**City of Salem Zoning Board of Appeals**

**Meeting Minutes**

December 14, 2022

A regular meeting of the Salem Zoning Board of Appeals (“Salem ZBA”) was held on Wednesday, December 14, 2022 at 6:30 pm via remote participation in accordance with Chapter 107 of the Act of 2022 and a Special Act extending remote participation meetings until March 31, 2023.

**Vice Chair Peter Copelas calls the meeting to order at 6:30 pm as acting Chair.**

Acting Chair Copelas explains how individuals can participate in the meeting remotely via Zoom, and that instructions to participate remotely can also be found on the Salem website. Mr. Copelas also explains the rules regarding public comment.

**ROLL CALL**

Those present were: Peter Copelas, Rosa Ordaz, Nina Vyedin, Paul Viccica, and Steven Smalley. Also in attendance were Daniel Laroe – Staff Planner, and Jonathan Pinto – Recording Clerk. Those absent were: Carly McClain

**CONTINUANCES**

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| Location: | **70 Proctor Street (Map 15, Lot 386) (R1 Zoning District)** |
| Applicant: | **George Lambos** |
| Project: | A continuance of a public hearing for all persons interested in the petition of GEORGE LAMBOS at 70 PROCTOR STREET(Map 15, Lot 386) (R1 Zoning District), for a Special Permit per Section 3.3.5  Non-conforming Single- and Two-Family Residential Structures of the Salem Zoning Ordinance to convert a two (2) family dwelling into a three (3) family dwelling by constructing the third (3rd) dwelling in the basement. |

Documents and Exhibitions

* Application date-stamped April 27, 2022 and supporting documentation

Acting Chair Copelas introduces the petition, and notes there was a request to withdraw without prejudice.

Mr. Fortuna introduces himself and confirms the request to withdraw without prejudice.

**Motion and Vote:** Ms. Ordaz motions to approve the request to withdraw without prejudice the petition of GEORGE LAMBOS at 70 PROCTOR STREET(Map 15, Lot 386) (R1 Zoning District), for a Special Permit per Section 3.3.5  Non-conforming Single- and Two-Family Residential Structures of the Salem Zoning Ordinance to convert a two (2) family dwelling into a three (3) family dwelling by constructing the third (3rd) dwelling in the basement, subject to the following standard conditions:

Ms. Vyedin seconds the motion. **The vote is five (5) in favor (Peter Copelas, Rosa Ordaz, Paul Viccica, Steven Smalley, and Nina Vyedin) and none (0) opposed. The motion passes.**

**REGULAR AGENDA**

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| --- | --- |
| Location: | **1 Purchase Street (Map 15, Lot 139) (R1 Zoning District)** |
| Applicant: | **Ezekiel Holt** |
| Project: | A public hearing for all persons interested in the petition of EZEKIEL HOLT at 1 PURCHASE STREET (Map 15, Lot 139) (R1 Zoning District), for a Special Permit per Section 3.3.5 Nonconforming Single- and Two-Family Residential Structures of the Salem Zoning Ordinance to build a new, second egress with a porch for the first-floor unit.   The proposed change will permit petitioner to restrict access to the basement from the first-floor unit and to specifically make it a part of the second unit. |

Documents and Exhibitions

* Application date-stamped November 9, 2022 and supporting documentation

Vice Chair Copelas introduces the petition, and notes there was a written request for a continuance.

Vice Chair Copelas opens the floor to public comment, but there is none.

**Motion and Vote:** Mr. Viccica motions to continue the petition of EZEKIEL HOLT at 1 PURCHASE STREET (Map 15, Lot 139) (R1 Zoning District), for a Special Permit per Section 3.3.5 Nonconforming Single- and Two-Family Residential Structures of the Salem Zoning Ordinance to build a new, second egress with a porch for the first-floor unit, to the next regularly scheduled meeting of the Zoning Board of Appeals on January 18, 2023.:

