



# CITY OF SALEM PLANNING BOARD

2020 SEP 14 AM 11:57

CITY CLERK  
SALEM, MASS  
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## Decision

### Site Plan Review

CITY CLERK  
SALEM, MASS

#### 23 Summer Street (Map 26, Lot 463)

**September 14, 2020**

#### Findings and Decision

Re: Application of 23 Summer Street, LLC for the property located at 23 Summer Street (Map 26, Lot 463) for a Site Plan Review in accordance with Salem Zoning Ordinance Section 9.5.

#### Procedural History

1. On February 27, 2020, 23 Summer Street, LLC filed the above referenced application with the Planning Board.
2. The application proposed the renovation and expansion of the existing multi-family residential property at 23 Summer Street in the Central Development district. The applicant proposed the demolition of the rear portion of the existing building and replacing it with an addition to create a total of 10 residential units representing an increase of 4 units with a total of 10 parking spaces onsite. The project includes changes to the existing parking lot, new indoor garage parking spaces, utilities, and landscaping.
3. The Planning Board of the City of Salem opened the public hearing on Thursday, March 19, 2020, and continued the public hearing to April 2, 2020, April 16, 2020, May 7, 2020, June 4, 2020, and July 9, 2020, July 23, 2020, and September 3, 2020. The public hearing was closed on September 3, 2020.
4. Throughout the public hearing, the plans and other submission material were reviewed by the Planning Board. Throughout its deliberations, the Planning Board has been mindful of the statements of the applicants and their representatives, and the comments of the general public, all as made at the public hearing.
5. In response to concerns raised by the Planning Board regarding the ability for motorists to safely enter and egress the garage parking spaces without utilizing overly complex maneuvers, the applicant revised the site plan to remove a single parking space and will instead provide a single parking space off site in such a manner as to comply with off-site parking requirements of the Salem Zoning Ordinance.
6. Bill Griset submitted a signed affidavit of service certifying he has examined all evidence pertaining to the project distributed at the single missed session on June 4, 2020.

7. Ben Anderson submitted a signed affidavit of service certifying he has examined all evidence pertaining to the project distributed at the single missed session on July 23, 2020.

The Planning Board finds that the development meets the criteria of the Site Plan Review as follows:

### **Specific Findings**

***A. The Planning Board hereby makes the following findings pertaining to the City of Salem Zoning Ordinance, Sec. 9.5 Site Plan Review:***

The Planning Board finds that the proposed project as conditioned complies with all review criteria as identified in Site Plan Review, Sec. 9.5.6. The plan meets accepted site planning standards and promotes such standards such that the development takes place in a manner which shall in all aspects be an asset to the City.

### **Decision**

In view of the foregoing, the Planning Board hereby finds that the aforesaid project meets all the requisite criteria. Therefore, the Planning Board hereby grants a Site Plan Review approval for the property located at 23 Summer Street in accordance with the terms and conditions stated below.

#### **1. Conformance with the Plans**

The project shall be built in compliance with the following plans: Site Plan Review for Residential Development, 23 Summer Street, Salem, MA, February 2020, sheets C-1 (2/26/2020, revised 9/4/2020), C-2 (2/26/2020, revised 7/16/2020), C-3 (2/26/2020), C-4 (7/16/2020), C-5 (7/16/2020), DR-1 (7/16/2020), A-2 (2/26/2020), A-2.5 (3/30/2020), A-3.1 (3/30/2020), L-1 (3/31/2020), Stormwater Management Plan (July 2020), Typical Deck Section (undated, submitted 4/9/2020).

#### **2. Amendments**

- a. Any further amendments to the site plan shall be reviewed by the City Planner and if deemed necessary by the City Planner, shall be brought to the Planning Board. Should the applicant determine that the project may not be completed as presented and conditioned herein, proposed changes shall be reviewed by the City Planner, and brought to the Planning Board if deemed necessary, prior to making any changes in the field. Any waiver of conditions contained within shall require the approval of the Planning Board.

#### **3. Transfer of Ownership**

- a. In the event of the transfer of the site as a whole, within five (5) days of such transfer, the Owner shall notify the Board in writing of the new owner's name and address. The

terms, conditions, restrictions and/or requirements of this decision shall be binding on the Owner and its successors and/or assigns.

