access and code compliance concerns to be addressed. It is debated whether or not, in that case, the language is even necessary. However, ADA access can take many forms, and if something particularly abhorrent is proposed, this language gives the Planning Board leeway to reject it.

6.11.5: Uses allowed by special permit: The Industrial district was stricken from the previous version. Onsite dry cleaning is still excluded.

P. 4 6.11.7 The process for Design Review Board and Historical Commission review has been clarified. Both of those Boards are to give the Planning Board a recommendation, using the standards set by the Secretary of the Interior for the treatment of historic properties and a baseline. The review could be done in a joint meeting of the DRB and Historical Commission.

“At the time of, or before filing” is ambiguous and should read “No later than at the time of an application...” (comma should be relocated).

P. 5 There is lengthy discussion on the language which states “such properties will not be eligible for residential parking permits to fulfill this requirement.” However, all this means is that, like any other development, projects here seeking special permits would not be allowed to include street parking as part of the spaces needed to meet the requirement. This could be clarified by striking that sentence and adding instead: “One parking space per dwelling unit is required; on-street parking shall not count toward this requirement.”

A motion to send these recommendations to the City Council is made by Carole Hamilton, seconded by Helen Sides, and the motion carries in a roll call vote with Ben Anderson, DJ Napolitano, Matt Veno, Helen Sides, Carole Hamilton, Bill Grist and Kirt Rieder in favor; Matt Smith and Noah Koretz are absent.

B. Update to Subdivision Regulations

Stantec has completed a draft of the updated Subdivision Regulations for review by the Board. The current regulations were adopted in 1962 and last updated in 1987. The proposed comprehensive update aligns the regulations with the City’s commitment to sustainability, climate resiliency, and safer streets.

Nels Nelson of Somerville, MA from Stantec presents. This is a complete replacement of the current regulations, prepared with input from City staff, and there are significant changes and additions. Newburyport's regulations served as a model, and also Framingham had some interesting concepts to consider. Salem regulations were explored for other concepts to keep.

No vote will be taken tonight, but the Board must determine if they will vote in July. Formal comments from staff and the Board will be obtained before then, so changes can be made. This does not need to go before City Council.

Changes highlighted:

- Idea of technical review team (TRT): This would include representatives from relevant departments that would meet to provide guidance to applicants. The TRT would be made up of those listed in section 2 p. 9
- Chair Anderson asks if this is technical upfront review before the Applicant comes before the Planning Board (PB)? It is, and all those listed will provide input before applicant comes to a Planning Board meeting. Minutes or recommendations will be in the packets. Carole Hamilton asks how this is different from a One Stop meeting. The TRT does not yet exist and the one stop meeting is more informal. A one stop meeting is not a requirement but is strongly recommended; this would make it a requirement for subdivisions. Planning Staff is vetting this.
- Kirt Rieder comments:
 - Page numbers are listed in the Table of Contents, but not throughout
 - 6.5 Topography: The PB voted to require 1' contours for all plans submitted; please do not backslide to 2' and 5' intervals
- Reduced review for very small subdivisions (3 or fewer) – It was suggested that it be increased to 4 or fewer units. At 4 or lower, the burden of having to do Environmental Notification Forms and Community Impact are too much for so few units. If section 6.4 (4 or fewer lots) is left as is, then 6.6 and 7.8 (should be 7.6) do not apply.
- The desirability of including language differentiating between minor and major subdivisions is a topic of debate. Provision of more extensive and inclusive subdivision plans can be cost prohibitive for a small subdivision. Framingham counts 19 or fewer units as a minor subdivision, 20+ as major; nonresidential components are also reviewed as major. Minor subdivision projects must provide an impact statement, while major subdivisions provide an expanded impact statement. Different forms for different tiers of applications are under development and can be tailored if the PB approves

Kirt Rieder comments:

- Reiterates that contour lines need to be set at a default of 1' so that Applicants have sufficient data to answer basic questions, especially if the site is particularly flat
- 8.8.2 Shared streets and dimensions references an "amenity zone chart," but amenity zones are not defined in the document. These are the planting zones, and a sheet of definitions is on top of the following page. Typically this would be measured from the face of curb. The curb is in the amenity zone.
- The federal maximum for cross slopes is 2% for ADA; he feels 1.5% is better but may be overly limiting for situations where 1.95% may be all that is possible. One option may be to aim for 1.5% as the preferred standard, with a maximum of 2%.
- Please check that 3/8" for travel ways is in sync with what the City Engineer has
- Subdivisions of less than 4 units are few and far between, so setting up a special tier for them should be discussed further. Additional discussion ensues