Mr Smalley seconds the motion. **The vote is five (5) in favor (Peter Copelas, Steven Smalley, Rosa Ordaz, Paul Viccica, and Nina Vyedin) and none (0) opposed . The motion passes.**

|  |  |
| --- | --- |
| Location: |  **275 Lafayette Street (Map 33, Lot 438) (R1, R3 Zoning Districts)** |
| Applicant: | **MD Property Development** |
| Project: | A public hearing for all persons interested in the petition of MD PROPERTY DEVELOPMENT at 275 LAFAYETTE STREET (Map 33, Lot 438) (R1,R3 Zoning Districts) for  Special Permits per Section 3.3.2 Nonconforming Uses to change from one nonconforming use-educational use to a multi-family residential use. A Special Permit per Section 3.3.3 Nonconforming Structures of the Salem Zoning Ordinance to allow for alteration of the existing nonconforming structure.  In addition, petitioner seeks Variances from Section 4.1 Dimensional Requirements for lot coverage where 30% is permitted and 32.5% is being sought/ lot area per dwelling unit where 3,500 SF is required in the R3 Zoning District and 15,000 SF in the R1 where 1,500 SF is proposed/ Side setback where 20 feet is required and 10 feet is sought. And per Section 5.1.5 Curb Cuts for 30 feet of curb cut where 20 feet is allowed. A total of 15 residential units in the existing building and a new building to be constructed at 275 LAFAYETTE STREET. |

Documents and Exhibitions

* Application date-stamped November 17, 2022 and supporting documentation

Acting Chair Copelas introduces the petition.

Attorney Scott Grover introduces himself on behalf of the petitioner, and states he is joined by several principals of MD Property Development, as well as project architect Dan Ricciarelli. Mr. Grover presents photos of the existing property and indicates it is unusual in many respects, with a long narrow lot extending a full city block from Lafayette Street to Summit Avenue and double frontage. Mr. Grover explains there is a single large building at Summit Avenue that was originally a chapel for the St. Joseph’s church. Mr. Grover maintains that when the church closed in the 1990’s, the property was sold to United Cerebral Palsy, which operated an educational facility for disabled adults until recently when the property was sold to the current owners. Mr. Grover notes the property is located in the R1 and R3 zones, with one third of the lot in the R3 zone toward Lafayette Street and the remaining, including the building, in the R1 zone. Mr. Grover indicates the lot is also located in the Entrance Corridor Overlay District, and so there will be Design Board (“DRB”) review as well as a review by the Historical Commission and Planning Board. He insists the proposal and project will be carefully scrutinized by the City. Mr. Grover indicates the applicant is proposing to convert the existing building to a residential use consisting of 10 units, and to construct a new building on Lafayette Street containing five units to fill in the gap in the streetscape. There are 23 parking spaces proposed to be shielded from view in between the two buildings, which complies with the 1.5 space per unit requirement according to Mr. Grover. He notes that the relief required to redevelop the property includes a special permit to allow a change from a nonconforming religious/educational facility to a multifamily residential use in the R1 portion of the lot. Based on an opinion obtained from the City Solicitor, the prior use is considered to be nonconforming, and another nonconforming use can be authorized by special permit. Mr. Grover indicates a second special permit is required to allow a change in the existing nonconforming structure to allow limited exterior changes. Mr. Grover suggests there are adequate grounds to grant the special permits, noting a community need will be met by eliminating a small commercial use in a residential neighborhood and providing much needed housing. Mr. Grover contends the traffic and parking impacts will be less intense with a residential use compared to that of an educational facility, and notes that there are existing utilities on both the Summit Avenue and Lafayette Street sides that will serve the proposed units. Any required updates to utilities would be part of the site plan review process. Mr. Grover also states the proposed residential use is more consistent with the neighborhood character than the prior use, and that any impacts on the natural environment would be addressed as part of the site plan review process as well. He notes there would also be a substantial increase in tax revenue.

