



# CITY OF SALEM PLANNING BOARD

Chair Bill Griset calls the meeting to order at 6:30pm.

A public hearing of the Salem Planning Board was held on Thursday, April 1, 2021 at 6:30 p.m. via Remote Access. Public participation was possible via zoom video and conference call.

## I. ROLL CALL

*Those present were:* Chair Bill Griset, Vice Chair Kirt Rieder, Carole Hamilton, Helen Sides, Tom Furey, Noah Koretz, Todd Waller, DJ Napolitano, Sarah Tarbet (9)

*Absent:* None (0)

*Also in attendance:* Mason Wells, Staff Planner

*Recorder:* Stacy Kilb

## II. REGULAR AGENDA

**A. Location:** 57 Marlborough Road / Osborne Hills

**Applicant:** Osborne Hills Realty Trust

**Description:** A continuation of the public hearing for all persons interested in the application of OSBORNE HILLS REALTY TRUST for a Definitive Subdivision Plan and Cluster Residential Development Special Permit for the property located at 57 Marlborough Road (Map 09, Lot 0001) and currently shown as Phases 6, 7, 8, 9, and 10 of the "Definitive Subdivision of Osborne Hills Realty in Salem, Massachusetts" dated November 2, 2006 as approved under the Subdivision Control Law by the Salem Planning Board, comprising Lots 88 through 131. Specifically, the applicant proposes to modify the previously approved Subdivision and Special Permit to change the lot area and lot frontage of 44 lots that are situated in the Residential Conservation (RC) zoning district and to construct the roadways and utilities to service the construction of these modified phases.

Present for the Applicant:

Attorney Brian McGrail

Paul and Ugo Dibiase

Attorney McGrail:

- Seeking a Draft Decision
- Mason Wells outlined issues discussed by the Board.

Kirt Rieder

- "The wetlands district special permit is no longer applicable." Why? Zoning Ordinance has since been changed and amended.

Public Comment during meeting: none

Written Public Comment:

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

- Allison Jopling – 2020.11.01
- Andy Sousa – 2020.10.15
- Anne Marie Sirois – 2020.10.19
- Basil Antoniadis – 2020.11.02
- Dan Cederholm – 2020.11.04
- Jacklyn Del Campo – 2020.11.05
- Jamie Yomtov – 2020.10.15
- Jayne Diamont – 2020.11.04
- Jeffrey Stewart – 2020.10.15
- June and Nelson DeRoin – 2020.11.03
- Katie Fleuriel – 2020.11.03
- Keith J. Erps – 2020.11.03
- Lisa P. Langone – 2020.11.05
- Marina Sousa – 2020.10.27
- Norman and Patricia Fusco – 2020.11.03
- Petition in Opposition – Marina Moriarty Sousa – 2020.11.04
- Petition in Opposition to 2<sup>nd</sup> Egress – 2020.11.05
- Ryan Satterly – 2020.11.02
- Sandra McMahon – 2020.10.27
- Sarah Hill – 2020.11.02
- Tim Flynn – 2020.10.15
- Tim Flynn – 2020.10.16
- Tim Lunt – 2020.10.30
- William and Deborah Ottani – 2020.11.02

These are an important part of the official record, but Board members do not feel they need to be read aloud. Board members do review and take them into account.

*A motion to close the public hearing is made by Kirt Rieder, seconded by Helen Sides and passes 6-0 in a roll call vote.*

|                 |            |
|-----------------|------------|
| Todd Waller     | Ineligible |
| Carole Hamilton | Yes        |
| Helen Sides     | Yes        |
| Kirt Rieder     | Yes        |
| Tom Furey       | Ineligible |
| Noah Koretz     | Yes        |
| Sarah Tarbet    | Ineligible |
| DJ Napolitano   | Yes        |
| Bill Griset     | Yes        |

*A motion to issue the Draft Decision on the Special Permit is made by Kirt Rieder and seconded by Helen Sides.*

The Draft Decision is screen shared. Discussion:

- Kirt Rieder: Ben Anderson's recommendations on waivers of radii.
- Using modifications developed during a previous project? Not quite there yet, some language incorporated.
- p. 4 Item 5: Timeline
  - Bill Griset: Wording of this, "if such ways and services not completed approval may be rescinded if not extension." "May be" or "shall be" if not extended? Kirt Rieder notes it is pertinent w/this applicant as a prior Board came close to rescinding. Carole Hamilton wants the Applicant to request an extension prior to the time period elapsing. Doesn't matter how long, just prior. Planning Board must meet and vote to rescind a subdivision.
  - DJ Napolitano: Is this time period (5 years) a usual length or is it especially for this Applicant? Mason Wells replies that the typical timeline is 2 years from start of construction, but it is not uncommon to provide add'l time (original Board gave 7 years, which was not long enough). Depends on the scope of the project. The Original timeframe is discussed.
    - Paul Dibiase: At time of extension request, 65 homes had been built. Prior Board allowed for 7 years for complete buildout of subdivision, but market downturns lead to unproductive real estate years, so they did not sell any homes one year, and the recession lasted several years and set them back.
    - DJ also feels "may be rescinded" is not strong enough. They must come back and ask for an extension prior to the July 2026 meeting.
    - Chair: If Board does nothing and Applicant does nothing, where do we leave this? Kirt Rieder: 2 years ago, it did lapse, and we had to agree to extend retroactively. want to avoid that.
    - DJ Napolitano: put onus on the applicant to come before Board; denial would be the penalty. Change to "shall be rescinded by the Board."
    - Todd Waller: what is trigger? Carole Hamilton: Everything must be paved, done plans submitted. \
    - Kirt Rieder: Will all streets and right of way be turned over to City by that date, and is that important? Doesn't matter whether or not turned over to City (says Carole Hamilton) but all roads must be paved, and all as-builts turned in.
    - Clarify language as to what happens automatically if project not completed by July 2026.
    - Change May to "Shall" and change January 1, 2026 as request for extension deadline.
    - Carole Hamilton: If applicant does not notify Board, Board must notify them that there will be a hearing re rescinding.
    - Todd Waller: Board is creeping into enforcement where it shouldn't. Normal onus is on developer to finish the work, after getting Planning Board or

other approvals, you do the work, if there is an issue, enforcement officer gets the call that there is an issue.

- Carole Hamilton: Only the Planning Board can rescind a subdivision.
  - Kirt Rieder: No disrespect to Applicant but this was the case 2 years ago on this property, it had expired, and we had to vote after the fact, we want to avoid this.
  - Helen Sides: Asks why Carole Hamilton is hesitant with the language “approval shall be rescinded?” This is because the Board has to actually act, it’s not as though come July 2026 a public hearing must be held, rescinding is not automatic.
  - This should be on the City’s calendar. Mason Wells notes that online permitting is through viewpoint Cloud. Can be auto timeline that notifies City staff that Applicant must come back for an extension.
  - What was done in past? Transitioned from “may” to “shall” but typically used “may.” Kirt Rieder: “Shall” is definitive and mandatory.
  - One suggestion is to keep it “may” but add in subsection B “Applicant must request extension before Jan. 1, 2026.”
  - Carole Hamilton: It is Applicant’s responsibility, but after July 30 2026, we can hold public hearing and rescind, though this is obviously not the goal.
  - Noah Koretz: “but will not unreasonably withhold extensions.” Not sure what it means. Bill Griset: it is intentionally vague, a hammer that no one wants to have look like a hammer. Intentionally left to litigation for subsequent determination.
- 8. Construction Practices
    - Rock Crushing onsite. Overlook prohibited onsite. Clark Ave. put restrictions onsite. Here it is allowed in part b/c of distance to neighborhood (300’) and a sentence explicitly says it is for materials to be used/repurposed onsite to address projects being used as for-profit quarries at expense of the neighborhood.
    - Kirt Rieder notes that 300’ is a football field, not a long distance.
    - Mason Wells: This also has to do with truck traffic.
    - Brian McGrail: Re (8.a. i.) “Existing properties?” should be changed to “abutters to the subdivision.”
    - Limit of blasting, etc. to 8AM-5PM.
  - Alternative language (8.a. viii.) - Technology has improved since project started. Want to give abutters notice but they anticipate the blasting co. will send a text message or email, say, 30 minutes before every blast, notes Attorney McGrail)
  - Mr. DiBiase- practice in phases 4 and 5: some were concerned w/blasting, as when it was happening, people weren’t hearing horns, so a call list was developed and opened to anyone who wanted to be on it. The blasting company headquarters would notify those on the list 30 min prior to any blast on any day. If a resident is on the list, they automatically got notified. This has worked well and can be done again with other abutters. Majority of terrain for 6-10 is glacial rock and will have to be altered.