- For these, section 7.6 would not be required
- Allowing such small subdivisions to skirt the process may be detrimental
 - Some are worth scrutinizing because they are shoehorned into spaces in an old city
 - The PB helps provide a way forward on topics developers may not consider
 - As time goes by and less property is available, there may be more smaller subdivisions
- Chair Anderson is not comfortable with the exemption from 7.6, but feels there may be a less cumbersome way to address the issue
- Mr. Nelson asks what is lacking; the Board feels that:
 - Any adverse impacts to the community should be provided
 - Aesthetics and a cost benefit analysis should be provided
- Kirt Rieder asks if sewage disposal impact on groundwater has ever been discussed; the Chair notes that this is a civil engineer issue. Kirt Rieder comments that it is only an issue if there are septic fields, and does not mean it should be struck.
- It is agreed that this is a lot to ask a small developer to do, but the Board is concerned about the impacts to neighbors. Questions are asked provide the Board the information with which to evaluate the project, otherwise they may not understand its full impact. The Board looks to Mr. Nelson to make a recommendation as to what a less robust section would be.
- Would this be provided in a Narrative format to the Board along with the Application? This is not yet known. Carole Hamilton comments on the difficulty of getting applicants to submit full plans
- Staff/Department feedback will be obtained and shared at the next meeting
- Kirt Rieder comments that in 7.7 stockpiles are discussed, but height is not mentioned. If stockpiled for reuse, piles have a height limit so they do not become compacted. Trader's way has a 30+' high stockpile of soil; the industry standard is 10'
- Chair Anderson:
 - 1.2 Purpose: "Lot access..." Does NOT mention pedestrian safety. Sidewalks etc. are discussed at length, and should be added in
 - The Board feels that one succinct statement regarding resiliency and sustainability should be added
 - There is some question about section 3.2, which states that there may not be more than one building on the lot, and whether there is a conflict with the Accessory Dwelling Unit Ordinance. The number of buildings on lots is a zoning issue, and this will be confirmed with the Legal Department.
 - 4.5 Board Action for Approval not Required: Timing is discussed; according to Mass General Law, the Board must do this within 21 days. The ANR must be presented to the Board and approved 21 days after its receipt
 - 7.1.1 Minor Subdivision Application Package, Section 6, Design Standards: References are confusing. Section 6 did not seem to be design; these appeared to be in Section 8. This should be clarified
 - 7.1.2 Major Subdivision Application Packages, Section C, Stormwater Impact and EIS statement. The Chair suggests adding the note for sustainability and resiliency here
 - 7.3 Form of Plans item 4: Specify 1' contours
 - 7.6 Environmental and Community Impact Analysis D. This may be a more appropriate placement of park space creation and aesthetics
 - Requirements for whether or not community and/or open spaces should be in place are discussed. They must be objectively calculable if they are to be required.
 - 8.6 Open Space... may be used for stormwater management. This combines three concepts. Kirt Rieder argues that if used for stormwater management, an area may be wet the entire year, thus cannot be used for public open space. Both have value, so a developer could use the perimeter in calculations, but a detention pond does not qualify as open space. I.e., "unusable space may be considered open space" is very unclear, and not good

- Chair Ben Anderson concurs that “leftover land” – undevelopable parcels used as open space, or residual space - not provide meaningful open space, so this must be clarified
- Mr. Nelson agrees that the concept of the provision useful open space as a metric connected to size or number of units should be further explored. Kirt Rieder agrees, noting that the concept of “Beneficial Public Open Space” may be more desirable phrasing
- Chair Anderson notes sidewalk widths, details, tree grates, and trees in sidewalks have been discussed; and asks if a standard detail would make sense. This would typically fall under Public Works. The City has 6 details depending. Solutions will never be “one size fits all”. Tree planting specifications have been provided in the complete street section. The Applicant is compelled by the ADA to ensure that sidewalks are accessible
 - It is possible to reference the Tree Commission, not yet active but who will be fleshing out dimensions, species, etc.
 - Figures for tree pits and sidewalks, for which the section in the appendix is blank, will be sent in a separate file, having previously been sent in a memo
 - The Board preferred flex paving, but the tree pit is 4’x8’ for a subdivision
- 8.9 Reservation of Land for Public Purposes: This contradicts what was discussed above. At issue is whether or not the City must compensate the developer for such lands, and also at what size subdivision it makes sense to require a Developer to set aside land for such purposes. There is a difference between the developer “giving” the City amenity zones and public right of ways vs. “donating” parkland
 - The “requirement” is the issue; if the developer chooses to provide an open space amenity, they can. 8.9 also refers to public ways, says Mr. Nelson. It does not distinguish between a public way, public park or playground. The City doesn’t compensate for public ways, so why would it for a park? More research is needed
 - Kirt Rieder believes the City should not be compensating developers because it negotiated granting approval contingent upon the Developer providing certain things. Other community policies will be explored.
- Issues of requiring maintenance and upkeep are also at play.