Mr. Grover notes that there are variances being requested as well. At 15 units, the lot area per dwelling unit is 1,500 square feet where 3,500 square feet is required in the R3 zone, and 15,000 is required in the R1 zone. He also notes the lot coverage is 32.3 percent where 35 percent is allowed in an R3 zone, but only 30 percent is allowed in an R1 zone. A variance is required for the side yard setback of 10 feet where 20 feet is required in an R3 zone. Mr. Grover explains there are two curb cuts proposed on Summit Avenue of 15 feet, for a total of 30 feet where only 20 feet of curb cut is allowed. Mr. Grover indicates the Board may grant variances where special conditions affect the land or build such that strict enforcement would cause a hardship. Mr. Grover argues there are clearly special conditions with respect to the land and building, particularly noting the split zoning, large lot relative to those nearby, and major portion of lot being underutilized as a parking lot. Mr. Grover also contends that the building was designed and built first as a religious facility, then converted to an educational facility, and to adapt to any reasonable use will require a significant investment, which is only feasible at a certain density. Mr. Grover asserts that the proposal would help complete the streetscape on Lafayette Street, and that the building will have a similar massing as the nearby Victorian homes on the street. With literal enforcement of zoning, Mr. Grover indicates one unit could be put in the R1 zone and two at most in the R3 portion. Mr. Grover states that there have been meetings with the neighborhood and abutters to share plans, as well as discussion with Ward 5 Councilor Jeff Cohen. He also notes there was an informal presentation to the Historic Commission and a meeting with City Department heads to receive input.

Dan Ricciarelli of Segar Architects introduces himself and states the lot is unique as it stretches a whole city block. He also notes that it is located in a historic district and along the entrance corridor on Lafayette Street. Mr. Ricciarelli presents site plans and describes the 22,500 square foot lot and existing building, which he characterizes as an anomaly in the neighborhood. Mr. Ricciarelli notes the plan is to keep the massing as it exists today, and that the large basement which was probably a function hall at some point will become garden units. There will also be some townhome units, and some units in the attic loft space with proposed dormers. Mr. Ricciarelli indicates the historic district stretches around the whole lot, and that the Historic Commission is supportive of attempts to fill in the missing space on Lafayette Street. Based on the proposal, only two units will access through Summit Avenue and the remainder will enter on Lafayette through curb cuts with parking sandwiched between. The buildings will be accessible with two ramps for the first floor and basement, which currently exist and will remain. Mr. Ricciarelli suggests this will be great for Salem as more affordable housing is needed. Mr. Ricciarelli presents floor plans and elevations of the existing building, as well as floor plans and elevations of the proposed new building. Photos of adjacent buildings are presented. Mr. Ricciarelli notes they are adding as much landscaping as they can within the limits, which will be better than what currently exists which is all paving.

Mr. Grover asks the Board if they have any questions.

Mr. Copelas asks about the prior use, and if there has ever been residential use on the property. Mr. Grover indicates there has not been. Mr. Copelas notes Mr. Ricciarelli referred to affordability but did not see anything else proposed or mentioned. Mr. Grover states they indicated to the City they would comply with the policy of providing 10 percent of units as affordable at 60 percent of the area mean income. At 15 units, Mr. Grover explains there would be two affordable units being offered, which the petitioners would be happy to include as a special condition. Mr. Grover also notes that the accessibility aspect could be attractive as well, as it can be difficult to find affordable accessible units, but the ramps and access already exist from the training facility use. Mr. Copelas asks if the interior design for those units will also meet accessibility requirements, and Mr. Ricciarelli and Mr. Grover confirm. Mr. Copelas suggests he may need more convincing regarding the request for variances, specifically with respect to statements regarding hardship and requirement of significant investments. Mr. Copelas indicates that variances are not required to modify the existing building and create the 10 units designed, and that the variances are only needed because of the proposal to create an additional building. Mr. Grover disagrees, stating that for lot area per dwelling unit compliance only one residential unit could be placed in the existing building. Mr. Copelas notes that of the variances requested, that is the only one that applies to the existing building. The rest dealing with setback, curb cuts, etc. do not exist if not for the new building. Mr. Grover states that is correct. Mr. Copelas indicates it would have been nice to get a a dedicated parking plan, as there are no dimensions or indications of turning radii. The petitioners present the Lafayette Street entrance plan, and identify 9 foot by 22 foot parking spaces on the right, some 9 foot by 18 foot parking spaces, and accessible spaces. The aisle width is described as bigger than required, and the landscaping strip is identified.

