

City of Salem Zoning Board of Appeals
Meeting Minutes
September 21, 2022

A meeting of the Salem Zoning Board of Appeals (“Salem ZBA”) was held on Wednesday, September 21, 2022 at 6:30 pm via remote participation in accordance with a Special Act extending remote participation meetings until March 31, 2023.

Chair Mike Duffy calls the meeting to order at 6:32 pm.

Chair Duffy 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. Duffy also explains the rules regarding public comment.

ROLL CALL

Those present were: Mike Duffy (Chair), Peter Copelas, Paul Viccica, and Steven Smalley. Also in attendance were Daniel Laroe – Staff Planner, Building Inspector Tom St. Pierre, and Jonathan Pinto – Recording Clerk. Those absent were: Rosa Ordaz and Carly McClain

REGULAR AGENDA

Location: **25 Warren Street (Map 25, Lot 270) (R2 Zoning District)**

Applicant: **Megan Entwich**

Project: A public hearing for all persons interested in the petition of MEGAN ENTWICH at 25 WARREN STREET (Map 25, Lot 270) (R2 Zoning District), for a Special Permit per Section 3.3.5 Nonconforming Single- and Two-Family Residential Structures of the Salem Zoning Ordinance to demolish a one-story porch and add a three (3) story addition to the rear of the property. The additions will be 8’ x 13’ feet and will be used as bathrooms. The rear yard setback will be reduced from two (2) feet to one (1) foot.

Documents and Exhibitions

- Application date-stamped June 29, 2022 and supporting documentation

Chair Duffy introduces the petition and notes the applicant is seeking to continue to the next regularly scheduled meeting on October 19, 2022.

Motion and Vote: Mr. Copelas motions to continue the petition of MEGAN ENTWICH at 25 WARREN STREET (Map 25, Lot 270) (R2 Zoning District), for a Special Permit per Section 3.3.5 Nonconforming Single- and Two-Family Residential Structures of the Salem Zoning Ordinance to demolish a one-story porch and add a three (3) story addition to the rear of the property to the next regularly scheduled meeting of the Zoning Board of Appeals on October 19, 2022.

Mr. Smalley seconds the motion. **The vote is four (4) in favor (Steven Smalley, Mike Duffy (Chair), Paul Viccica, and Peter Copelas) and none (0) opposed. The motion passes.**

Location: **13 Willow Avenue (Map 33, Lot 628) (R1 Zoning District)**

Applicant: **Michael Reiter**

Project: A public hearing for all persons interested in the petition of MICHAEL REITER at 13 WILLOW AVENUE(Map 33, Lot 628) (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 rebuild and replace a two (2) family home. The proposed structure will have additional dormers that were not with the original structure.

Documents and Exhibitions

- Application date-stamped June 29, 2022 and supporting documentation

Chair Duffy introduces the petition.

Michael Reiter introduces himself and explains he is proposing to replace a previously existing two-family home, with the only change being an addition of dormers on the top floor. Mr. Reiter indicates he has lived here for 20 years and knows most of his neighbors, who he contends have no objection to his plans. He suggests the dormers will not block any views for abutters, and that the new building will be more aesthetically pleasing as well as in character with nearby homes. Mr. Reiter states he used to be on the Salem Historical Commission, and that he has an appreciation for buildings and not messing them up. He indicates he would like to build something nice and add room to the top floor with the proposed dormers.

Chair Duffy references the plans and notes there are two proposed dormers, one on either side. Chair Duffy asks about the plans for the interior with the addition of the dormers. Mr. Reiter explains it will increase living space for the second floor apartment, which is mostly on the second floor, and the third floor expansion will allow for three bedrooms.

Mr. Copelas asks about the height compared to the existing building, noting that there is not currently a building on the site. Mr. Reiter indicates the building will be the same height as the previous, and that the only change is the roof line. Mr. Reiter further explains the discussions he had with neighbors and their apparent approval.

Chair Duffy opens the floor to public comment but there is none.

Chair Duffy reviews the statement of grounds and summarizes the plans and elevations. He indicates the criteria for a special permit has been met and notes the positive aspects of the proposal.

Mr. Copelas notes there were two written comments submitted to the Board in favor of the proposal. Chair Duffy confirms.

Motion and Vote: Mr. Copelas motions to approve the petition of MICHAEL REITER at 13 WILLOW AVENUE(Map 33, Lot 628) (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 rebuild and replace a two (2) family home, where the proposed structure will have additional dormers not in the original structure, subject to the following standard conditions:

1. Petitioner shall comply with all city and state statutes, ordinances, codes, and regulations.
2. All construction shall be done as per the plans and dimensions submitted to and approved by the Building Commissioner.
3. All requirements of the Salem Fire Department relative to smoke and fire safety shall be strictly adhered to.
4. Petitioner shall obtain a building permit prior to beginning any construction.
5. A Certificate of Occupancy is to be obtained.
6. A Certificate of Inspection is to be obtained
7. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board.
8. All construction shall be done per the plans and dimension submitted to and approved by this Board. Any modification to the plans and dimensions must be approved by the Board of Appeals unless such changes are deemed a minor field change by the Building Commissioner in consultation with the Chair of the Board of Appeals.
9. Petitioner shall schedule Assessing Department inspections of the property, at least annually, to project completion and a final inspection upon project completion.