Timing is discussed. Changes should be finalized in the next month or so; the Board would like Staff comments before conducting a thorough review at its next meeting; these will be provided by July 11.

C. Planning Board Guide for Applicants
Review draft Applicant Guide developed based on input from members of the Board.

A rough draft moving toward a vision statement for Applicants to point them in the right direction is being formulated. The section on additional considerations especially needs work. Board members can email or call Mason Wells with feedback.

D. Staff Updates

Staff updates on outstanding questions from the Board regarding Footprint Powerplant, 9 South Mason Street, and 289 Derby Street.

Footprint Power: Submitted additional drawings and renderings for review, including a landscaping plan and details for the gabion wall. The Board requested additional information but chair and staff Planner determined they did not need to come back as long as follow up was provided. If the Board had major concerns would pass along to Mason Wells, who would pass them to Footprint. The anti-climb fabric/barrier is a security mesh. Removal of fencing is discussed; this is not possible in the short term. Notes will be forwarded to the Board. The Applicant also did not commit to repair. Mason Wells will obtain an anticipated date of completion. Some paths will be open by the

end of summer. Kirt Rieder comments that if the Applicant is not planting in June, they should wait until late Sept./early Oct.

The Chair consents to allow some public comment, though this is not a hearing.

Tom Furey, Councilor at Large, is still concerned about the 50 year old pipe, which was originally slated for replacement but has now been approved by the City Public Works and other Departments for repair, instead. It is noted that this is out of the Planning Board's hands. The process is described. The Planning Board had to approve the original Site Plan, which they did, but then the Applicant appealed to the Energy Facilities Siting Board (EFSB) and was granted that appeal. Thus authority was taken from the Planning Board on many different topics. The Board can draft a letter to the EFSB if it feels a matter warrants such action; however the EFSB could either take the letter to Footprint, or put it in the circular file. Footprint has been proactively coming to the Board to inform it of changes, but the Planning Board's input is now advisory only to the EFSB.

Wayne Sheriden of Marblehead representing Iberdrola, the original Engineering, Procurement and Construction (EPC) contractor for the project (terminated in April 2018) that built the part of the berm coming up to the drain line. They would not build over the drain line. The Special Permit and Order of Conditions issued both stated that the 48" drain line is being mostly relocated and replaced, and the Pipe belongs to the City, not Footprint. Mr. Sheridan notes that the EFSB does what it does, but if the drain line will stay where it's at, then one or both Boards needs to indicate that there is an amendment to the Order of Conditions or Special Permit; the EFSB does not have authority to do that. DJ Napolitano notes that if the Order or Special permit is not amended, they are responsible to relocate 750' of the 900' drainline. 100' near Fort St. and 75' to the harbor would remain intact. The rest of it is not supposed to be under the berm, and should be relocated. All changes are those that are being made because the Applicant is not doing what they committed to the Planning Board to do, which was to relocate the drain and replace it with a new one, to the specifications of the City Engineer.

DJ Napolitano asks if the PB has enforcement oversight. If it was agreed to in original permit, the Board should hold them to fix it; if not the case, why not, why did all City personnel agree with the changes? More feedback is needed at next meeting. Kirt Rieder notes that the question is if this Board amended our approval or simply heard about how it would change. Changes were presented as a courtesy because the Planning Board believed it no longer made decisions, but now there are questions as to whether or not this is correct. The cost of replacement when the pipe is the City Council's even though Footprint/EFSB made the decision. The City Solicitor's opinion will be obtained.

9 South Mason St. The issue was brought to the DRB, who requested that the Applicant to remove the light or bring the matter back to the DRB, who will meet next week.

Goodhue St. wall is still being treated.

289 Derby St. Park: This will require DRB review once changes are made to the property. The adjacent lot was split off in an ANR and will be reviewed.

IV. APPROVAL OF MINUTES

A. Regular Planning Board meeting minutes for May 16, 2019.

A motion to approve the minutes, with minor corrections, is made by DJ Napolitano, seconded by Helen Sides, and the motion carries.

V. ADJOURNMENT

A motion to adjourn is made by DJ Napolitano, seconded by Bill Griset, and the motion carries.

The meeting ends at 8:47 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 07/11/2019

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