Mr. Viccica notes that with a development of this size the issue of density often comes up, and that neighbors have certainly brought it up. Mr. Viccica agrees with Mr. Copelas that most of the variances are triggered from the new building, but notes that the proportion and massing seem to be okay for the proposed buildings. He also notes that if the new building on Lafayette Street were three units rather than five units, the parking could be configured such that the building could be moved over ten feet to eliminate the setback variance. Mr. Viccica states the density is a bit problematic even though it is spread out over two buildings.

The Board discusses the issue of a petition creating its own hardship and whether the density of the proposal is consistent with the neighborhood. The petitioners and Board also discuss the split zoning of the lot.

Ms. Vyedin asks if the building will be rental units or condos, and whether the parking will be deeded. Mr. Copelas notes that questions regarding mode of ownership are not typically within the Board’s purview.

Drew Murphy of MD Property Development introduces himself and insists that they tried to involve the community and get input on the project early on. With respect to whether they will sell or rent the units, he states they have not yet decided. Regarding the issue of density, Mr. Murphy suggests the plan takes the neighborhood into consideration. He maintains the existing building is unlike any other building on Summit Avenue, and that it is large and will comfortably house 10 units. Mr. Murphy notes that the law firm next door has three additional units, and that there is a six-family home on the right. He also suggests that the ten foot setback is consistent with other buildings in the neighborhood.

Ms. Vyedin asks if the petitioners have been before the Historic Commission. Mr. Murphy states they have, but only for a preliminary meeting. Mr. Ricciarelli adds that the meeting was to see if the commission could embrace the concept of a new building in the historic district, and that they seem to be amenable. Mr. Ricciarelli states they have been looking at different way to mass the building to align with other buildings in the area, and that the project is still in its infancy.

Mr. Viccica reiterates the issues surrounding density and the petitioner creating their own hardship and need for variances, noting that the petitioners purchased the property knowing it was in an historic district. Mr. Viccica states he is not opposed to a new building, but rather the density and commercial sized curb cuts proposed.

Ms. Ordaz asks about the work to be done to the existing building, and Mr. Ricciarelli states there will be an internal gutting, and on the exterior there will be dormers added, but otherwise the shape will remain the same.

The Board discusses the massing and the neighborhood. Ms. Ordaz notes that there has been some discussion regarding conversations with abutters and what the neighborhood would like to see. She explains that a letter was submitted from an abutter stating that the team held a meet and greet but did not share any plans with abutters. Mr. Ricciarelli indicates they did not show the proposed building because the plans were not yet ready. He states they are happy to meet more with neighbors as the project moves forward.

Mr. Grover and Mr. Viccica discuss the curb cut dimensions, and Mr. Copelas asks about the elevations, noting that the documents appear to be mislabeled.

Acting Chair Copelas opens the floor to public comment.

Anthony Porcello of 271 Lafayette Street introduces himself and explains that he runs the law practice next door out of the first floor of a three unit building. He states he has been in the building since June of 2004, and that the entire time the property at 275 has been used as an educational facility. Mr. Porcello asserts that the large existing parking lot was mostly used one day per month, but that most other times was vacant with some drop offs and pick ups in the mornings and evenings. Mr. Porcello states that the Board can only grant relief if the proposed change is not substantially more detrimental than the existing nonconforming use. In this case, Mr. Porcello argues the previous use was not a problem in the neighborhood at all. The parking area was not used to its full capacity, and in comparison, Mr. Porcello states the proposed density is extreme. He also suggests the building being 10 feet away from the property line will be a problem for him as it will block natural light. Mr. Porcello also states that there will in fact be an impact to traffic and parking, as Lafayette Street is already well travelled and it can be difficult to exit his driveway. Mr. Porcello comments on the garden level units, noting that the proposed windows look tiny and that no one would want to live there. He suggests the landscaping would be minimal at best, and notes that his sister drafted a long letter to the Board with concerns. Mr. Porcello suggests fewer units, perhaps five or seven in the existing building only.

