**City of Salem Zoning Board of Appeals**

**Meeting Minutes**

February 15, 2023

A meeting of the Salem Zoning Board of Appeals (“Salem ZBA”) was held on Wednesday, February 15, 2023 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.

**Chair Peter Copelas calls the meeting to order at 6:32 pm.**

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 (Chair), Nina Vyedin, Paul Viccica, Carly McClain, Rosa Ordaz, and Steven Smalley. Also in attendance were Daniel Laroe – Staff Planner, and Jonathan Pinto – Recording Clerk. Those absent were: None

**CONTINUANCES**

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| Location: | **1 Purchase Street (Map 15, Lot 139) (R1 Zoning District)** |
| Applicant: | **Ezekiel Holt** |
| Project: | A continuation of 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, 2023 and supporting documentation

Chair Copelas introduces the petition.

Ezekiel Holt introduces himself and explains that he would like to request a continuance, as he did not obtain the updated renderings in time to submit them to the Board.

**Motion and Vote:** Ms. Vyedin 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 March 15, 2023.

Ms. Ordaz seconds the motion. **The vote is six (6) in favor (Peter Copelas, Steven Smalley, Carly McClain, Paul Viccica, Rosa Ordaz, and Nina Vyedin) and none (0) opposed . The motion passes.**

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| 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 2,250 SF is proposed/ Side setback where 20 feet is required and 10 feet is sought. A total of 10 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, 2023 and supporting documentation

Chair Copelas introduces the petition.

Attorney Scott Grover introduces himself on behalf of the applicant, and notes he is accompanied by MD Property Development principals as well as architect Dan Ricciarelli. Mr. Grover explains that they presented their project December for 15 new residential units, 10 in the existing building and five in the newly proposed building on Lafayette Street. Based on concerns from neighbors as well as the Board, the team revised the proposal, reducing the overall units to 10, with five units in each building. He also notes that there will be no units in the basement of the existing building. Mr. Grover states the hope is that the new plans address the concerns regarding density, limited landscaped area, location of the driveway entrance, and the quality of the units that were previously housed in the basement. The reduction in density reduces the number of parking spaces to 15, which Mr. Grover indicates allowed for an increase in proposed green space. The setback on Lafayette Street is increased to be more consistent with adjacent buildings, and the driveway entrance is now proposed to be on the left side, rather than the right on Lafayette Street. Mr. Grover states the new plans eliminate one of the two curb cuts, as well as two of the parking spaces located on the Summit Avenue end of the property.

Jack Dahlstedt of MD Property Development introduces himself and states they wish to be good neighbors in the community.

Dan Ricciarelli introduces himself and walks the Board member through the plan changes. Mr. Ricciarelli provides background information on the existing chapel building which is currently vacant. The goal is to add needed housing, create affordable housing, and fill in the gap on Lafayette Street, according to Mr. Ricciarelli. He presents renderings and photographs of both existing and proposed conditions, and discusses the plan changes in more detail. The new building will be accessed from Lafayette Street. Mr. Ricciarelli presents floor plans showing units with two bedrooms and two bathrooms, and states that the basements in both buildings will be used for storage. He notes that the changes also allow for more landscaping. Renderings of the proposed dormers for the existing building are shown, along with floor plans for the new building on Lafayette Street. Mr. Ricciarelli also provides images of the neighborhood.

Mr. Grover reminds the Board that in addition to the Historic Commission and Design Review Board, the project will also be subject to site plan review, and thus this will be an iterative process with many layers of review.

Mr. Viccica asks to review the curb cut numbers, and Mr. Ricciarelli indicates the one on Lafayette Street will be 24 feet and the one on Summit Avenue will be 20 feet. Mr. Grover notes that 24 feet is allowed on Lafayette as it is an entrance corridor. Mr. Viccica asks if it would be possible to reduce the length as it might be better for pedestrians. Mr. Ricciarelli explains that the curb cuts exist today, and that they will simply be making them cleaner and safer.