- Kirt Rieder notes: increase linear feet [of distance to those who must be notified, should not be a big deal] as it does not cost money to add a name to a list.
- Applicant shall make available a call list for any abutter w/in 300' to be notified within an hour for each blast. Can change to be farther – Kirt Rieder suggests 500' but Mr. DiBiase notes that the state requirement for blasting notification and pre blast surveys is a 250' radius. He thinks 500' is extreme but Kirt Rieder wonders why this is so, if there is no cost to the developer. Mr. DiBiase feels it would create a lengthy list they would have to develop before blasting. This is debated. How this has worked in the past is discussed. People had to affirmatively sign up, otherwise it was offered if complaints? Strongwater Crossing Neighborhood Assoc.: all are on the list, we notify them, and they get sent emails. Anyone in the area on Barcelona or Ravenna who is concerned would call in, we would take their info and ask if they want to be on calling list to be notified prior to each blast. Kirt Rieder asks for clarification, if everyone within the Dibiase subdivision is automatically notified, even if they are 1,000 feet away, but those not in development may have a closer proximity (Ravenna 350-400' to nearest property line; proximity to current subdivision is 500'). Kirt Rieder is OK w/300'. Mr. DiBiase would be happy to put anyone on the calling list if they desire. Helen Sides notes that neighbors outside the radius should be able to call the City and be added to that list. Kirt Rieder comments that it is 12-15 houses outside the current Amanda Way.
- Bill Griset: Ask Applicant to ask those houses if they want to be notified? Applicant will do this and give them the option
- (9.a.) Clerk of the Works - latest requirements are included.
- Report from Civil Peer Reviewer resulted in additional conditions.
- (12.) Design of specific construction pieces still pending, tied to approval and issuance of street opening trench permit. Applicant can't go forward without City's approval of culvert, retaining wall etc. design.
- Multi modal access condition: Knox gate stands but calls out design/requirement for nonmotorized access via Barcelona Dr.
  - Kirt Rieder suggests adding a dimension of 36-42" to allow strollers, etc. MA Architectural Access Board requires all accessible ways to be 48" exclusive of curbs, allowing 2 bollards w/space of 42". Adjacent to gate w/lockbox for fire department.
  - Language is discussed and edited accordingly. "A 48-inch accessible clear zone adjacent to operable locked gate shall be provided to allow non-vehicular passage of pedestrians." Mason Wells will further revise for clarity
- Noah Koretz wonders if it is worth stating in the affirmative that the connection will be closed to non-emergency vehicles. No.
- (15.) Waivers. Re-states 2006 waivers granted, also those for curb radii reviewed by peer reviewer, City approves.
  - Carole Hamilton: waivers for length and width: road longer now than with original approval? Kirt Rieder notes a net reduction in pavement.
  - Mr. Dibiase: length of road decreased by 1000 linear feet.

- Carole Hamilton: include allowed length and width to avoid future questions as to what was waived. Applicant: This is on the Plan and referenced as they speak for themselves. Kirt Rieder agrees; info should be included in a single location, not multiple. Bill Griset notes the Plan is determinative of the length. Kirt Rieder notes the drawing set is part of the approval so is baked in.
- Waiver request (iii) suggests installation of municipal services by July 30, 2026. We are requiring that subdivision be completed at that date, why installation of services that late? Shouldn't they be prior to completion date?
  - Bill Griset: Both dates can be the same. Carole Hamilton wonders why municipal services aren't done before completion. Bill Griset does not read this as giving the Applicant free rein to wait until July 30.
  - Kirt Rieder notes the totality of July 30, 2026, that no house is functional w/out services or pavement, so it is a non-issue.
- (17.) Violations: suggested edit by Applicant: "shall" → "may;" if violation there is a "cure period" where they are notified and aware of violation rather than be in violation for 30 days and not know about it. Mason Wells notes that the language very clearly does provide a cure for the Applicant, so they have opportunity to remedy the violation. Applicant says if it occurs, and no one sees it, it gets rescinded w/no one seeing it. "After written notice thereof" would notify them of the violation. Board is comfortable with "may."
- Kirt Rieder: We started off contentious with this Applicant, who missed a deadline, and whose reputation then was not positive, but he notes for the record that the Applicant has gone through "rehabilitation at its own effort" to improve the relationship w/neighborhood/residents. As a result, the Board has seen a major drop in attendance of residents to comment on negative aspects of the project. He has also run through the backwoods area where construction will happen, and opines that the Applicant has done the right thing for the property by reducing pavement and increasing the span over waterways for the betterment of the City.
- Bill Griset: Reiterates Kirt Rieder's comments regarding the Applicant's Relationship w/neighbors and their reputation.

The above motion to approve the Draft Decision, made by Kirt Rieder, and seconded by Helen Sides, passes 6-0 in a roll call vote.

|                 |            |
|-----------------|------------|
| Todd Waller     | Ineligible |
| Carole Hamilton | Yes        |
| Helen Sides     | Yes        |
| Kirt Rieder     | Yes        |
| Tom Furey       | Ineligible |
| Noah Koretz     | Yes        |
| Sarah Tarbet    | Ineligible |
| DJ Napolitano   | Yes        |
| Bill Griset     | Yes        |

**B. Location: 4 Franklin Street (Map 26-0407)**

**Applicant: CAS Salem LLC**

**Description:** A continuation of a public hearing for all persons interested in the application of CAS SALEM LLC for the property located at 4 Franklin Street (Map 26-0407) 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. Portions of the site are also in the Entrance Corridor Overlay District. Specifically, the applicant proposes the construction of a business office and ambulance facility with associated employee parking area, utilities, landscaping, and harbor walk path along the North River. The business office and ambulance facility is the first phase of site redevelopment and occurs on the Franklin Street side of the site. The second phase, the plan for which has not been developed, will occur on the North River side of the site.

