

City of Salem Board of Appeals
Meeting Minutes
Wednesday, August 17, 2016

A meeting of the Salem Board of Appeals (“Salem BOA”) was held on Wednesday, August 17, 2016 in the third floor conference room at 120 Washington Street, Salem, Massachusetts at 6:30 p.m.

Mr. Copelas (Vice-Chair) calls the meeting to order at 6:30 pm.

ROLL CALL

Those present were: Peter A. Copelas (Vice-Chair), Jimmy Tsitsinos, Paul Viccica (alternate), and Tom Watkins. Those not present were: Rebecca Curran (Chair), Mike Duffy, and Jim Hacker. Also in attendance Tom St. Pierre - Building Commissioner, Erin Schaeffer - Staff Planner, and Colleen Anderson – Recorder.

REGULAR AGENDA

Project	Continuation of a public hearing for a petition seeking a Special Permit per Sec. 3.3.3 <i>Nonconforming Structures</i> of the Salem Zoning Ordinance to reconstruct a garage.
Applicant	MATTHEW KEANE
Location	414 LAFAYETTE STREET (Map 32 Lot 169)(R1 Zoning District)

Attorney John Keilty, 40 Lowell Street, Peabody, was present to represent Matthew Keane, 414 Lafayette Street. Due to only 4 Board members being present at this meeting, Atty. Keilty requests a continuation on behalf of the petitioner to be heard at the next regularly scheduled meeting on September 21, 2016.

Motion and Vote: Mr. Watkins makes a motion to approve the request to continue the public hearing to the next regularly scheduled meeting on September 21, 2016. The motion is seconded by Mr. Tsitsinos. The vote was unanimous with four (4) Peter A. Copelas (Vice-Chair), Jimmy Tsitsinos, Tom Watkins, and Paul Viccica in favor and none (0) opposed.

Project	Petition of seeking a Special Permit per <i>Sec. 3.3.3 Nonconforming Structures</i> of the Salem Zoning Ordinance to reconstruct, extend and structurally change an existing non-conforming rear deck.
Applicant	MATTHEW CORNELL
Location	18 BRIGGS STREET (Map 18 Lot 507) (R2 Zoning District)

Documents and Exhibitions

- Application dated July 26, 2016 and supporting documentation

Jeff Braunell (Contractor), of 15 Forrester Street, was present to represent Matthew Cornell, of 18 Briggs Street. In 1986, the previous property owner received a special permit from the Zoning Board that allowed the construction of a rear deck within four (4) feet from the rear property line. The deck is currently in poor structural condition.

Mr. Copelas- Confirms with the petitioner that the proposal is to remove the existing deck and asks the petitioner to talk about the existing structure in comparison to the proposed structure.

Mr. Braunell- The deck is currently 8' x 17' and located within four (4) feet from the rear lot line. The petitioner is proposing to demolish deck and to reconstruct and expand the structure. The petitioner proposes to extend an existing deck four (4) additional feet in the side yard to square off the deck with the south side of the house to provide a code compliant set of stairs and landing to the deck. The deck will be further expanded toward the existing shed on the property and it will not further encroach along the rear yard setback.

Mr. Copelas- What type of materials will you be using for the deck?

Mr. Braunell- The deck will be a composite material, Trex pebble grey. The handrail will be pressure treated wood in accordance with the Massachusetts construction code.

Mr. Watkins- States that the reasons for the special permit described in the statement of grounds in the application are sufficient.

The Board finds that the reconstruction and expansion of the deck will promote safety and welfare as the structure is currently hazardous and in poor condition.

1. The proposed deck is positioned at the rear of the residential lot with no impact on traffic flow, traffic safety, or parking.
2. There will be no changes to utilities or public services related to the proposed deck.
3. The proposed deck fits with the existing neighborhood character.
4. The proposal conforms to the existing neighborhood character.
5. The potential fiscal impact, including impact on the City tax base is positive.

Vice-Chair Copelas opens public comment.

Dan Cornell, 18 Briggs Street, (Partial Owner.) – Speaks in support of the petition and has safety concerns with the existing structure.

No one else in the assembly wishes to speak.

Vice-Chair Copelas closes public comment.

Mr. St. Pierre – stated that he is in favor of this project.

Motion and Vote: Mr. Watkins makes a motion to grant the petition requesting a Special Permit per *Sec. 3.3.3 Nonconforming Structures* of the Salem Zoning Ordinance to reconstruct, extend and structurally change an existing non-conforming rear deck. The motion is seconded by Mr. Viccica. The vote was unanimous with four (4) Peter A. Copelas (Vice-Chair), Jimmy Tsitsinos, Tom Watkins, and Paul Viccica in favor and none (0) opposed.