Ms. Vyedin notes that one of the drawings had a portion of a basement labeled as Unit 1. She also asks about how the previous plans for two accessible units with ramps have changed with the revisions. Mr. Ricciarelli states that while the ramp to the basement will be removed, the first floor ramp will remain and the accessible unit will be accessed from that floor. Mr. Dahlstedt adds that one unit will have a room in the basement, but that it is the only unit with a portion in the basement, and that it is a townhouse style unit.

Ms. Vyedin asks if with the revisions the two affordable units has changed to one unit, and Mr. Dahlstedt confirms.

Chair Copelas opens the floor to public comment.

Anthony Porcello of 271 Lafayette Street introduces himself as an abutter, and states he appreciates the applicants communications, as well as the plan revisions, which addressed all his concerns. He notes he and his sister submitted a letter yesterday to the Board expressing support for the current revised plans. Mr. Porcello reads the letter he submitted into the record, which expresses support for the project.

Polly Wilbert of 7 Cedar Street introduces herself as a member of the South Salem neighborhood association. Ms. Wilbert states she appreciates that the developers worked with abutters to address concerns. She states she appreciates the addition of affordable housing as well as the changes.

Ward 5 City Councilor Jeff Cohen of 12 Hancock Street introduces himself. Councilor Cohen indicates that everyone on the development team reached out to him during this process, and that they were engaged with the neighborhood while revising their proposal. Mr. Cohen notes that the sidewalks and curbs currently are not great for pedestrians with mobility issues. He states he is glad one of the ramps will be kept for accessibility.

Mr. Copelas states his understanding is that affordable units cannot be substantially less desirable than any other normal unit, and asks if the unit with the basement space will thus be ineligible as the affordable unit. Mr. Dahlstedt explains that although they have not fully designed the units, most of them will be substantially the same, and it is likely the affordable unit will be one of the others rather than that townhouse unit.

Mr. Viccica states it is an interesting process to witness when an applicant comes before the Board, the public provides comment, and the applicant listens, responds, and addresses concerns, and that in the end a better project is the result.

Mr. Copelas agrees, and states it is refreshing. He asks Mr. Grover for the grounds for the variance and special permit.

Mr. Grover states they are seeking a variance from lot area per dwelling unit to allow 10 units to be constructed, as well as a variance from the side yard setback for the building on Lafayette. Mr. Grover also indicates a curb cut variance is required because of the totality of the two. A special permit is sought to allow a change from one nonconforming use to another. For the special permit, Mr. Grover explains the community is served by eliminating a commercial use and replacing it with a less impactful residential use. There are existing utilities on both streets to serve the project, and the proposal is more consistent with the neighborhood character, according to Mr. Grover. He states that any impact on the natural environment will be addressed through the Planning Board review process. The tax impact will be positive, going from an exempt use with no tax revenue to 10 residential units. Mr. Grover next addresses the variances, noting that special conditions exist based on the split zoning and the existing building being a chapel. He also notes that the lot is much larger than nearby lots and mostly consists of parking. Mr. Grover contends that a hardship exists because the existing building is located in the R1 zoning district, which if strictly enforced, would only allow for one unit in the existing building.

Mr. Copelas notes there should be separate motions for the special permits and variances.

**Motion and Vote:** Mr. Viccica motions to approve 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, 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 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.
8. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board.
9. 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 area at the time of destruction, it shall not be reconstructed except in conformity with the provisions of the Ordinance.
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.

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

**Motion and Vote:** Mr. Viccica motions to approve the petition of MD PROPERTY DEVELOPMENT at 275 LAFAYETTE STREET (Map 33, Lot 438) (R1,R3 Zoning Districts) for Variances from Section 4.1 Dimensional Requirements for lot coverage where 30% is permitted and 33.6% 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 2,250 SF is proposed, Side setback where 20 feet is required and 10 feet is sought, and per Section 5.1.5 Curb Cuts for 44 feet of curb cut where 20 feet is allowed, for a total of 5 residential units in the existing building and a new building to be constructed at 275 LAFAYETTE STREET with 5 units, 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. 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. 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 area at the time of destruction, it shall not be reconstructed except in conformity with the provisions of the Ordinance.
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.