Attorney Joseph Correnti represents the Applicant.

Also present:

Mr. Cataldo, CAS Ambulance

Bob Griffin, Civil Engineer, Griffin Engineering

David Stockless, Architect, ICON Architecture

Shaun Kelly, Vanasse & Associates

Attorney Correnti

- Much discussion around sea level rise, development in flood zone; this will be addressed in a presentation.

Bob Griffin

- Existing Conditions
- Revised Site Layout:
  - Office 100 sf smaller but similar. Entrance moved further down Franklin St.
  - Phase I Phase II layout changed a bit.
  - More building exposure along North St.
- Site Layout Civil Engineering.
- Grading & Drainage: will be improved compared to existing.
- Utilities & Lighting.
- Site Lighting.
- Proposed Light Fixtures.
- Phase II (includes vehicle access from North St. and pedestrian pathway connecting to Harborwalk).
- Landscaping.
  - Plant Species.
  - Plant Schedule.

- Sidewalk Wall Detail.
- Franklin St. Current View (people park on sidewalk, lack of curbing).
- Cross Section Franklin St./curb/sidewalk/retaining wall.
- Bill Ross to peer review Plans.

David Stockless, ICON Architecture

- Franklin St/North St Intersection:
  - Rendering w/proposed plantings shown.
  - Second entrance provides symmetry along Franklin St.
  - Fenestration added.
- Rendering of view from North St.
- View from Franklin St. toward North St.: second entrance, garage doors in rear.
- Building Elevations: materials will stay the same.

Carole Hamilton appreciates the effort that went into the Plans presented tonight. The project is much more appealing. She notes that with the Development of phase II, if any active traffic is anticipated in and out of that portion, she would prefer not to see it on the North side but on Franklin St. Helen Sides agrees about the improvements. She asks about the location of City property on the Phase II plans. Property lines are outlined. She believes the area should be an asset for the City and would like to see the entrance to Phase II also be in the rear off Franklin/convert this space to green, not road.

- Attorney Correnti: this is illustrative only, showing improvements on City property. It is not proposed that they will do this, and it is not being suggested, just hoping to answer questions if there was space to have a roadway and shared use path.
- Helen Sides: Might there be future zoning issues that would happen w/access to riverfront property coming through parking lot? There could be, if phases 1 and 2 were subdivided, you could land lock phase ii though it has frontage on North St. Legally it is the "North Street Right of Way," and is their frontage, there are reasons they want to be able to maintain access. Wishes they could have and show Phase II development, but there are restrictions on what they can do because of the upcoming harbor plan. That information is needed before they can move forward. It will be a neighborhood business and/or low-key housing, small scale \*could\* be proposed but don't know. Amount of traffic to phase 1 was single digit counts during peak hours.

Kirt Rieder

- Echoes Carole Hamilton and Helen Sides's comments re reworking the site.
- Everything shown in light green is speculative/illustrative? 24' is speculative purposes but not spending \$\$ in right of way to make this happen? Attorney Correnti: This is a phase II question, not part of package today, but it is plausible. If you measure asphalt from existing curb to south side of asphalt, it is 39' of City owned pavement. Here they show tightening the pavement, remove parking, pedestrian route and 2-way traffic would be possible.
- "Two points of access." He understands this, one on Franklin Phase 1 and one North Street right of way phase II, is this the intention or could Phase II have two points, one to North St. row and one to Franklin St.? Yes, this is possible. Kirt Rieder asks if there is no scenario



that has Phase II with a second point of access on Franklin. Applicant has no preference or thoughts at this point.

- Applicant wants to “reserve the right” and Planning Board will work with them.
- The Architect comments on the need for doorway facing North St. right of way vs. on Franklin St. This is both entrance and egress, could be used as both, no reason it is on North St., they just wanted a front door there as the other one is on Franklin St. Could rotate and put on Franklin St.
- Kirt Rieder wonders about the need for staircase at that point. Any wall over 30’ needs a guardrail, figure out a way to not have a guardrail, possibly w/additional vegetation, invites people up to that wall. This can be considered - Board and Applicant are hoping to avoid a railing there.
- Kirt Rieder advocates for more shade trees - good that they changed on Franklin St. North St. right of way = City frontage, invites placement of street trees. Put effort into 3 street trees on North St. frontage even if they must subtract lower plantings up to the building. Trees do not block architecture; heat gain will be on this side, put in 3 trees along frontage for positive public entry to the City, will also benefit building.
- Kirt Rieder: will the Applicant remove evergreen at North St.? Removing maple at fence line further up Franklin St.? Tree warden will want caliper inches replaced, please do along right of way.
- Has the City asked them not to proceed w/Phase II until harbor plan or is that Applicant’s desire? City would not ask them not to, it is elective, but Applicant is so constrained with what could go there that they would be “throttled” by doing it now. Kirt Rieder notes they have mentioned residential/retail. Attorney Correnti replies that anything proposed will be within allowed NRCC uses. Kirt Rieder counters by asking how they are constrained in that case. Attorney Correnti notes that the lines of the water dependent use zone would eliminate residential and businesses. Mean Low and High-water lines, also mean many restrictions. Nothing the Board would like or that would make sense could be put there. To get something nice that will address the needs/concerns of neighborhood, will require non-water dependent uses.
- Kirt Rieder is sympathetic but wants the Applicant to clarify, if need a waiver today, how does waiting for the Harbor Plan change the administrative gymnastics?
- Susan St. Pierre: The only way to get chapter 91 exceptions is through a local harbor plan. Kirt Rieder asks if there is not currently a harbor plan in effect. There is but it is limited to the South River. Current one would be amended to include the North River area.