Project	Public hearing to consider the application of for an amendment to the approved Special Permit in accordance with <i>Sec. 3.0 Table of Uses</i> of the Salem Zoning Ordinance to expand the hours of operation for public days to 12-8pm seven days a week to accommodate private functions and additional public retail hours at select times of the year.
Applicant	IAN HUNTER (DEACON GILES, INC)
Location	75 CANAL STREET (Map 33 Lot 201) (B-4 Zoning District)

Ian Hunter, 14 ½ Fort Avenue, owner of Deacon Guiles distillery was present to discuss the project. The petitioner is before the Board to amend an existing special permit that was granted in 2014. The petitioner proposes to expand the public hours of operation of the tasting room to seven (7) days a week 12pm – 8pm.

Mr. Copelas- Stated that when there was a discussion about possibly coming back to the Board for a modification. The petitioner requested to expand the hours of operation a little bit in the future to include Thursdays through Sundays.

Mr. Copelas- States that the current request to expand the hours of operation to seven (7) days a week is considerably more than what was expected when the Board granted the special permit with the provision to allow the petitioner to return to expand the hours of operation.

Mr. Hunter- The request is to operate the business with the greatest flexibility. Mr. Hunter states that he does not expect the business to be open to the public seven (7) days a week. Instead the expectations are that the business will most likely only be open to the public on Friday and Saturday because the demand/foot traffic is not enough to support additional staff and other hours of operation. However, the business has noticed demand for public tours and tastings on holiday weekends in addition to special events such as corporate events, birthdays and rehearsal dinners. The petitioner states that the business is not interested in operating past 8pm to respect the residential neighbors. 8pm seems like a

reasonable time to shut down. For general public retail, stick with Friday and Saturday for now, but take advantage of other opportunities.

Mr. Copelas- Understands wanting to go until 8pm and capturing holidays and October business. Is there a way to encapsulate most of what you want to accomplish without going to a seven (7) day a week model?

Mr. Viccica- I just need more information. Is there currently existing parking?

Mr. Hunter- There is not. It was an existing building.

Mr. Viccica- Where do people currently park?

Mr. Hunter- Canal Street.

Mr. Viccica- So, if the business grows to what you are expecting it may be possible to need 35 to 40 parking spaces?

Mr. Hunter- Earlier this year there was a friends and family event with 30 to 40 people and any small private group events would be limited to no more than that. For the most part, the business is really interested in participating in the Salem Food Tours trolley tours and anticipates that 25-30 people will come to the distillery this way. Most people have been carpooling and coming as groups. There is rarely a single individual visiting.

Mr. Tsitsinos- Have you had any issues so far?

Mr. Hunter- Has not heard of anything. The business tries to be a good neighbor and had an open house for the neighborhood recently that was well received. There were five or six households come by to discuss the proposal to expand the hours of public operation. Mr. Hunter hopes that if there are any issues with the business that the neighbors come over to discuss. The immediate abutters have both been supportive.

Mr. Watkins- As far as the special conditions when the Board originally approved the proposal, you were going to look into whether the City was planning on any public improvements on Canal Street to provide a crosswalk in the vicinity of the business. Was there progress on this?

Mr. Hunter- Spoke to David Knowlton, City Engineer, and learned that there will be a crosswalk at the corner of Canal Street and Gardner Street.

Mr. Viccica- Are there other tenants in this building? Are there equal numbers of cars and trips generated from the other tenants?

Mr. Hunter- There are four (4) other tenants in the building. The entrance to Deacon Guiles is about 150 feet up Gardner Street.

Mr. Viccica- Are the other tenants drawing the same number of cars to their businesses? Not familiar with the corner building.

Mr. Hunter- The biggest traffic impacts are with the daycare during pick up and drop off times during the week. During the weekends, there has never been an issue not having enough parking on Canal Street.

Mr. Watkins- Is there a church near your business that impacts parking on Sundays?

Mr. Hunter- Yes, I believe there is a Jehovah's Witness church two blocks away and have services on Saturday morning. Services are over before Deacon Guiles opens.

Vice-Chair Copelas opens public comment.

Josh Turiel- Ward 5 City Councillor- Submits a letter to the Board in support of the expanded hours of operation.

Mr. Viccica- What are your current hours of operation?