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

**REGULAR AGENDA**

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| Location: | **6 Riverbank Road (Map 31, Lot 279) (R1 Zoning District)** |
| Applicant: | **Michael McKinnon** |
| Project: | A public hearing for all persons interested in the petition of MICHAEL MCKINNON at 6 RIVERBANK ROAD (Map 31, Lot 279) (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 expand a non-conforming structure by constructing a two (2) story addition (12’ 7” x 10’ 7”).  Renovations to the first and second floor, within the current footprint will also be done. |

Documents and Exhibitions

* Application date-stamped January 11, 2023 and supporting documentation

Chair Copelas introduces the petition.

Steven Livermore and Michael McKinnon introduces themselves. Mr. Livermore states he is the project architect, and explains the proposal to create a small addition to the front of the house. While the addition’s setbacks will comply with zoning, the existing building does not. Mr. Livermore states the addition with the second story will help expand living space for Mr. McKinnon’s growing family. The roof will be raised and there will be a gable roof on the addition, with three A-dormers on the front of the house and a shed dormer proposed for the rear. He presents plans of the existing and proposed conditions, as well as elevations and floor plans.

Mr. Copelas asks for confirms they are seeking an addition, raising the gabled row, adding A-dormers on the Riverbank Road side, and shed dormers in the rear. The applicant confirms. Mr. Copelas asks if the proper relief has been sought, and Mr. St. Pierre confirms it has.

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

**Motion and Vote:** Ms. McClain motions to approve the petition of MICHAEL MCKINNON at 6 RIVERBANK ROAD (Map 31, Lot 279) (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 expand a non-conforming structure by constructing a two (2) story addition (12’ 7” x 10’ 7”), along with renovations to the first and second floor within the current footprint, 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 is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board.
9. 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 area at the time of destruction, it shall not be reconstructed except in conformity with the provisions of the Ordinance.
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.

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

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| Location: | **8 Mead Court (Map 27, Lot 69) (R2 Zoning District)** |
| Applicant: | **Nick Nikolopoulos** |
| Project: | A public hearing for all persons interested in the petition of NICK NIKOLOPOULOS at 8 MEAD COURT  (Map 27, Lot 69) (R2 Zoning District) for a special permit per Section 3.3.3 Nonconforming Structures of the Salem Zoning Ordinance to add a shed dormer that will span thirty-two (32) feet from end to end. The dormer will be five (5) feet high. Four (4) windows will be added with the addition of the dormer. The dimensions will not raise the roof line of the house and will not change the footprint of any rooms. |

Documents and Exhibitions

* Application date-stamped January 12, 2023 and supporting documentation

Chair Copelas introduces the petition.

Chris Nikolopoulos introduces himself on behalf of the applicant and explains they are seeking a special permit to add a shed dormer measuring 32 feet in width and five feet in height across the from of the house. The building is an existing nonconforming structure, but they are not looking to increase the nonconformity or create any new ones.

Nick Nikolopoulos introduces himself and states it is a simple project looking to obtain a bit more space and make it more livable. The existing floor plans are shown.

Chris Nikolopoulos states the current uses of the rooms are not going to be changed, and that the dormer will go across from the living room to the hallway and one of the bedrooms. The goal is to get more space in this smaller unit, and he maintains there will be no disruptions during the process. He states they spoke with neighbors who do not seem to object. Elevations are presented.

Nick Nikolopoulos states the existing gutter and soffit will remain, and notes the neighbor across the street has a similar dormer. He presents plot plans and photos of the property.

Mr. Viccica asks if the current use of the third floor is a residence, and the applicant confirms. He asks if there are three units total, and the applicant again confirms.