#### Todd Waller

- Appreciates relocation of building.
- Will have no right turn only despite changing entrance/exit? Vehicles can turn left toward North then take a right onto North, left turn only in an emergency.
- As leaving the site, all Cataldo’s employees can be instructed to not drive through the neighborhood. Ditto for vehicles coming/going unless in an emergency. They will only go to North St., not down Franklin
- re 2nd Phase: Impact to entry and exit will be more from Phase II.

- Right of Way setbacks: one corner 9.5-one 10. No setbacks in NRCC but wanted a reasonable distance.
- Elevations for equipment? Can locate equipment in back, on grade. But could also be on sloped roof of garage out of sight, or hidden behind parapet.
- Agrees that shade trees are desirable.
- Impact of lighting on water is different from that of lighting on streets and land. Light is magnified and reflected across water so should be minimized.

Sarah Tarbet

- Main entrance for employees is at parking lot side? Yes. May be confusing to have it mirrored on North St. side, especially as there are other businesses on that street. Looks like a main entry.
- Mr. Stockless: felt it was important as it was on a view corridor for sense of placement; people will not be coming to the building haphazardly. Only employees will be in the building, but other options can be explored.
- Would like to see bump out re-examined.
- Anything on ambulance garage on North St? No, there is no second story.
- Helen Sides agrees that entrance on North St. is not needed. DRB will review
- Correnti: did not want North St. side to look like the back of the building. She is more responding to the double entrance and possible ensuing confusion. Double row of windows could be where the logo goes. Does not have to be over "an entrance that isn't really an entrance."

Carole Hamilton

- Put something green on the roof that can be seen from North St., or solar panels?

Public comment

Councilor Riccardi, 23 Orchard St.

- Notes Green Building Ordinance is being drafted, appreciates that mindset.
- Appreciates new orientation but concerned about Phase II, may be boxing ourselves in by placing building with less traffic in the more desirable location.
- "North St. Right of Way" is really a pedestrian pathway.
- Agrees w/comments about the entrance on North St. People/tourists may come in looking for restroom if it looks inviting.
- Lighting: Building is tall, and while it will not look tall from North St. in a car, it will block you more as a pedestrian. Put lighting on that side to increase pedestrian safety.

Emily Udy, 8 Buffum St., Historic Salem Inc.

- Thanks the Applicant for re-orientation of building.
- How many people have called in to listen? 5 members of public have called in. It was a couple dozen at the last meeting.

Bob Griffin, Engineer

- FEMA Flood map, 100 and 500-year floodplains.
- Flood zone terms.
  - 100-year flood.
  - AE/VE Velocity Zone Elevation has been established/wave action area A= no wave action.
  - Mean High Water/High Tide Line (MHW/HTL) Mean High Water, average of high water twice a day measured over 365 days. HTL = High Tide Line, highest tide of the year, higher than MHW.
  - Land Subject to Coastal Storm Flowage/Bordering Land Subject to Flooding (LSCSF/BLSF). LSCSF under the Act, floods in coastal storms. BLSF: floods not due to coastal storms.
  - NAVD 88 - Datum, express elevations relative to a datum from 1988 of flood water.
  - FEMA flood zones: AE 10, AE 11, VE 13, VE 14. & why you see which zones where.
- Historic storm elevations observed in Boston Harbor (Beverly/Salem is similar).
  - Outside of harbor, waves (V zones) and wave runup will cause higher flood elevations.
- Water levels of tides.
- Coastal Storm Flooding: impact depends on height of storm surge, timing and height of high tide. High tide duration is not long; 1-2 hours at a time.
- Franklin St. Flooding. North River Western shoreline varies from elevations 6' to 9'.
- Site Flooding: not possible to have inland flooding at this site, only possible from Coastal Storms. North River 100-year storm from upstream = 1200 cubic feet per second. Downstream can handle 2000 cubic feet per second.
- 2020 Aerial.
- Observed Sea Level Rise Trend: 1" rise over 9 years, 11" over 100 years.
- USACE & NOAA Storm Surge Sea Level Rise Scenarios (100 -year storm). Ref: 2014 CDM Report.
- Flood Zone Construction Regulatory Requirements.
- Building complies with all flood zone standards. Usage: Ambulances can immediately be removed offsite in a flood or can still be dispatched despite floodwaters.