Liz Vago of 29 Summit Avenue introduces herself and states she submitted a letter to the Board. Ms. Vago explains she has lived here 30 years and owned property the entire time. She contends she has been invested in her community in many ways, and claims the petitioners have made a number of inaccurate statements, particularly with respect to the impacts of the prior operations of the property. She also notes that in the winter the prior owners would allow people to park during snow emergencies. She also expresses safety concerns regarding the curb cuts on Summit Avenue as well as the density. Ms. Vago also states that the green space being proposed is paltry.

Polly Wilbert of 7 Cedar Street introduces herself and states she has lived here since 1982 and been with the South Salem Association for a long time. Ms. Wilbert expresses concerns regarding density, and states that the number of basement units proposed is not consistent with the living units in the neighborhood. She also notes that cars will be parked adjacent to the building and that the units will not be desirable. Ms. Wilbert also expresses concerns regarding trash and recycling and the lack of green space.

Ward 5 Councilor Jeff Cohen of 12 Hancock Street introduces himself and states he believes the communications from the developers have been good thus far. He indicates there was an initial community meeting along with a commitment to hold another. Mr. Cohen also notes that individuals who expressed concerns were contacted by the development team. He opines that the process will be very inclusive of neighbors, businesses, and various boards and commissions. Councilor Cohen states there is a housing crisis in Salem, and that he is in support of the project. He states his preference would be to have rentals as there is a diminishing stock, not recognizes this is not the forum to discuss that. Regarding trash and recycling concerns, Mr. Cohen notes that for this number of units they would be mandated to have trash picked up by a private company.

Mr. Copelas states he is unsure if the Board will conclude tonight, and asks that Mr. Grover consider a path forward and next steps. Mr. Grover asks if Mr. Ricciarelli can speak to the garden units as there were concerns raised about quality of life.

Mr. Ricciarelli states that they will work with the Historic Commission on the windows, and that he has previously worked on turning an old convent into apartments with garden units that came out attractive. He maintains they are not dungeons like hey have been made out to be by some commenters. He also notes the units could end up being townhomes with bedroom spaces in the basement.

Jack Dahlstedt of MD Property Development thanks the board and commenters and states these are preliminary plans. Mr. Dahlstedt thanks everyone for their feedback, and states they are trying to find a balance between utilizing the existing building to add units and filling in the gap on Lafayette Street while meeting housing needs. In response to comments suggesting the units were too small, he states that these are what people are currently looking for. He also notes they have already agreed to private trash collection.

Mr. Copelas states he still has some questions and concerns. He also notes that he is a bit uncomfortable with the architectural gymnastics undertaken to meet the 1.5 spaces per unit requirement as it has detracted from some of the possibilities. While not in favor of a variance for parking necessarily, he notes he could consider one if some of the other negatives were able to be mitigated. He states he is not comfortable moving forward tonight unless other Board members are. Mr. Vyedin states she is not quite ready to vote. Ms. Ordaz agrees, and states she would like to see more solid details and perhaps options for the parking plan. Mr. Viccica indicates he is also not ready to vote, reiterating many concerns including density.

Mr. Grover states he appreciates the comments, and that he will discuss more with the neighbors. He asks to continue to the January meeting.

**Motion and Vote:** Mr. Viccica motions to continue the petition of MD PROPERTY DEVELOPMENT at 275 LAFAYETTE STREET (Map 33, Lot 438) (R1,R3 Zoning Districts) for  Special Permits per Section 3.3.2 Nonconforming Uses to change from one nonconforming use-educational use to a multi-family residential use, a Special Permit per Section 3.3.3 Nonconforming Structures of the Salem Zoning Ordinance to allow for alteration of the existing nonconforming structure, and Variances from Section 4.1 Dimensional Requirements for lot coverage where 30% is permitted and 32.5% is being sought/ lot area per dwelling unit where 3,500 SF is required in the R3 Zoning District and 15,000 SF in the R1 where 1,500 SF is proposed/ Side setback where 20 feet is required and 10 feet is sought, and per Section 5.1.5 Curb Cuts for 30 feet of curb cut where 20 feet is allowed, for a total of 15 residential units in the existing building and a new building to be constructed at 275 LAFAYETTE STREET., to the next regularly scheduled meeting of the Zoning Board of Appeals on January 18, 2023.