Mr. Viccica seconds the motion. **The vote is four (4) in favor (Mike Duffy (Chair), Peter Copelas, Paul Viccica, and Steven Smalley) and none (0) opposed. The motion passes.**

Location: **52 School Street (Map 27, Lot 4) (R2 Zoning District)**

Applicant: **John and Marcy Hauber**

Project: A public hearing for all persons interested in the petition of JOHN AND MARCY HAUBER at 52 SCHOOL STREET (Map 27, Lot 4) (R2 Zoning District), for a Special Permit per Section 3.3.5 Nonconforming Single- and Two-Family Residential Structures and The Dimensional Table of the Salem Zoning Ordinance to add a two-story unit and two (2) two-car garages to create a two-family building and four (4) garage parking spaces. The proposed lot area per dwelling is 6,378 where 7,500 is required. The existing and proposed side yard setback is 3.4' where 10' is required. The existing front yard setback is 6.3' where 15' is required.

Documents and Exhibitions

- Application date-stamped June 29, 2022 and supporting documentation

Chair Duffy introduces the petition.

Attorney Scott Grover introduces himself on behalf of the petitioners, who he states have lived here for over 30 years. He describes the property as an existing single family home over 100 years in age in need of restoration. Mr. Grover explains the house sits on a large lot of 13,000 square feet and is larger than other lots in the neighborhood. The area is zoned R2 and surrounded by a mix of single-, two-, and multi-family homes. Mr. Grover indicates the proposal is to construct an addition with a

new townhouse that will be consistent in scale with the existing home, in order to provide funds to restore the home. Mr. Grover contends the zoning relief requested is minor, noting that creating a second unit is allowed by right in the R2 district. The relief requested is related to lot area per dwelling, as the requirement is 7,500 feet and the proposal will be 6,378 square feet, and related to front and side yard setback. Mr. Grover notes that the existing home does not comply with several dimensional requirements, and so the proposal is an extension of an existing nonconforming structure by special permit. He suggests the change is not substantially more detrimental to the neighborhood than the present structure. Mr. Grover indicates the proposal serves a community need by adding additional housing and restoring existing housing, that there will be no effect on traffic of parking, and that the existing utilities are adequate to serve the addition. He adds that the design is in character with the neighborhood, and that there will be adequate space between buildings to preserve privacy and views of abutters. Mr. Grover notes there were letters of support from abutters as well.

Dan Ricciarelli introduces himself as project architect and presents photos of the property. He explains that the proposal is to add then unit to the rear of the site, noting that the existing building will be most visible from School Street. Mr. Ricciarellie points out the two garages onsite with master bedrooms above, and presents floor plans. The two units will be three bedroom and have 3.5 bathrooms. Mr. Ricciarelli provides additional details regarding materials, and discusses the proposed deck off the back of the new unit.

Chair Duffy states the petitions appears straight forward, noting the greatest impingement on setbacks relate to the existing building.

Mr. Copelas adds that the design seems modest and well thought out. He also notes that a lot area per dwelling of 6,300 feet, while below the requirement, is still generous given some of the lot sizes in the area.

Chair Duffy opens the floor to public comment.

Marlo Neighbors at 8 Chandler Street introduces himself as an abutter. Mr. Neighbors expresses concerns about properties being jammed in, and suggests there is no compelling reason to move forward with the proposal. Mr. Neighbors suggests that spacing requirements exist so that people can enjoy a certain amount of distance, privacy, and space in residential neighborhoods.

Janet (no last name given) of 60 School Street introduces herself, and states she is concerned that the area seems fairly congested to begin with. She also notes there are some very old trees in the area. The commenter also expresses concern regarding fire spreading quickly in the area if homes are too close.

Mike Becker introduces himself as the owner of the property at 48 School Street, noting he lived at 2 School Street Court for ten years previously. Mr. Becker states that he is most affected by the proposal, and that he is fully in support of it. He suggests he could not have asked for better neighbors, and speaks in favor of the proposal.

Chair Duffy notes that Mr. Becker also submitted written comment in support.

Carol Champigny of 10 Chandler Street introduces herself and indicates she lives next door to Mr. Neighbors. Ms. Champigny speaks against the proposal and states she does not want this building in the neighborhood. She explains she has lived in her victorian farmhouse for 30 years and that she loves her yard and view. She expresses concerns about the neighborhood being congested, and suggests this proposal would be detrimental to the area. Ms. Champigny contends that if the homeowners wish to fix their home they should just do it, rather than adding on a townhouse and garage space in the back. She states she is in favor of the home being fixed and renovated, but that she is not in favor of exceptions to zoning laws.