Mr. Hunter- The tasting room public hours are on Friday 1pm-6pm and Saturday from noon to 5pm. The business maintains the standard retail hours. The request to expand the tasting room hours of operation until 8pm seven (7) days a week is to accommodate special events (rehearsal dinners, corporate events, birthday parties). Mr. Hunter states that there is no intention of operating later than 8pm. 8pm is a reasonable time to shut it down.

Mr. Hunter- Regular public hours are from 12pm-6pm and 6pm-8pm for private events.

Mr. Copelas-The request is a blanket seven (7) days a week from 12pm to 8pm.

Mr. Viccica- Think to honor the special permit that was issued before with the intent that put a substantial limit on the business, not prepared to support a blanket request for seven (7) days a week from 12pm-8pm. But realizing that you are a business and there is demand for this businesses to be open in October and on holidays, that this seems like a more reasonable expansion of hours. If this goes well, the reaction of the neighborhood would be quite different if you were to be open seven (7) days a week from 12pm- 8pm.

Mr. Copelas- The nature of the business will be a substantial change to the type of business currently operating, which is great and a testament to your business success. It is great that there is a Ward Councillor who supports this expansion. But at the same time this is a substantial change in the nature of your business. Just update us on the status of your licensing and future plans are.

Mr. Hunter- States that the business will apply to the Licensing Board for a Pouring License that is attached to the state Farmer Distillery License. The nature of this is pretty restrictive.

Mr. Copelas- States that right now you can sample...

Mr. Hunter- Right now the tasting room can pour four (4) quarter ounce (0.25 oz) samples per person. These tastes are free of charge by law and the tasting room sells full sized bottles to go. Everything that is sampled in a tasting room of a brewery, winery or distillery must be made on the premise.

Mr. Copelas- The new license that you are planning on getting...

Mr. Hunter- The full pouring license would allow the tasting room to pour full cocktails for sale. Mr. Hunter references Far From the Tree tasting room and Notch Brewery and Tap Room as examples of where full pours of their product are sold. It is about the experience. The Pouring License attached to the Farmer Distillery License is also very restrictive. We can only pour what we produce. It is about giving the customer. Short Path in Everett, MA and Boston Harbor Distillery, Boston, MA are referenced as other examples of distilleries in the state with a pouring license.

Mr. Copelas- Is there food connected to this?

Mr. Hunter- There will be pre-packaged snack food. There will not be a kitchen or food prep at the distillery. If someone wanted to have a private catered event that would be allowed, but the distillery will not have a kitchen.

Mr. Tsitsinos- Speaks in support of the petition and in support of Far From the Tree and Notch.

Mr. Hunter- States that the business does not want to stay open past 8pm and would like to be respectful the neighbors. The request that is made is to give the business some flexibility. A probationary period could make good sense. It is not an inexpensive venture to come before the Zoning Board. Mr. Hunter requests that the decision be written in such a way as to not require that the business return to the Board after it has proven that the expanded hours are okay.

Ms. Schaeffer- For context of the request Far From the Tree Cider is open 55 hours a week and Notch is open 51 hours per week and Deacon Guiles is currently open for 10 hours a week.

Mr. Copelas- Agrees with Mr. Viccica that there may be a middle ground. This is a substantially different establishment. There is a change in operation.

Mr. Viccica- Suggests extending the hours of operation on Friday and Saturday from noon to 8pm. Federal and state holidays noon- 8pm. Month of October Thursday through Sunday noon-8pm. Obviously, people will want to come on Monday and Tuesday in October, but that is almost too far of an expansion of the hours.

Mr. Viccica- To extend the current Friday through Saturday 12pm-5pm or 1pm to 6pm to noon to 8pm. Federal and state holidays noon- 8pm. Month of October Thursday through Sunday noon-8pm.

Mr. Copelas- And for six (6) months the hours will be extended automatically?

Mr. St. Pierre- The Board can allow the hours to extend unless notified that they need to come back to the Board if any complaints have been received by the Building Inspector/Zoning Enforcement Officer.

Mr. Hunter- We are interested in having the business open for private functions on Mondays and Wednesdays.

Ms. Schaeffer- In the Far From the Tree special permit decision, the Board allowed specific public hours of operation and the ability for the business to hold private events during non-public hours. Thursday through Sunday noon to 8pm and private events as scheduled until 8pm.

Mr. Viccica- Does this capture what you need?

Mr. Copelas- If we were to condition this to Thursdays through Sundays noon to 8pm federal and state holidays, and Halloween from noon to 8pm and private events until 8pm for a six (6) month period to be extended...