#### **4. Traffic & Circulation**

- a. The owner shall tender \$5,000 to the City of Salem Transportation Enhancement Fund (TEF) prior to issuance of a Certificate of Occupancy. The TEF will be used by the city for transportation network services relating to infrastructure and or operation of the transportation network.
- b. The existing curb cut shall not be relocated or widened.
- c. To ensure that safe vehicular, bicyclist, and pedestrian circulation is maintained throughout construction, applicant shall submit to the City Planner, prior to issuance of a Building Permit, a plan detailing site access for construction vehicles, material delivery, debris removal, and any other vehicular activity associated with the project's construction.
- d. The developer shall coordinate construction activities with the City Engineer to ensure that the City's improvements to the Summer, Norman, and Chestnut Streets roundabout will proceed in an orderly fashion should both the intersection project and this project be occurring at the same time.
- e. The parking space associated with the affordable unit shall be provided on site.
- f. Prior to issuance of a Certificate of Occupancy, applicant shall provide documentation that the parking space provided off site meets all requirements of the Salem Zoning Ordinance, Section 5.1.9, for parking requirement within the B5 zoning district.
- g. In order to prevent parking in the no-parking area formerly shown on plans as parking space #8 and to allow for safe vehicular circulation within the garage without overly complex maneuvering, applicant shall install a permanent bollard within this space, 8 feet from the northern exterior wall and centered between the adjacent parking spaces. Applicant shall provide documentation of this installation prior to the issuance of a Certificate of Occupancy.
- h. Prior to issuance of a Building Permit, applicant shall provide documentation of ownership, easement, or permanent authority to utilize the portion of the adjacent parcel at 38 Norman Street, Map 26, Lot 464, for the three outdoor parking spaces shown on approved plan.

#### **5. Salem Redevelopment Authority**

- a. Project shall be constructed in accordance with the requirements of the Salem Redevelopment Authority per its decision signed by Tom Daniel, Director of Planning & Community Development, on May 16, 2019, including the following conditions of the decision:
  - a. Consistency with Approved Design/Plan: Should the applicant determine that the restoration project may not be completed as presented and conditioned herein, they shall return to the Design Review Board to review proposed modifications prior to making any changes in the field.

- b. **New Door:** The applicant shall explore the feasibility of removing the first-floor window at the southwestern corner of the new addition facing Summer Street, and installing a single door.
- c. **Future Expansion of Project:** Should the applicant purchase the land between the subject property and Norman Street for the purposes of expanding the project, whether this is expansion of the building and/or adjustment of the parking configuration, they shall return to the DRB for additional review of the expanded project.
- d. **Windows:** The applicant shall install six-over-six, simulated divided light, windows on all facades of the proposed addition.

#### **6. Affordable Housing**

- a. Prior to issuance of the Certificate of Occupancy, a minimum of one of the units shall be affordable to a household of one or more persons whose maximum income does not exceed eighty (80) percent of the area median income, adjusted for household size, or as otherwise established by DHCD guidelines for this affordable unit to be eligible to be included in the Subsidized Housing Inventory (SHI), for a period of ninety-nine (99) years as secured by a duly recorded deed restriction.

#### **7. Landscaping**

- a. An as-built landscaping plan accompanied with a letter from a Registered Professional Engineer or landscape architect certifying compliance of the landscaping with the approved plan shall be submitted to the City Planner prior to issuance of the Certificate of Occupancy.
- b. Maintenance of all landscaping on the site shall be the responsibility of the Applicant, its successors or assigns, and any tree or shrub that does not survive shall be replaced.

#### **8. Lighting**

- a. A final lighting plan shall be submitted to the City Electrician for review and approval prior to the issuance of a building permit.
- b. Light trespass onto adjacent parcels/rights of way shall be avoided as indicated on the photometric plan.

#### **9. Maintenance**

- a. Refuse removal, ground maintenance and snow removal shall be the responsibility of the applicant. "Refuse removal" includes recycling, which shall be the responsibility of the owner, his successors or assigns. The owner shall provide adequate facilities to ensure all users are able to recycle their trash. Owner is to enter into a contract with a company of the owner's choice to arrange pick-up of recyclable material. A copy of this contract is to be submitted to the City Engineer.
- b. The applicant, his successors or assignees shall use its best efforts to engage a waste hauler for compost that will regularly accept organic wastes from onsite residents for offsite composting. Organic wastes shall not be stored onsite in a manner that allows nuisance conditions to develop.
- c. Winter snow in excess of snow storage areas on the site shall be removed off site.

**10. Fire Department**

- a. All work shall comply with the requirements of the Salem Fire Department.

**11. Building Inspector**

- a. All work shall comply with the requirements of the Salem Building Inspector.