Kirt Rieder applauds the detail and succinctness of the presentation. He notes that this is recorded so will be available to members of the public via SharePoint and SATV online.

Tom Furey notes that the Developer is making an investment, but he is still concerned about flooding.

Jackie Sealund, 1 Walter St. corner of Foster and Franklin St. (chicken coop)

- Would like signage and fines to prevent speeding traffic.
- Fines are not within the Applicant's purview; Applicant has mentioned signage at their driveway.

- Attorney Correnti notes it would be left turn ONLY coming out of their driveway, so traffic does not go down Franklin St.
- Shaun Kelly, Vanasse & Associates, notes this is correct unless there was an emergency in the neighborhood, they would only go to North St.

A motion to refer the Applicant to the DRB is made by Helen Sides, seconded by Kirt Rieder, and passes 8-0 in a roll call vote.

|                 |                   |
|-----------------|-------------------|
| Todd Waller     | Yes               |
| Carole Hamilton | Yes               |
| Helen Sides     | Yes               |
| Kirt Rieder     | Yes               |
| Tom Furey       | Yes               |
| Noah Koretz     | Yes               |
| Sarah Tarbet    | Yes               |
| DJ Napolitano   | No longer on call |
| Bill Grisct     | Yes               |

A motion to continue to the April 15, 2021, meeting is made by Kirt Rieder, seconded by Helen Sides, and passes 8-0 in a roll call vote.

|                 |                   |
|-----------------|-------------------|
| Todd Waller     | Yes               |
| Carole Hamilton | Yes               |
| Helen Sides     | Yes               |
| Kirt Rieder     | Yes               |
| Tom Furey       | Yes               |
| Noah Koretz     | Yes               |
| Sarah Tarbet    | Yes               |
| DJ Napolitano   | No longer on call |
| Bill Grisct     | Yes               |

### **III. OLD/NEW BUSINESS**

1. Deliberate and vote on a recommendation to the City Council on two (2) separate Zoning Ordinance Amendments relative to Accessory Dwelling Units.
  - Section (3) (#4) is same language as required for an accessory building. Should be kept in. "Shall not exceed ½ 1.5?" "One and One half" is what it should read.
  - If ADU does not comply with setbacks, there is a way forward.
  - Helen Sides: Whether more than one unit could apply for an ADU in neighborhoods w/row houses and condo association. If a basement unit, why can't it happen in all three and why should only the first get it? She expects variances will be applied for, in such cases.

- Noah Koretz: A lot of nonconformance exists in Salem and this is why the city of Somerville has rewritten its zoning. Existing does not jive with urban fabric we have today. It was aspirational but what it aspired to did not come to pass.

4. Application (3) "Be accompanied by a letter of intent."

- (5) Requirements (A) If setting rent limits but not income limits, there could be a mismatch w/people making a lot of money getting cheaper units, but this may be unavoidable. Will be naturally rented to those looking in that price range, may be a few exceptions. More complex for homeowners to calculate income of tenants, not something a non-professional not in the field (professional asset management) can do without it being onerous. Rent is easy to do but can't match income requirement. Carole Hamilton notes legal challenges could result from income restrictions.
- Build in escalation or peg to 70% fair market rent each year? Peg to Fair market rent, as it comes out. Landlord should have ability to raise if needed. Bill Griset comments that it already provides for that "as determined annually by US Dept of Housing Development." She was concerned that once established it would be locked in at the year you start renting.
- Tom Furey: We don't have rent control in state of MA. Owner occupied homes: it is in the best interest of City not to restrict homeowner from doing this, most o/o homeowners want to protect their homes, be careful approaching a legal slippery soap in telling homeowners what they should do.
- Bill Griset notes this will give homeowner clear path to increase if they want.
- Carole Hamilton also has reservations about requiring rent levels from the public at large. This is in response to comments in the previous version, where there was no affordable rent limit placed on units; she does not object to it, but it is iffy.
- Helen Sides: this is a simple thing, being made very complicated in trying to address all these issues. Carole Hamilton would be happy waiving affordability requirement.
- Bill Griset: What language does Carole Hamilton propose? Helen Sides: Who will do this and what will it be done for? Who will live there and why? Most likely will be a relative or caregiver, will probably combine 2 different incomes. Will bring an adult child into the family home to take care of or swap places with the parents and raise their family in their parents' homes.
- Noah Koretz: not just families, can be elderly people living alone in large houses. This could be done w/out an affordability restriction.
- Helen Sides: Data on the number of houses with one person living there was astounding. "There's nowhere else to go" says Noah Koretz. A radical thought that would probably not pass muster with the City Council, but good advice nonetheless: what if we strike A, B. and C. Or at least A.
- Sarah Tarbet: other means for owner to get subsidies for affordable rent? Yes but there are obstacles. Noah Koretz: Affordability will naturally happen, and we are making what should be a simple arrangement needlessly complicated. This debate is over a 500 square foot space in someone's attic, it will not rent at the same rate as professionally managed housing downtown and will appeal to a different subset of the population. This has been