Richard Champigny introduces himself as Carol Champagne's husband, and states he agrees with Janet of 60 School Street noting her concerns regarding potential fire. Mr. Champigny suggests the proposal seems like trying to fit ten pounds into a five-pound bag.

Mr. Grover indicates that none of the significant trees on the property will be taken down, and that as much will be preserved as possible to maintain the neighborhood character. He also notes that the setback requirements are met on the Chandler Street side.

Mr. Viccica notes there is a large tree in the back of the property that could likely be affected by construction.

Chair Duffy notes that based on lot placement, the proposal will not impinge on any of the setbacks to any greater extent than the existing house. He also notes the addition is allowed in an R2 zone. Chair Duffy discusses the special permit considerations, noting the need for housing and minimal negative impact associated with the proposal. Mr Ricciarelli suggests the large tree will not be affected as it is far enough back near the lot line.

Motion and Vote: Mr. Viccica motions to approve the petition of JOHN AND MARCY HAUBER at 52 SCHOOL STREET (Map 27, Lot 4) (R2 Zoning District), for a Special Permit per Section 3.3.5 Nonconforming Single- and Two-Family Residential Structures and The Dimensional Table of the Salem Zoning Ordinance to add a two-story unit and two (2) two-car garages to create a two-family building and four (4) garage parking spaces, subject to the following standard conditions:

1. Petitioner shall comply with all city and state statutes, ordinances, codes, and regulations.
2. All construction shall be done as per the plans and dimensions submitted to and approved by the Building Commissioner.
3. All requirements of the Salem Fire Department relative to smoke and fire safety shall be strictly adhered to.
4. Petitioner shall obtain a building permit prior to beginning any construction.
5. Exterior finishes of the new construction shall be in harmony with the existing structure.
6. A Certificate of Occupancy is to be obtained.
7. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board.
8. Unless this decision expressly provides otherwise, any zoning relief granted does not empower or authorize the Petitioner to demolish or reconstruct the structure(s) located on the subject property to an extent of more than fifty percent (50%) of its floor area or more than fifty percent (50%) of its replacement cost at the time of destruction. If the structure is demolished by any means to an extent of more than fifty percent (50%) of its replacement cost or more than fifty percent (50%) of its floor areas at the time of

- destruction, it shall not be reconstructed except in conformity with the provisions of the Ordinance.
9. All construction shall be done per the plans and dimension submitted to and approved by this Board. Any modification to the plans and dimensions must be approved by the Board of Appeals unless such changes are deemed a minor field change by the Building Commissioner in consultation with the Chair of the Board of Appeals.
 10. Petitioner shall schedule Assessing Department inspections of the property, at least annually, to project completion and a final inspection upon project completion.

Mr. Smalley seconds the motion. **The vote is four (4) in favor (Mike Duffy (Chair), Peter Copelas, Steven Smalley and Paul Viccica) and none (0) opposed . The motion passes.**

Location:	76 Lafayette Street (Map 34, Lot 417) (B5 Zoning District)
Applicant:	Adam Shoemaker
Project:	A public hearing for all persons interested in the petition of ADAM SHOEMAKER at 76 LAFAYETTE STREET (Map 34, Lot 417) (B5 Zoning District), for a Special Permit per Section 3.1.2 Principal Uses of the Salem Zoning Ordinance to allow a three (3) barrel, which is ninety-three (93) gallons, microbrewery and taproom on the first (1st) floor of 76 LAFAYETTE STREET.

Documents and Exhibitions

- Application date-stamped July 7, 2022 and supporting documentation

Chair Duffy introduces the petition.

Attorney Bill Quinn introduces himself on behalf of the petitioners, who seek to operate a microbrewery and tasting room in the B5 zoning district on the first floor of 76 Lafayette Street, which has been long vacant. He notes it is the space adjacent to the Howling Wolf restaurant. He describes the property history and vacancy, and explains that a microbrewery is allowed in the district by special permit. Mr. Quinn indicates that a per ordinance, a tasting room can be no more than 50 percent of the square footage of the overall facility. Architectural calculations demonstrate the proposed tasting room will be 41 percent of the gross square footage. Mr. Quinn next discusses the standard grounds for a special permit. He indicates the district is where the City wants thriving businesses, and that the proposal meets a social need. Mr. Quinn describes the neighboring properties, and suggests utilizing the space for a tourist and resident service facility is in everyones best interest. The plan is to operate during the same hours as Notch or East Regiment, which are licensed to operate in the City. Regarding parking, Mr. Quinn notes that the City of Salem accepts responsibility for parking in garages in the B5 zone, and that this will be an active but small facility so that traffic should not be impacted.