**12. Board of Health**

The owner shall comply with the following specific conditions issued by the Board of Health:

- a. The individual presenting the plan to the Board of Health must notify the Health Agent of the name, address, and telephone number of the project (site) manager who will be on site and directly responsible for the construction of the project.
- b. If a DEP tracking number is issued for this site under the Massachusetts Contingency Plan, no structure shall be constructed until the Licensed Site Professional responsible for the site confirms that the site meets the DEP standards for the proposed use.
- c. A copy of the Licensed Asbestos Inspector's Report must be sent to the Health Agent.
- d. A copy of the Demolition Notice sent to the DEP, Form BWPAO6, must be sent to the Health Agent.
- e. The developer shall adhere to a drainage plan as approved by the City Engineer.
- f. The developer shall employ a licensed pesticide applicator to exterminate the area prior to construction, demolition, and/or blasting and shall send a copy of the exterminator's invoice to the Health Agent.
- g. The developer shall submit a rodent control plan and maintain the area free from rodents throughout construction.
- h. The Developer shall submit to the Health Agent a written plan for dust control and street sweeping which will occur during the demolition and construction.
- i. The developer shall submit to the Health Agent a written plan for containment and removal of debris, vegetative waste, and unacceptable excavation material generated during demolition and/or construction.
- j. In accordance with Board of Health Regulation #7, the developer must ensure that the trash contractor offer mandatory recycling to the development.
- k. The Fire Department must approve the plan regarding access for firefighting.
- l. Noise levels from the resultant establishment(s) generated by operations, including but not limited to refrigeration and heating, shall not increase the broadband sound level by more than 10 dB(A) above the ambient levels measured at property line.
- m. The developer shall disclose in writing to the Health Agent the origin of any fill material needed for the project.
- n. The resultant establishment shall dispose of all waste materials resulting from its operation in an environmentally sound manner as described to the Board of health.

- o. The developer shall notify the Health Agent when the project is complete for final inspection and confirmation that above conditions have been met.

### 13. City Engineer

- a. Prior to applying for a Building Permit, applicant shall provide for review and approval to the City Engineer locations of water meter(s), backflow device(s), and all internal plumbing.
- b. Prior to applying for a Demolition Permit, applicant shall submit for review and approval to the City Engineer, revised plan with note to confirm existing water service will be cut and capped at main as part of water service replacement.
- c. Prior to applying for a building permit, the Applicant shall clean and CCTV inspect the sewer main within the limits defined by the City Engineer. The CCTV inspection shall be based on the Pipeline Assessment Certification Program (PACP) standards and shall show the full circumference of the pipe. A copy of the video and logs shall be submitted to the City Engineer along with a letter. The Applicant's Engineer shall provide a letter to the City Engineer stating that the City sewer system to serve the proposed development has adequate condition and capacity to accommodate proposed flows. Back-up data, including engineering calculations and the results of all sewer inspections and existing sewer flow measurements, shall be included in the letter. The letter shall identify any deficiencies in the system and provide recommendations to address those deficiencies. Any deficiency identified in the system, shall be corrected by the applicant, at the applicant's expense, to the satisfaction of the City Engineer, prior to applying for a building permit. Additionally, the Applicant's engineer shall provide proposed sewer discharge peak flows.
- d. Prior to issuance of Building Permit, applicant shall provide for review and approval to the City Engineer details of all water service connections to City water service as well as results of fire flow test and peak future fire flow needs.

### 14. Clerk of the Works

- a. A Clerk of the Works shall be provided by the City, at the expense of the applicant, his successors or assigns, as it is deemed necessary by the City Planner. Notwithstanding the foregoing, the parties acknowledge the Project shall be subject to controlled construction, which requires oversight by a Registered Professional Civil Engineer. Accordingly, it is the understanding of the Board, the City Planner and the Applicant, that the Clerk of the Works, is expected to oversee and review all civil/site improvements related to the Project, including, but not necessarily limited to:
  - i. all utility cut and caps related the City's Demolition Permit;
  - ii. all new utility installations;
  - iii. any connections to, extension of, or improvements to publicly owned infrastructure both on the applicant's site or within the City's right of way and any on-site stormwater or wastewater systems;

- iv. any new installations or modifications to existing pavement/sidewalk/curbing; and
  - v. any conditions placed on the project by an Order of Conditions from the Salem Conservation Commission.
- b. The Clerk of the Works shall review all proposed changes to the original Planning Board decision for consideration by the City Planner per Section 2.a. of this decision.
  - c. It is also mutually understood that the expense associated with the Clerk of the Works shall be for a reasonable number of hours and at a customary rate of service.
  - d. The applicant shall submit a construction plan that includes a detailed sequence and schedule of all construction activities related to the Project to the City Planner for approval prior to starting work. The construction plan shall clearly detail the sequencing, schedule and duration of all construction activities specifically related to the Clerk of the Works' purview. Once the construction plan is approved, it shall be used to create a Task Order for the Clerk of the Works.
  - e. No work, including blasting, demolition, excavation, and grading shall start before an approved task order for the Clerk of the Works services has been agreed upon and approved by all parties.