the frustration where no one/city council cannot understand the difference between Affordable Housing and affordable housing; must have the right mix to meet the needs of the community. It can look different ways, and this is one of them.

- Bill Griset: Strike at least A if not A, B, and C: his fear is that the City Council will pass this anyway, and without Board guidance it may wind up being something the Board would find counterproductive.
- Todd Waller worries about the spirit of this. Would also have to strike every “affordable” in the whole document.
- Amanda Chiancola: The Ordinance was presented and advertised as “affordable,” if that term is removed, would not be within four corners according to the City Solicitor. Inclusion of affordability started out as response to comments in last round. 70% Fair Market Rate was what ADUs tend to go for anyway, but the market is so constrained, with so few available, that units might start to become market rate. They liked the protection; goal is to create affordable units. Starter homes do not exist in Salem. This gives people the means to do that via a second means of income.
- Noah Koretz: Procedurally, makes sense to leave it in, but substantively should editorialize “we understand the reasoning but...”
- Additional parking: Helen Sides objects. Not sure she wants a single-family residence that already has two spaces to devote more area to asphalt on their property. And what if a second curb cut was required? It cannot have one. Thinks this is onerous. Noah Koretz: It is not unreasonable to have people park in the street in a residential neighborhood. B is fine but only makes sense if C is there. Problem with C is that in 3 or 4 neighborhoods this means something different in each one. Would be a nightmare in practice and is not necessary in places that would build these units. A few more cars on the street won’t make a difference. Street parking is part of living in the city. A minor inconvenience sometimes (snow). Omit B and C. It is not necessary to address parking.
- Sarah Tarbet: population in need of affordable housing incl. elderly would probably need off street parking. Ditto for single parent. Possible to allow owner to give up their parking spot if they have one? Or if a single family home has two, give up one to ADU?
  - ⌘ Kirt Rieder: Noah Koretz’s point is that striking these two allows for that to happen. This is attempting to provide a “one size fits all” solution that may not be workable.
  - ⌘ Consensus: Delete B and C.
  - ⌘ Amanda Chiancola: this is something added based on comments from residents, public comments in the past 2 years. Kirt Rieder understands but this is true of any type or size of development. Board does not believe it is right for City so Council would have to add back in and ignore Board’s recommendation. Staff is supportive of removing parking requirement entirely, residents did not want to lose on-street parking. There is no need for parking for these small units in practice and feasibility, notes Kirt Rieder. Board should recommend what it believes in, recognizing that Council may disagree.
- (K, L): Egress. Noah Koretz: is this a standard ADU provision? Entry exit through side/existing? Helen Sides: This is strictly a design restriction, and it is not appropriate. “Hide the existence of the accessory unit?” Second entrance on a front facade - these do

exist and are not a problem. E.g. A Chestnut St. double or triple has multiple entries, but for a single-entry Greek Revival, a second entrance in the main facade would be counterproductive. Helen Sides notes this does not apply in historic buildings; it is not suburbia. If an elderly parent will be living in the ADU, it may make sense to put the entrance in front for accessibility reasons.

- Consensus: Delete K and L. When we try to limit design in a document such as this, we are doing the wrong thing.
- Sarah Tarbet: (G) "Unit shall not exceed 50% of gross floor area of principal dwelling" In the case of a row house, if there are two units that are treated as one entity, if adding 50% of the total gross floor area, are you adding another row house and is that the intent?
  - ⌘ Helen Sides: It is the opposite, owner may want to add onto a tiny house, and may want to call the new house the main house and call the original one the accessory. (F) limits size. Councilor McCarthy's comment, specifically from new legislations, was added to comply w/threshold and intent of making the ADU subordinate to main home.
  - ⌘ Carole Hamilton: If removed, it would have to go to a  $\frac{2}{3}$  majority vote in City Council. Board options to not chance it and so leave it as is.
- 1 ADU per lot: Remove? This was before (G), was removed per Councilor Madore's suggestion. Add back in? Helen Sides agrees it should be struck b/c of row house/condo situations, what is "the lot" in that case? ADU's in attic or basement - everyone should have right to do that. Strike the first line of H but should explain why. The intent is not that someone should have three ADU's on their single-family property. "Consider the situation of condos or row houses that wish to put ADU's in attics or basements. It is not a suburban lot with a bunch of detached ADU's piling up in the backyard," comments Noah Koretz. "No more than one detached ADU per lot?? No, b/c there could be an addition.
- Councilor McCarthy's addition added in the option for new detached units, which puts a different spin on it.
- Amanda Chiancola reminds the Board that they should provide two recommendations, one for each document. New detached ADU by special permit, or not. (e.g. would allow tiny houses).
  - ⌘ **Straw Poll:**
  - ⌘ **In favor of new detached via special permit:**
  - ⌘ Carole Hamilton - Yes
  - ⌘ Bill Griset - Yes
  - ⌘ Helen Sides – No. Previously we had decided we did not want NEW, detached ADU's. Could convert a garage or carriage house. Councilor McCarthy said if building a new house, should have ability to build a new detached ADU on the property. Noah Koretz comments that there are different interpretations.
    - Council's new file allows for a new detached ADU - could be a new OR existing home, if there is no room within existing home. Or it could be a new home being built, that could add a detached ADU. But ONLY by special permit either way.