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

**Motion and Vote:** Ms. Ordaz motions to approve the petition of NICK NIKOLOPOULOS at 8 MEAD COURT  (Map 27, Lot 69) (R2 Zoning District) for a special permit per Section 3.3.3 Nonconforming Structures of the Salem Zoning Ordinance to add a shed dormer that will span thirty-two (32) feet from end to end, have a height of five (5) feet, and have four (4) windows, with no increase in the roof line of the house or the current footprint, 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 is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board.
9. 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 area at the time of destruction, it shall not be reconstructed except in conformity with the provisions of the Ordinance.
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.

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

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| Location: | **11 1/2 Hardy Street (Map 41, Lot 30) (R2 and B1 Zoning Districts)** |
| Applicant: | **Lori A. Pattison** |
| Project: | A public hearing for all persons interested in the petition of LORI A. PATTISON at 11 ½ HARDY STREET (Map 41, Lot 30) (R2, B1 Zoning Districts) for a special permit per Section 3.3.3 Nonconforming Structures of the Salem Zoning Ordinance to alter and to enlarge the residential use of a nonconforming structure by restoring and using the third (3rd) floor unit.  Petitioner is also seeking variances from section 4.1 Dimensional Requirements for lot area per dwelling unit where 1,423 sq. ft is proposed/3,500 sq. ft required.  In addition, a variance per section 5.1.1 – 5.1.8 Off-Street Parking. |

Documents and Exhibitions

* Application date-stamped January 24, 2023 and supporting documentation

Chair Copelas introduces the petition.

Attorney Bill Quinn introduces himself on behalf of the applicant and explains the property is on a quiet one-way street with older homes and multi-family dwellings between Derby and Essex Streets. Mr. Quinn indicates the applicant and her then husband purchased the property in 2001, and it was sold as a three-family dwelling. After moving in, they attempted to renovate the third story apartment, but it was never actually reconstructed or put in service. As such, the building has been occupied as a two-family on the first and second floor. Mr. Quinn states currently the second floor is occupied by the petitioner’s daughter. Mr. Quinn explains the history of the property, noting it is a large structure with a demising wall running down the middle, creating two row houses. Each of the two half houses are on their own separate parcels of real estate, and the property in question is split in the B1 and R1 zoning districts. Mr. Quinn presents the plot plan. He states the zoning division is important because a three-family use is allowed in a B1 zone, and that they are seeking to reinstate the legal use on the third floor. He notes the circumstances are odd and that the building and property are divided with an odd shaped lot twice as deep as it is wide. Mr. Quinn states that he met with Mr. St. Pierre and initially filed a different petition seeking different relief, but that the current petition is the result of their discussions. Mr. Quinn explains they are seeking a special permit to enlarge the use of the existing nonconforming structure to allow residential use to be expanded into the third floor. He next presents a parking plan, noting the open space of the lot but also its narrowness. If the four car parking plan is not approved, a five car plan is also provided, but would require removal of an old large cedar tree in the back. Two spaces have always existed for the first and second floor units, and the proposal would add two spaces. Photos are presented, along with a petition signed by all four immediate abutters agreeing to support the proposal. Mr. Quinn presents a map of the neighborhood, and notes relief is also being sought for lot area per dwelling unit. He states the grounds for the variance and special permit have been submitted.

Lori Pattison introduces herself and thanks the Board. She explains the parking a bit more, noting the adequate space. Ms. Pattison states she loves her house and the neighborhood, and that she would love to create an opportunity for someone else to live here too. She also presents photos of the tree, showing its age and beauty.

Mr. Copelas states that if the previous three-unit use is still valid, then some of the relief seems to be superfluous or unnecessary.

Mr. Quinn states they are taking a current two-unit dwelling to a three-unit, where three is a legal conforming use. Mr. St. Pierre and the Board discuss the relief being sought and the nature of the existing three-family home. Mr. Copelas states that if it is a three family dwelling, a variance would not be needed. Mr. St. Pierre suggests the use was not utilized for some time, and this is an attempt to reinstate the use of the third unit. Mr. Copelas asks if the property is currently recognized as a legal three-unit dwelling or not. Mr. Copelas states that if it is already a legal unit, there may also be no need to talk about the parking configuration.