Mr. St. Pierre- The business will be before the Licensing Board long before it would come back to the Zoning Board of Appeal.

Mr. Copelas- Could the Licensing Board change the hours of operation?

Mr. St. Pierre- The Licensing Board could not extend the hours of operation, but could cut the hours back. The hours that are suggested by the Board are very reasonable. The Licensing Board is the front line and would hear about a disturbance immediately.

Councillor Famico- Ward 2 Councillor- Requests clarification on the additional hours of operation.

Mr. Copelas- We have had a lot of back and forth and in order to accomplish as much as possible from a business point of view, and being sensitive to the neighbors and sensitive to the changing nature of the establishment, the proposal is Thursdays through Sundays from noon to 8pm, federal and state holidays and private parties as they are booked until 8pm.

Councillor Famico- Ward 2 Councillor- Does that mean that private parties are limited to Thursdays through Sundays?

Mr. Copelas- No. Private events may be held any day until 8pm. For example, on a Wednesday the business could hold a private corporate event, but not be open to the public.

Councillor Famico-Ward 2 Councillor- Speaks in support of the expanded hours.

No one else in the assembly wishes to speak.

Vice-Chair Copelas closes public comment.

Motion and Vote: Mr. Viccica makes a motion to grant and amend the Special Permit decision from October 2014 to extend the business hours to Thursday through Sunday 12PM – 8PM, Federal and State holidays from 12PM – 8PM, Halloween, and private functions as scheduled, for 6 months, to be automatically extended so that the petitioner need not reapply, and to be approved by the Licensing Board. The vote was unanimous with four (4) Peter A. Copelas (Vice-Chair), Jimmy Tsitsinos, Tom Watkins, and Paul Viccica in favor and none (0) opposed.

Project	A public hearing for the petition of seeking a Special Permit per Sec. 3.3.3 <i>Nonconforming Structures</i> of the Salem Zoning Ordinance to construct a shed dormer.
Applicant	TIMOTHY & KATHLEEN WALSH
Location	5 HOWARD STREET (Map 35 Lot 187)(R3 Zoning District)

Tim and Kathleen Walsh (Owners) and Brendan O'Donoghue (Architect - Ebben Creek Architecture) were present to discuss the project. The petitioners are proposing to add a shed dormer to their single family home. The petitioner is proposing to add a bedroom and bathroom to the attic space. The property is located in a Residential Multi-Family (R-3) zoning district. The petitioner proposes to keep the home as a single family property. The building is dimensionally non-conforming in almost every way. Currently, the house is two-and one-half stories. The petitioner is proposing to increase the height of a portion of the roof to three (3) stories, which is allowed by-right in the R-3 zoning district. The petitioner presents the heights of adjacent homes to demonstrate that the proposal for three (3) stories on a dimensionally non-conforming structure fits with the existing character of the neighborhood.

Brendan O' Donoghue- Architect, Ebben Creek Architecture, Essex, MA- presents the elevation plans to the Board. The shed dormer will provide the required headroom for a stairway and bathroom.

Mr. Copelas- Is the shed dormer proposed for the South side?

Mr. O' Donoghue- Yes, the simple shed dormer is proposed for the south side and the two individual gable style dormers are proposed on the north side. Directly across the street there are gable style dormers as well as examples of simple shed style dormers. Mr. O'Donoghue continues to present the existing and proposed elevation plans. The shed dormer is not along the length of the entire house, but rather setback quite a bit.

Mr. Copelas- Are you adding an additional egress from the third floor? Will you be creating additional dwelling units?

Mr. Walsh- No. There are no plans to convert the single family home.

Mr. O' Donoghue- States that the windows will be four (4) double hung windows that will provide egress for the third floor.

Vice-Chair Copelas opens public comment and additional comments to the Board.

No one in the assembly wishes to speak.

Vice-Chair Copelas closes public comment.

Mr. Copelas- States that the applicant is requesting a special permit and the Board agrees with the statement of grounds provided by the applicant for each criteria of the special permit requested.

There are no further questions from the Board.

Motion and Vote: Mr. Viccica makes a motion to approve the Special Permit per Sec. 3.3.3 Nonconforming Structures of the Salem Zoning Ordinance to construct a shed dormer. The motion is seconded by Mr. Watkins. The vote was unanimous with four (4) Peter A. Copelas (Vice-Chair), Jimmy Tsitsinos, Tom Watkins, and Paul Viccica in favor and none (0) opposed.