Ms. Vyedin seconds the motion. **The vote is five (5) in favor (Steven Smalley, Nina Vyedin, Rosa Ordaz, Paul Viccica, and Peter Copelas) and none (0) opposed. The motion passes.**

**MEETING MINUTES**

**October 19, 2022**

Acting Chair Copelas states he read the minutes and has no edits. Mr. Viccica states he also read the minutes and has no issues.

Vic read and no problem

**Motion and Vote:** Mr. Viccica motions to approve the minutes from the October 19, 2022 meeting of the Zoning Board of Appeals as drafted. Ms. Ordaz seconds the motion. **The vote is five (5)** **in favor and none (0) opposed. The motion passes.**

**October 24, 2022**

Acting Chair Copelas notes this was a special meeting, and that he has read the minutes and has no comments or edits. Mr. Viccica states he also read the meeting, and thanks the recording clerk for the accuracy and detail.

**Motion and Vote:** Ms. Ordaz motions to approve the minutes from the October 24, 2022 meeting of the Zoning Board of Appeals as drafted. Mr. Viccica seconds the motion. **The vote is five (5)** **in favor and none (0) opposed. The motion passes.**

**OLD/NEW BUSINESS**

**Board Discussion of Election and Function of Officers**

Acting Chair Copelas notes that Mike Duffy stepped down from being Chair after five or six years, and that currently there is no one eager to take his place. He states he has given it some thought, and that has been convinced that if no one else feels strongly, and if it is the will of other Board members, he would be willing to consider stepping up as Chair. He notes his term lasts until March 2023, and would therefore need an extension. Mr. Copelas also notes he cannot guarantee more than a year, as he is beginning to dip his toes into retirement. The Board discusses the matter generally, and voices support overall for Mr. Copelas as chair.

**Motion and Vote:** Ms. Ordaz motions to nominate Peter Copelas as Chair for the Zoning Board of Appeals, effective January 2023. Ms. Vyedin seconds the motion. **The vote is five (5)** **in favor and none (0) opposed. The motion passes.**

**ZBA Meeting Schedule for 2023**

Mr. Laroe indicates he sent out proposed dates. Mr. Copelas istates that it looks like it will continue on the third Wednesday of the month. He suggests moving the December 20th meeting to the 13th so as to not be too close to the holiday. Mr. Viccica notes that historically the April meeting is moved to accommodate April vacation, and Ms. Ordaz agrees. The Board discusses moving the April 19th meeting to the 12th of the month.

**Motion and Vote:** Mr. Viccica motions to approve the proposed schedule for 2023 as amended. Ms. Ordaz seconds the motion. **The vote is five (5)** **in favor and none (0) opposed. The motion passes.**

**31 Calumet Street Variance Extension Request**

Acting Chair Copelas introduces the petition.

Attorney Scott Grover introduces himself on behalf of the petitioner and notes this was approved last year. He describes the property on the Salem/Peabody line, and explains that the proposal was to originally create three additional lots, but was scaled back to two lots pursuant to comments from the Board and abutters. Mr. Grover states the owners have been working to bring a road and utilities there as neither currently exist, but discovered that water and sewer need to come from Peabody. As such they are now seeking a six month extension.

Mr. Copelas states he the remembers petition and understands the complications described.

**Motion and Vote:** Ms. Vyedin motions to approve the request for a six (6) month extension for 31 Calumet Street as requested. Ms. Ordaz seconds the motion. **The vote is five (5)** **in favor and none (0) opposed. The motion passes.**

**ADJOURNMENT**

**Motion and Vote:** Ms. Vyedin motions to adjourn the meeting. Ms. Ordaz seconds the motion. **The vote is all in favor. The motion passes.**

**The meeting ends at 8:47 PM on December 14, 2022.**

***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/zoning-board-appeals/pages/zoning-board-appeals-decisions-2022>

Respectfully submitted,
Daniel Laroe, Staff Planner