Mr. Quinn contends it is a complicated issue, and that the existing regulations could be clearer on the matter of reinstating a legal but non-existing present use. He states that he was attempting to be thorough through a “belt and suspenders” approach to make sure all grounds were covered. Mr. Quinn states that if it is recognized as a legal three-family and can be restored without addressing the issues of parking volume or lot square footage per dwelling unit, then only the requested special permit would be needed,

Mr. Copelas suggests it is not up to the Board to decide what relief is required, but rather acts on what is presented and requested. If the relief is not necessary or required, Mr. Copelas states it should not be requested. He indicates he is unsure whether to revisit the application, and is open to hearing from other Board members.

Mr. Quinn states he was conflicted on what relief to petition for, but that if the Board is satisfied and Mr. St. Pierre agrees it is an existing three-family, then the petition could be withdrawn because relief aside from a building permit may not be needed.

Mr. St. Pierre suggests asking for a continuance so that the issue can be looked into further, and the petitioner can decide prior to the next meeting whether to withdraw or finish the application.

Mr. Quinn asks to continue.

**Motion and Vote:** Mr. Viccica motions to continue the petition of LORI A. PATTISON at 11 ½ HARDY STREET (Map 41, Lot 30) (R2, B1 Zoning Districts) for a special permit per Section 3.3.3 Nonconforming Structures of the Salem Zoning Ordinance to alter and to enlarge the residential use of a nonconforming structure by restoring and using the third (3rd) floor unit, as well as variances from section 4.1 Dimensional Requirements for lot area per dwelling unit where 1,423 sq. ft is proposed but 3,500 sq. ft is required, and a variance per section 5.1.1 – 5.1.8 Off-Street Parking, to the next regularly scheduled meeting of the Zoning Board of Appeals on March 15, 2023.

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

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| Location: | **31 Bertuccio Avenue (Map 24, Lot 104) (R1 Zoning District)** |
| Applicant: | **Dean Boucher** |
| Project: | A public hearing for all persons interested in the petition of DEAN BOUCHER at 31 BERTUCCIO AVENUE  (Map 24, Lot 104) (R1 Zoning District) for a variance per Section 4.1.1 Dimensional Requirements of the Salem Zoning Ordinance to build a sixteen by forty sq. foot (16”x40”) two story single family residence .The relief will be from minimum lot area.  Petitioner is seeking to construct on a lot size of two thousand nine hundred thirteen (2,913) sq. feet/Where fifteen thousand sq. feet (15,000) is required.  In addition, relief requested is to build into the left side setback at four (4) feet and into the right-side setback at nine (9) feet/ Where ten (10) feet is required.  The rear yard setback would be five (5) feet/ Where thirty (30) feet is required. |

Documents and Exhibitions

* Application date-stamped January 26, 2023 and supporting documentation

Chair Copelas introduces the petition.

Dean Boucher introduces himself and explains this is a piece of land that he has owned for 12 to 15 years and paid taxes on. Mr. Boucher explains that in the 1950’s they were dividing the land into lots, and this was the last one left. He contends there once was a building on the plot, and that there is currently a driveway that goes to nothing. He adds that he has been to the registry of deeds trying to find the building but cannot. Mr. Boucher states there is no residence to the right of his lot and in back are some woods and Salem Hospital. He suggests his proposal is the best use of the property, and that he would like to move back to Salem by building the proposed small two bedroom home. He presents a plot plan.

Mr. Copelas states that the application made note of sheds being used when homes were built in the area, but that tonight the applicant is claiming there was a building on the location. Mr. Boucher indicates he does not know if someone lived in the building, but was told that there was a structure there.