Mr. Viccica asks for specifics on hours of operations, as well as waste removal and disposal. He also asks about deliveries, and if the the parking in back is dedicated to this rental or shared with others. Mr. Quinn states the parking is shared with the other commercial tenants. For hours of operation,

Mr. Quinn states they would be 4PM to 11PM on weekdays and noon to midnight on weekends. Mr. Viccica and Mr. Quinn discuss the operating hours and how they compare to other existing businesses. Mr. Quinn indicates the applicants can speak to additional details. Regarding deliveries and waste, Mr. Quinn explains that grain products will be delivered in bales or barrels to the facility, processed, fermented to make beer, and the waste is a viscous mix of spent grains and shells. Waste will be barreled, maintained on the property in a storage room, and picked up once or twice a week depending on business volume. Mr. Quinn states waste removal will be done by a private third party and that both deliveries and waste removal will occur out the back entrance. He also notes that filtering systems will ensure that water leaving the production area and going into the public sewer system will not have any grain product or waste.

The applicants introduce themselves and explain that they will sell their product in the taproom mainly, and that once the beer is fermented it will be put in kegs and served in the tasting room.

Chair Duffy opens the floor to public comment.

Nina Vyedin of 41 Felt Street asks about the style of beer, and if the petitioners are bringing a product that is new to the area.

Mr. Shoemaker states they will have a variety of styles of beer, and that they are looking to be an Asian-American inspired brewery. He adds that they will mostly stick to ales since Notch has lagers covered.

Chair Duffy discusses the detailed statement grounds submitted, noting the proposal is for a unique product and service for residents and visitors.

Mr. Quinn explains his clients specified the intent to use a three-barrel system to generate 95 gallons with four fermentors. He notes that Notch has a ten barrel system and East Regiment has a five barrel system, for comparison. Mr. Quinn states that based on the final plans, it appears a five barrel system could fit, and so the applicants would like to seek approval for five barrels, if they are able to get approvals at other required levels from state and local authorities. Chair Duffy states he has no objection. Mr. Copelas asks if there is an issue with the agenda advertising it as a three-barrel system, and Chair Duffy explains there is not, as this is a special permit and it would not be within the zoning regulations to decide such details. He adds that it would be the purview of other boards and regulatory authorities.

Motion and Vote: Mr. Smalley motions to approve the petition of ADAM SHOEMAKER at 76 LAFAYETTE STREET (Map 34, Lot 417) (B5 Zoning District), for a Special Permit per Section 3.1.2 Principal Uses of the Salem Zoning Ordinance to allow a three (3) barrel, which is ninety-three (93) gallons, microbrewery and taproom on the first (1st) floor, subject to the following standard conditions:

1. Petitioner shall comply with all city and state statutes, ordinances, codes, and regulations.
2. All construction shall be done as per the plans and dimensions submitted to and approved by the Building Commissioner.
3. All requirements of the Salem Fire Department relative to smoke and fire safety shall be strictly adhered to.
4. Petitioner shall obtain a building permit prior to beginning any construction.
5. A Certificate of Occupancy is to be obtained.
6. A Certificate of Inspection is to be obtained

7. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board.
8. All construction shall be done per the plans and dimension submitted to and approved by this Board. Any modification to the plans and dimensions must be approved by the Board of Appeals unless such changes are deemed a minor field change by the Building Commissioner in consultation with the Chair of the Board of Appeals.
9. Petitioner shall schedule Assessing Department inspections of the property, at least annually, to project completion and a final inspection upon project completion.

Mr. Copelas seconds the motion. **The vote is four (4) in favor (Mike Duffy (Chair), Peter Copelas, Steven Smalley and Paul Viccica) and none (0) opposed . The motion passes.**

Location: **3 Federal Court (Map 26, Lot 500) (R2 Zoning District)**

Applicant: **Skomurski Development, LLC**

Project: A public hearing for all persons interested in the petition of SKOMURSKI DEVELOPMENT, LLC at 3 FEDERAL COURT(Map 26, Lot 500) (R2 Zoning District), for a Special Permit per Section 3.2.4 Accessory Buildings and Structures of the Salem Zoning Ordinance to renovate and convert a historic carriage house. All work will be done within the existing footprint of the existing structures.

Documents and Exhibitions

- Application date-stamped July 21, 2022 and supporting documentation

Chair Duffy introduces the petition.

Attorney Scott Grover introduces himself on behalf of the LLC that owns the property that is the subject of the application. Mr. Grover indicates Joe Skomurski is the principal of the LLC and that Dan Ricciarelli is the project architect.