#### **15. Construction Practices**

- a. All construction shall be carried out in accordance with the following conditions:
  - i. Rock crushing and material mixing shall not be allowed at the site in order to reduce potential dust.
  - ii. All provisions in the City of Salem's Code of Ordinance, Chapter 22, Noise Control, shall be strictly adhered to.
  - iii. All reasonable action shall be taken to minimize the negative effects of construction on abutters. Advance notice shall be provided to all abutters in writing at least 72 hours prior to commencement of demolition and construction of the project.
  - iv. Drilling and blasting shall be limited to Monday-Friday between 8:00 AM until 5:00 PM. There shall be no drilling, blasting or rock hammering on Saturdays, Sundays, or holidays. Blasting shall be undertaken in accordance with all local and state regulations.
  - v. All construction and staging will occur on site or on the adjacent property at 38 Norman Street, Map 36, Lot 464, with prior authorization from the owner(s), as submitted and approved by the City Planner. No construction will occur or be staged within City right of way. Any deviation from this shall be approved by the Department of Planning & Community Development prior to construction.
  - vi. A construction traffic management plan and schedule shall be submitted to the Department of Planning & Community Development for review and approval prior to the issuance of a building permit.
  - vii. Any roadways, driveways, sidewalks, or landscaping damaged during construction shall be restored to their original condition by the applicant.

- viii. All construction vehicles shall be cleaned prior to leaving the site so that they do not leave dirt and/or debris on surrounding roadways as they leave the site.
- ix. All construction shall be performed in accordance with the Rules and Regulations of the Planning Board, and in accordance with any and all rules, regulations and ordinances of the City of Salem.
- x. All construction vehicles left overnight at the site, must be located completely on the site.
- xi. Should contaminated materials be encountered onsite, all construction shall take place under the direction and supervision of a Licensed Site Professional in compliance with the rules and regulations of the Massachusetts Department of Environmental Protection.
- xii. The applicant shall promptly notify the Board of Health of any environmental condition encountered during construction that may adversely impact the abutters to the site.

#### **16. As-built Plans**

- a. As-built Plans, stamped by a Registered Professional Engineer, shall be reviewed and approved by the Clerk of the Works, then submitted to the Department of Planning and Community Development and Department of Public Services prior to the issuance of the Certificate of Occupancy. As-built plans shall identify 1) the number, location, depth, size and materials of all buried utilities and 2) locations and rim and invert elevations of all manholes and structures.
- b. The As-Built plans shall be submitted to the City Engineer in an electronic file format suitable for the City's use and approved by the City Engineer, prior to the issuance of the Certificate of Occupancy.
- c. A completed tie card, a blank copy (available at the Engineering Department) and a certification signed and stamped by the design engineer, stating that the work was completed in substantial compliance with the design drawing must be submitted to the City Engineer prior to the issuance of the Certificate of Occupancy; as well as, any subsequent requirements by the City Engineer.

#### **17. Violations**

- a. Violations of any condition shall result in revocation of this permit by the Planning Board, unless the violation of such condition is waived by a majority vote of the Planning Board.

#### **Record of Vote**

The following members of the Planning Board voted to grant the Site Plan Review approval subject to the above-stated terms and conditions:

Ben Anderson, Bill Griset, Carole Hamilton, Noah Koretz, D.J. Napoilitano

I hereby certify that a copy of this decision and plans has been filed with the City Clerk and copies are on file with the Planning Board. The Special Permit shall not take effect until a copy



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of this decision bearing the certification of the City Clerk that twenty (20) days have elapsed and no appeal has been filed or that if such appeal has been filed, and it has been dismissed or denied, is recorded in the Essex South Registry of Deeds and is indexed under the name of the owner of record is recorded on the owner's Certificate of Title. The owner or applicant, his successors or assigns, shall pay the fee for recording or registering.

A handwritten signature in black ink, appearing to read "Ben J. Anderson", with a stylized flourish at the end.

Ben J. Anderson  
Chairman