Mr. Boucher explains that he approached his abutters to purchase extra land but they refused. He notes that his wife works at Salem Hospital and has for many years, and that he would like to move back to Salem but has had difficulty finding any residences he can afford. Mr. Boucher states the proposal is set back enough to not be a detriment to anyone in the neighborhood.

Mr. Copelas suggests it is not a matter of whether neighbors are in favor of the proposal or not, and states that the hardship presented does not meet the legal requirement of a hardship. He adds that having financial difficulty finding housing in Salem does not qualify one for zoning and variances. Mr. Copelas notes that paying real estate taxes on the land is irrelevant if the lot is not buildable due to easements. Mr. Copelas explains that paying taxes does not obligate the Board to provide a variance for a house to be build.

Mr. Viccica asks about the lot width and fronting, noting that he does not think it complies in regard to either of those, which would mean the advertisement would be wrong.

Mr. Copelas states he is struggling to find a reason why a house should be located here.

Ms. Vyedin asks about parking, and Mr. Boucher explains there would be two-car tandem parking in front. Mr. Viccica states a variance would also be required for that as tandem parking is not allowed. Mr. Boucher states he realizes he is asking a lot, but that he hopes the Board will grant his relief.

Mr. Copelas suggests seeking the help of an attorney who has knowledge of land use that might be able to point Mr. Boucher in a different direction, noting that this petition is problematic on many levels.

Mr. Boucher asks for a continuance.

Mr. St. Pierre notes that he told the petitioner the proposal was not feasible, but that he wanted to go ahead and present. The lot is taxed as unbuildable land, and Mr. St. Pierre suggests the property is ripe for a title search to see how it even came into existence.

**Motion and Vote:** Mr. Viccica motions to continue the petition of DEAN BOUCHER at 31 BERTUCCIO AVENUE  (Map 24, Lot 104) (R1 Zoning District) for a variance per Section 4.1.1 Dimensional Requirements of the Salem Zoning Ordinance to build a sixteen by forty sq. foot (16”x40”) two story single family residence with relief from minimum lot area, on a two thousand nine hundred thirteen (2,913) sq. feet lot where fifteen thousand sq. feet (15,000) is required, as well as relief to build into the left side setback at four (4) feet and into the right-side setback at nine (9) feet where ten (10) feet is required, and a rear yard setback that would be five (5) feet where thirty (30) feet is required, to the next regularly scheduled meeting of the Zoning Board of Appeals on March 15, 2023.

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

**MEETING MINUTES**

**December 14, 2022**

Mr. Copelas states he went through the minutes and did not have any edits. Ms. Ordaz confirms.

Mr. Smalley notes he found a small typo on the Purchase Street item, where his name is missing an “E”.

Ms. Vyedin states that on page 5 “low firm” should be changed to “law firm”.

**Motion and Vote:** Ms. Vyedin motions to approve the minutes from the December 14, 2022 meeting of the Zoning Board of Appeals as amended. Mr. Smalley seconds the motion. **The vote is five (5)** **in favor, and none (0) opposed. The motion passes**

**January 18, 2023**

Mr. Copelas note

**Motion and Vote:** Mr. Viccica motions to approve the minutes from the January 18, 2023 meeting of the Zoning Board of Appeals as drafted. Ms. Rodaz seconds the motion. **The vote is five (5)** **in favor, one (1) abstained, and none (0) opposed. The motion passes**

**OLD/NEW BUSINESS**

**Vice Chair Discussion**

Mr. Copelas confirms that this was discussed at the last meeting and that Carly McClain is Vice Chair.

The Board discusses hybrid versus in person versus fully remote meetings and what may come after the order in March ends.

**ADJOURNMENT**

**Motion and Vote:** Ms. McClain motions to adjourn the meeting. No one seconds the motion. **The vote is all in favor. The motion passes.**

**The meeting ends at 9:20 PM on February 15, 2023.**

***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-2023](https://www.salem.com/zoning-board-appeals/pages/zoning-board-appeals-decisions-2022)

Respectfully submitted,   
Daniel Laroe, Staff Planner