Mr. Grover describes the property as being on a small side street off of Federal Street, and that it contains a large three-family house in front and a detached historic carriage house in the back. The carriage house is currently unimproved, vacant, and largely just a shell, according to Mr. Grover. He adds that the carriage house existed in its present location since 1874 based on historical research. The original house was constructed in the early 1800's, but records only go back as far as 1874. Mr. Grover explains that the structure qualifies as a historic carriage house per section 10 of the zoning ordinance, and that the intent of the proposal is to relocate one of the existing three units into the carriage house. He notes that a dwelling unit in the carriage house is permitted by special permit, and that the petitioners could create a fourth unit, but in this case are seeking to take one unit out of the existing building and move it to the carriage house, thereby maintaining the existing density. Mr. Grover states the plan is to preserve the historically significant structure and improve the housing units on the property. He contends there would be no increase in density, no change in parking requirements, no impact on traffic or utilities, and no expansion of the footprint or roof area. H adds that the property value and tax base would increase as a result.

Dan Ricciarelli introduces himself and presents plans for the carriage house. Mr. Ricciarelli explains that windows will be added, but otherwise the exterior will remain the same. He next presents existing parking and shows floor plans. The carriage house will house a simple one bedroom unit. The windows will need approval of the Historic Commission.

Mr. Viccica asks where the windows will be placed. Mr. Ricciarelli indicates they will be on the blank facade facing onto the patio, far from the property line.

Chair Duffy opens the floor to public comment.

Jane Arlander of 93 Federal Street introduces herself and indicates she owns the property right across the street. Ms. Arlander states she has issues with some of the statements made by Mr. Grover, particularly with respect to the pre-existing nature of the home. She contends that in 2006 it was a three-family property, and that when the first floor tenant moved out the current owners took over the unit to live in. Since 2007, the owners occupied both the first and second floor and rent out the third apartment, according to Ms. Arlander. She states that her understanding is that the grandfathered use expired after 24 months of no longer being used as a three family. She suggests the property has been used as a two family since 2007, and therefore argues that it is incorrect to state they are not adding an additional unit. Ms. Arlander states she would like to see a site plan that shows the landscaping and parking, noting the historical significance of the location near the Ropes Mansion garden.

Marie Richards of 6 Federal Court introduces herself and states she agrees with Ms. Arlander's comments. Ms. Richards indicates she was concerned the petitioners would be adding a fourth unit, but was pleased to learn they are not, as parking and space for cars is currently an issue. Ms. Richards provides some history of the area and prior owners of the property, and notes witnessing difficulty maneuvering cars in the parking area.

Mr. Grover discusses the parking and concrete area where he states cars currently park and will continue to do so. He indicates there is enough space for five compliant parking spaces, which is what is required for three units. He also notes that an additional unit in the carriage house would be permitted under the ordinance. With respect to the number of units, Mr. Grover explains that the date of purchase is irrelevant, as there have always been three gas and electric meters serving the property and the property has been assessed as a three family home.

Mr. Copelas acknowledges there may be ambiguity about the status of the home as a two- or three-family based on comments, and asks if a special condition could alleviate some of the concerns. Mr. Grover indicates a condition could be included that limits the main structure to having two units.

Chair Duffy discusses the statement of grounds and summarizes the petition.

Motion and Vote: Mr. Copelas motions to approve the petition of SKOMURSKI DEVELOPMENT, LLC at 3 FEDERAL COURT(Map 26, Lot 500) (R2 Zoning District), for a Special Permit per Section 3.2.4 Accessory Buildings and Structures of the Salem Zoning Ordinance to renovate and convert a historic carriage house, subject to the following standard conditions:

1. Petitioner shall comply with all city and state statutes, ordinances, codes, and regulations.

2. All construction shall be done as per the plans and dimensions submitted to and approved by the Building Commissioner.
3. All requirements of the Salem Fire Department relative to smoke and fire safety shall be strictly adhered to.
4. Petitioner shall obtain a building permit prior to beginning any construction.
5. Exterior finishes of the new construction shall be in harmony with the existing structure.
6. A Certificate of Occupancy is to be obtained.
7. A Certificate of Inspection is to be obtained.
8. Petitioner shall obtain street numbering from the City of Salem Assessor's Office and shall display said number so as to be visible from the street.
9. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board.
10. All construction shall be done per the plans and dimension submitted to and approved by this Board. Any modification to the plans and dimensions must be approved by the Board of Appeals unless such changes are deemed a minor field change by the Building Commissioner in consultation with the Chair of the Board of Appeals.
11. Petitioner shall schedule Assessing Department inspections of the property, at least annually, to project completion and a final inspection upon project completion.