- Helen Sides notes the Board had felt it had to be an existing detached structure to be converted into an ADU, people could NOT build a freestanding ADU on their property. Councilor McCarthy wants to have that.
- Todd Waller: What if homeowner can get permit for garage and wants to add ADU above garage? Could happen simultaneously, or not. Amdanda Chiancola: if Board makes so that ADU is only allowed in existing, definitions take care of that: existing means as of adoption of Ordinance.
- Noah Koretz: The number of people who have a lot of convertible, existing space is limited. For Single Family predominant neighborhoods w/plenty of yard space, some cities like LA have pre-permitted models for this to be done when houses are developed.
- Helen Sides: who can afford to build a 900 square foot freestanding ADU, with utilities connected to the main house?

⌘ **Straw poll, con't.:**

- ⌘ Noah Koretz – Yes
- ⌘ Todd Waller – Yes
- ⌘ Sarah Tarbet – Yes
- ⌘ Helen Sides – Vote changed to Yes, because it makes it easier for people.
- ⌘ Carole Hamilton - Yes
- (I): utilities (water, gas, electricity). Make it clear in writing that these must be included in the rent "...dwelling, and included in the rent."
- Carole Hamilton: Difference between (P) and (T): Certificate of Fitness and Certificate of Occupancy? Certificate of Fitness is from Health Dept. Occupancy from Building Dept.
- Todd Waller: (6)(a) Is two weeks cure period sufficient? Change to 30 days.
  - ⌘ Also (6)(b). Can we really require people to give up their right to a warrant? Must ask City Solicitor. Also, it does not answer if a full detached structure has been built. Carole Hamilton notes that it does deal with a separate unit, they don't have to deconstruct, just close and disconnect kitchen facilities.
- Tom Furey: Election year, everyone up, need to make this passable. We will get 6 votes but need to make sure other 4 vote in favor. Provide a sentence from this Board expressing its unanimous support for this Ordinance.
  - ⌘ Kirt Rieder voluntells Noah Koretz to write it. "For the third time, we support this. Pass it now. Love, the Planning Board. :)" Mason Wells will draft and send to Bill Grisct for confirmation.

*A motion to support both Amendments (#68 and #97) is made by Noah Koretz, seconded by Helen Sides, and passes 8-0 in a roll call vote.*

|                 |     |
|-----------------|-----|
| Todd Waller     | Yes |
| Carole Hamilton | Yes |
| Helen Sides     | Yes |
| Kirt Rieder     | Yes |
| Tom Furey       | Yes |
| Noah Koretz     | Yes |



Sarah Tarbet                Yes  
DJ Napolitano No longer on call  
Bill Grisct                Yes

2. Receive and File: Chapter 91 Notification for Offshore Amitee Fiber Optic Submarine Cable System.

**IV. APPROVAL OF MINUTES**

n/a

**V. ADJOURNMENT**

*A motion to adjourn is made by Kirt Rieder, seconded by Carole Hamilton, and the motion passes 8-0 in a roll call vote.*

Carole Hamilton        Yes  
DJ Napolitano Absent  
Helen Sides            Yes  
Kirt Rieder             Yes  
Noah Koretz            Yes  
Sarah Tarbet            Yes  
Tom Furey               Yes  
Todd Waller            Yes  
Bill Grisct              Yes

The meeting ends at 10:20PM.

Respectfully Submitted,  
Stacy Kilb, Clerk

Approved by the Planning Board 6/3/2021

*Persons requiring auxiliary aids and services for effective communication such as sign language interpreter, an assistive listening device, or print material in digital format or a reasonable modification in programs, services, policies, or activities, may contact the City of Salem ADA Coordinator as soon as possible and no less than 2 business days before the meeting, program, or event.*