Project	Public hearing for all persons interested in the petition of seeking a Special Permit per Sec. 3.3.2 Nonconforming Uses of the Salem Zoning Ordinance to convert an existing fur retail store into an office space.
Applicant	DINO STATI
Location	189 LORING AVE (Map 31 Lot 130) (R1 Zoning District)

Dino Stati, 189 Loring Avenue, was present to discuss the project. Mr. Stati is requesting to change the space from a fur retail shop to construction company offices. The petitioner is proposing five (5) office cubicles and a conference room. Currently, the space is a fur retail shop with six (6) interior spaces for sales. The petitioner is proposing to use the existing footprint and revitalize the building.

Mr. Copelas- Could you talk about some of the proposed exterior building upgrades?

Mr. Stati- The building currently has a metal grate over the glass and boarded up windows. Mr. Stati presents elevation drawings and states that he would like to remove the metal grates from the windows and install new windows where there are currently boarded up windows. The company does commercial and retail projects. A sign will not be needed as the company is not interested in attracting foot traffic to the business.

Mr. Tsitsinos- Any outside storage?

Mr. Stati- There is an existing shed on the property that is used to store a lawn mower and snow blower.

Mr. Copelas- What about construction vehicles?

Mr. Stati- The company does not have any trucks because the business is a construction management company. There will be no construction equipment, construction vehicles and no storage of equipment or vehicles overnight.

Mr. Viccica- How many employees are there?

Mr. Stati- There are currently eight (8) employees. Five (5) are always on job sites and will not be in the office. There are currently three (3) employees who will use this office space. The company is looking to expand and add one (1) or two (2) employees at this office eventually.

Mr. Viccica- Will you be taking down the fur sign and replacing it with your business sign?

Mr. Stati- I will take down the fur sign and possibly replace the fabric awning and possibly write the name of the company on the awning. Mr. Stati states that he has not yet applied for a sign and may not even have a sign because the company does not really need one for sales. Mr. Stati states that he will keep the 189 Loring Ave. street address on the glass.

Mr. Copelas- Will the flagstone be taken out?

Mr. Stati- Yes. We are also changing the angle and position of the front door. In a retail space it makes sense to angle the front door toward the street, but we are an office space. The proposal is to square off the setback corner keeping within the existing footprint and changing the location of the front door to be in the center along Grant Road.

Mr. Stati- There are two (2) parking spaces on the Grant Road driveway. There are two (2) parking spaces on Grant Road and two (2) to three (3) parking spaces along Loring Avenue.

Mr. St. Pierre- Asks whether the parking spaces on Grant Road and Loring Avenue are posted for college students.

Mr. Watkins- There is a sign posted on Loring Ave.

Mr. Copelas- I don't remember seeing a resident sign only.

Vice-Chair Copelas opens public comment.

Edward Walsh, 2 Grant Road- Speaks in favor of the petition. Noted that the parking on Grant Street was resident only and there are three (3) service only parking spaces for the retail store.

No one else in the assembly wishes to speak.

Vice- Chair Copelas closes public comment.

Motion and Vote: Mr. Watkins makes a motion to approve the petition for Special Permit per Sec. 3.3.2 Nonconforming Uses of the Salem Zoning Ordinance to convert an existing fur retail store into an office space. The motion is seconded by Mr. Tsitsinos. The vote was unanimous with four (4) Peter A. Copelas (Vice-Chair), Jimmy Tsitsinos, Tom Watkins, and Paul Viccica in favor and none (0) opposed.

OLD/NEW BUSINESS

Mr. Copelas requests that the Planning Department request a briefing from the City Solicitor explaining the steps and licensing requirements for tastings and pourings.

APPROVAL OF MEETING MINUTES

July 20, 2016 meeting minutes were approved as written.

Motion and Vote: Mr. Viccica makes a motion to approve the minutes amended per Chair Currans' request. Seconded by Mr. Tsitsinos. The vote was unanimous in favor and none (0) opposed.

ADJOURNMENT

Mr. Copelas motions for adjournment of the August 17, 2016 regular meeting of the Salem Board of Appeals.

Motion and Vote: Mr. Watkins made a motion to adjourn the August 17, 2016 regular meeting of the Salem Board of Appeals, seconded by Mr. Viccica, and the vote is unanimous in favor and none (0) opposed.

The meeting ends at 7:45 PM.

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:
http://saalem.com/Pages/SalemMA_ZoningAppealsMin/

Respectfully submitted,
Erin Schaeffer, Staff Planner