And the following special condition:

1. The main structure will have no more than two units in perpetuity.

Mr. Smalley seconds the motion. **The vote is four (4) in favor (Mike Duffy (Chair), Peter Copelas, Paul Viccica, and Steven Smalley) and none (0) opposed . The motion passes.**

Location: **10 Osborne Street (Map 27, Lot 314) (R2 Zoning District)**

Applicant: **Atlantic Coast Homes**

Project: A public hearing for all persons interested in the petition of ATLANTIC COAST HOMES at 10 OSBORNE STREET(Map 27, Lot 314) (R2, B1 Zoning District), for a Special Permit per Section 3.3.5 Nonconforming Single- and Two-Family Residential Structures of the Salem Zoning Ordinance to renovate and expand the existing third floor dormer in the existing house for two (2) townhome units and a rear addition with garage parking below. The addition would have three (3) townhome units. This proposal would create a total of five (5) townhome units and eight (8) parking spaces. The existing lot and building are nonconforming in lot area, frontage and front and side setbacks.

Documents and Exhibitions

- Application date-stamped August 2, 2022 and supporting documentation

Chair Duffy introduces the petition.

Attorney Bill Quinn introduces himself on behalf of the petitioners.

Mr. Copelas asks about the ownership of 10 Osborne Street. Mr. Quinn states he believes it is a company operated by Mike Becker, but that he is uncertain. Mr. Copelas notes he looked at the

registry of deeds and that there does not appear to have been any property transfer for a number of years, and that the application states the undersigned represents they are the owners. Mr. Quinn indicates he did not prepare the petition and is new to the case, but states the petition has Atlantic Coast Homes as the petitioner, and that he will have to ask Mr. Becker about the ownership status. Mr. Quinn explains there is a purchase and sale agreement that has a cooperation clause agreement in it, and that they are relying on that to petition the Board on behalf of the existing owner. Mr. Copelas suggests they could have asked the owner to approve the petition like most applicants do. Mr. Quinn states that could have been done, but that there are several options. He suggests presenting the purchase and sale agreement if it helps, and does. The Board discusses a potential special condition, requiring satisfactory evidence of ownership.

Mr. Quinn states he has experience with Mr. Becker and his other successful development projects. He indicates the property at 10 Osborne Street is a single family home that has had various extensions and additions over the years. Mr. Quinn indicates the neighborhood is zoned B1 and R2, and that there are two zones across the property. Mr. Quinn states there are provisions in zoning that say where a district boundary divides a lot of record, regulations for the less restricted portion of such lot shall extend not more than thirty feet into the more restrictive portion. He explains the proposal is to take a single family home and make it a multi-family, five-unit property, which he maintains is an allowed use in the B1 district. He presents plans showing the proposed addition at the rear, which would house three townhomes. Mr. Quinn states the addition is primarily in the R2 portion of the property, but that if the commercial line is extended thirty feet it almost approaches the other boundary line. Mr. Quinn next explains the request for a special permit, noting that under section 3.3.5 a nonconforming property may be reconstructed, altered, or extended, and in the event the building commissioner determines the nonconforming nature would be increased by alteration or change, the ZBA may, by special permit, allow it where it is determined to not be substantially more detrimental than the existing nonconforming structure. He suggests that there are no new nonconformities being created from a dimensional point of view. Mr. Quinn adds that there would be adequate parking for all units, and states the lot is well sized for parking, landscaping, and snow storage if necessary. He contends the proposal would be an improvement to the property and neighborhood,

Dan Ricciarelli, project architect, discusses the bifurcated zoning and presents elevations. He also presents photographs of the existing building. Mr. Ricciarelli describes plans to completely restore the existing home and convert it to two units, without too much outward change in massing. He notes the addition of a dormer and small addition off of the back. Mr. Ricciarelli shows floor plans, and notes there will be six garage parking spaces and an additional two outside. He discusses grade and shows various elevations. All units will be two bedroom and two bathroom.

Chair Duffy opens the floor to public comment.

Dan Hanscom of 5 Osborne Street introduces himself and states he has serious concerns. Mr. Hanscom suggests this proposal is not good for the neighborhood, and states it is way too big for such a narrow lot. He also notes that the driveway has shared ownership, and states no removal will be a problem. Mr. Hanscom also expresses concerns regarding parking and water pressure in the old homes. He states that creating new housing with ten bathrooms could be an issue. Mr. Hanscom also indicates he is concerned about the proposed dormer, noting there is currently no third floor. He contends that what looks like a third floor is actually an attic space that is less than

five feet in height. Mr. Hansom also states he believes the question of ownership is a big deal. He suggests it be redesigned as a project resulting in no more than two units.

Alex Meyer of 8 Osborne, Unit 1 introduces himself and states he sent an email to the Board earlier in support of the project. Currently looking out his window, Mr. Meyer states the property is an eyesore as it is dilapidated. Mr. Meyer suggests the proposal would make the neighborhood more pleasant, and that he is not concerned about parking. Mr. Meyer also speaks to Mr. Becker's character, and describes him as helpful and going above and beyond as a resource while he was a first time homeowner.

Mike Becker introduces himself and provides context, noting that he developed 8 Osborne Street in a similar situation, where a special permit was granted for dimensional relief. He notes that the lot at 8 Osborne is 40 percent smaller than the lot under proposal. Mr. Becker states that the density of the two projects are proportionate.

Mr. Viccica asks about the driveway, and states he assumes the comment about it being shared is not true based on the plot plan. Mr. Becker clarifies that 18 inches at the front of the driveway between this lot and Mr. Meyer's property at 8 Osborne are shared.

Dan Hanscom asks the Board members to question the supposed existing third floor and proposed dormer. He asks that the plans be redrawn and that Board members ask more questions about the third floor.

Carlos Amaral of 9 Osborne Street introduces himself, and states that prior to Mr. Becker redoing 8 Osborne street, there were never problems with parking on the street. After the units were built, Mr. Amaral states there are days you cannot find a single parking spot. He indicates he recently had knee replacement surgery and his nursing aids and physical therapists complained about having to park 15 minutes away. Mr. Amaral suggests that adding a five family building to the street would not be good for parking or for snow removal in winter, as the street is very tight with parking on only one side.

Mr. Becker responds to concerns regarding snow removal, and notes there is a 30 foot rear setback and area of 1,800 square feet with 400 square feet of parking carved out, and a downhill slope. He suggests it will be ample space for snow, noting his company does snow removal for all his properties. Mr. Becker further explains that the third floor walkup has a set of stairs and less than six feet of ceiling height, but that there is, in fact, a third floor. He indicates the current owner of record passed away suddenly in 2019, and that his wife was unaware she could sell the house without her name on the deed. The house went to probate, and Mr. Becker explained to her that she had substantial equity and could sell. He also notes that their ownership predated current zoning, and that this would have been a by-right proposal up until four years ago when the B1 district changed to having a minimum lot size per unit.

Victoria Ricciardiello states she is with Diane Robishow of 7 Foster Street, who is an abutter. Ms. Ricciardiello indicates that Ms. Robishow's property abuts the property in question, and that with the sloping lot she has concerns about flooding and drainage. She asks further questions regarding setback details and the parking location proximity to Foster Street. Mr. Ricciarelli discusses the plot plan and setbacks, noting the 30 foot yard and parking spaces with the required two foot setback. Ms. Ricciardiello asks if the area will be paved, and Mr. Ricciarelli indicates they will provide yards

for everyone if possible, with paving on the west side facing North Street for parking. He notes it is currently heavily overgrown with an unused pool.

Diane Robishow also expresses concern regarding yard overgrowth, noting that before the previous owner passed away he had planted running bamboo, which grows underground and spreads easily. She states she is 80 years old and for the past two years has been chopping bamboo down in her yard as it is an invasive species. Ms. Robishow indicates the only way to kill it is to get into the yard with a backhoe and dig it all up. Mr. Becker explains that he plans to redo the landscaping of the whole property and install some screening and fencing. He notes that there will be an excavator on site to remove the pool and that he can remove the bamboo as well.

Ms. Robishow asks about privacy and fence height, noting she would like an eight foot fence because she spends a lot of time in her yard. Mr. Ricciarelli notes the plans are for six foot fences, and suggests providing arborvitae for privacy rather than a taller fence.

Mr. Viccica asks to take back control of the meeting from he back and forth with commenters, and suggests a condition to provide mitigation systems to prevent runoff in the rear of the property.

Mr. Copelas states he is still not convinced that this project is in keeping with, and improving the residential neighborhood character. While it may be within the legal constraints, he suggests it is not the inline with the intent of the zoning. Mr. Copelas states that allowing five units to go into a lot where a single unit exists by special permit as opposed to a variance seems contrary to the intent. He adds that shoehorning five unites into a lot where one is likely not within the neighborhood character, and therefore he is not convinced the special permit criteria is met.

Mr. Quinn says begs to differ, and contends this is just another instance where the quirks of zoning districts and ordinance language allow this. Mr. Quinn asserts that if it is allowed under the ordinance, it should be considered consistent with the needs of the community and the intent of the ordinance.

The Board continues to discuss various issues and questions regarding parking, lot area per unit, massing, and dimensional relief.

After hearing the Boards questions and concerns, Mr. Quinn notes that the petitioner chose to open the public hearing rather than continue despite the number of Board members present. He asks if the Board has serious enough doubts that perhaps could be addressed at another meeting.

Mr. Copelas indicates he is unsure if coming back will alleviate his concerns about how this seems so drastically out of character for the neighborhood, but that if the next meeting has five members perhaps his objection would not be so determinative. He states he does not doubt Mr. Quinn's representation that the proposal is legally allowed, but has still not been convinced that the requirements have been met.

Chair Duffy notes that in situations with a four member Board, they have offered applicants the opportunity to continue to a future meeting. He suggests this could be an opportunity for the applicant to consider the project density or come forward with additional facts to support how this would be more in keeping with the neighborhood than it currently appears.

Mr. Quinn asks to continue the petition to the next meeting.

Mr. Becker asks if the concern is the number of units, size of units, or development overall. Mr. Copelas states he is reluctant to answer because it is not the Board's job to redesign a petitioner's project, but that the most egregious aspect is proposing five units in a lot that currently has one. The Board discusses whether to continue to the October or November meeting. Chair Duffy says they will continue to the October meeting and try to be mindful about moving through the meeting in a timely manner.

Motion and Vote: Mr. Viccica motions to continue the petition of ATLANTIC COAST HOMES at 10 OSBORNE STREET(Map 27, Lot 314) (R2, B1 Zoning District), for a Special Permit per Section 3.3.5 Nonconforming Single- and Two-Family Residential Structures of the Salem Zoning Ordinance to renovate and expand the existing third floor dormer in the existing house for two (2) townhome units and a rear addition with garage parking below, where the addition would have three (3) townhome units, for a total of five (5) townhome units and eight (8) parking spaces, to the next regularly scheduled meeting of the Zoning Board of Appeals on October 19, 2022.

Mr. Copelas seconds the motion. **The vote is four (4) in favor (Mike Duffy (Chair), Peter Copelas, Paul Viccica, and Steven Smalley) and none (0) opposed . The motion passes.**

Location: **49 Essex Street (Map 35, Lot 378) (R2 Zoning District)**

Applicant: **Eric Duaime**

Project: A public hearing for all persons interested in the petition of ERIC DUAIME at 49 ESSEX STREET(Map 35, Lot 378) (R2 Zoning District), for a Special Permit per Section 3.3.3 Nonconforming Structures of the Salem Zoning Ordinance to replace the existing egresses with new exterior egresses. The second-floor units would include stairs and a raised platform totaling 178 square feet. The first-floor unit "1L" will have a 6.5'x3' raised platform built leading down to a single step then to ground level. The first-floor unit "1R" will have a 3'x4' raised platform also leading down to one step then to ground level.

Documents and Exhibitions

- Application date-stamped August 17, 2022 and supporting documentation

Chair Duffy introduces the petition.

Eric Duaime introduces himself and explains that he and his wife purchased this property in May. They have been doing upgrades, starting with the roof and heating, and Mr. Duaime indicates they are now trying to make the egresses safer by making them straighter and wider. Mr. Duaime presents a slide show and shows the property location on a map. He shows the existing conditions as well as elevations, noting there will be not changes to the front of the property. Mr. Duaime presents photos of the interior and exterior egresses, as well as floor plans and a proposed plot plan. He indicates the goal is to allow easier access to the units, safer means of egress, and to create more desirable housing units.

Chair Duffy states the petition seems straight forward, noting there does not appear to be much change to the exterior except for at the egress points.

Chair Duffy opens the floor to public comment but there is none.

Duffy discusses special permit criteria and summarizes the petition.

Motion and Vote: Mr. Viccica motions to approve the petition of ERIC DUAIME at 49 ESSEX STREET(Map 35, Lot 378) (R2 Zoning District), for a Special Permit per Section 3.3.3 Nonconforming Structures of the Salem Zoning Ordinance to replace the existing egresses with new exterior egresses, where the second-floor units would include stairs and a raised platform totaling 178 square feet, the first-floor unit "1L" will have a 6.5'x3' raised platform built leading down to a single step then to ground level, and the first-floor unit "1R" will have a 3'x4' raised platform also leading down to one step then to ground level, subject to the following standard conditions:

1. Petitioner shall comply with all city and state statutes, ordinances, codes, and regulations.
2. All construction shall be done as per the plans and dimensions submitted to and approved by the Building Commissioner.
3. All requirements of the Salem Fire Department relative to smoke and fire safety shall be strictly adhered to.
4. Petitioner shall obtain a building permit prior to beginning any construction.
5. Exterior finishes of the new construction shall be in harmony with the existing structure.
6. A Certificate of Occupancy is to be obtained.
7. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board.
8. All construction shall be done per the plans and dimension submitted to and approved by this Board. Any modification to the plans and dimensions must be approved by the Board of Appeals unless such changes are deemed a minor field change by the Building Commissioner in consultation with the Chair of the Board of Appeals.

Mr. Copelas seconds the motion. **The vote is four (4) in favor (Mike Duffy (Chair), Peter Copelas, Paul Viccica, and Steven Smalley) and none (0) opposed . The motion passes.**

MEETING MINUTES

August 17, 2022

Motion and Vote: Mr. Copelas motions to approve the August 17, 2022 Zoning Board of Appeal meeting minutes as drafted. Mr. Smalley seconds the motion. **The vote is four (4) in favor, and none (0) opposed. The motion passes.**

OLD/NEW BUSINESS

None.

ADJOURNMENT

Motion and Vote: Mr. Copelas motions to adjourn the meeting. Mr. Smalley seconds the motion. The vote is all in favor. The motion passes.

The meeting ends at 9:34 PM on September 21, 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