

City of Salem Zoning Board of Appeals
Meeting Minutes
June 15, 2022

A meeting of the Salem Zoning Board of Appeals (“Salem ZBA”) was held on Wednesday, June 15, 2022 at 6:30 pm via remote participation in accordance with Chapter 20 of the Acts of 2021, as amended by Chapter 22 of the Acts of 2022.

Acting Chair Peter Copelas calls the meeting to order at 6:31 pm.

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

Mr. Copelas indicates that as there are only four Board members present, any petition will need a unanimous vote to pass. Therefore, petitioners who wish to request a continuance may do so.

ROLL CALL

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

CONTINUANCES

Location: **137 Fort Avenue (Map 44, Lot 7) (R1 Zoning District)**

Applicant: **Jessica Blomerth**

Project: A continuance of a public hearing for all persons interested in the petition of JESSICA BLOMERTH at 137 FORT AVENUE (Map 44, Lot 7) (R1 Zoning District), for a Special Permit for per Section 3.3.5 Nonconforming Single- and Two-family Residential Structures of the Salem Zoning Ordinance to construct a two (2) story addition to the dwelling. The proposed construction will be thirty-four (34) feet in height where the R1 Zoning district requires a maximum height of thirty-five (35) feet.

Documents and Exhibitions

- Application date-stamped February 18, 2022 and supporting documentation

Acting Chair Copelas introduces the petition.

Michael Blomerth introduces himself, and explains his proposal is an addition to his cape-style home that would require demolition of the entire roof. Mr. Blomerth explains that the petition was continued in order to obtain a demolition delay waiver from the Historic Committee, which he indicates he obtained. He explains the relief being sought is for height, as he will be making the residence three stories. Mr. Blomerth presents street views of the property, and explains the additions will remain within the existing footprint, and that the goal is to build up to accommodate his growing family and remain in Salem.

Mr. Copelas confirms that the petitioner went before the Historic Commission to obtain a demolition delay waiver.

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

Acting Chair Copelas discusses the statement of grounds and special permit criteria, making a determination that they are met by the petition.

Motion and Vote: Mr. Viccica motions to approve the petition of JESSICA BLOMERTH at 137 FORT AVENUE (Map 44, Lot 7) (R1 Zoning District), for a Special Permit for per Section 3.3.5 Nonconforming Single- and Two-family Residential Structures of the Salem Zoning Ordinance to construct a two (2) story addition to the dwelling, 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 area 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.

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

Location: **1 and 2 Leefort Terrace (Map 41, Lot 242) (R2 Zoning District)**

Applicant: **BC Leefort Terrace Lane Communities, LLC**

Project: A continuance of a public hearing for all persons interested in the petition of BC LEEFORT TERRACE LANE COMMUNITIES, LLC at 1 LEEFORT TERRACE LANE(Map 41, Lot 249) and at 2 LEEFORT TERRACE LANE(Map 41, Lot 242) (R2 Zoning District), for a Comprehensive Permit pursuant to M.G.L. Chapter 40B, to construct one hundred twenty-four (124) new units, Fifty (50) of those units will be replacing the current units at Leefort Terrace.

Documents and Exhibitions

- Application date-stamped April 11, 2022 and supporting documentation

Acting Chair Copelas introduces the petition, and notes that tonight's purpose is exclusively for discussing the traffic and transportation study conducted, as this proposal will involve multiple meetings and exhaustive procedures.

Attorney Scott Grover introduces himself and explains he is joined by members of Beacon Communities and the Salem Housing Authority. Mr. Grover begins his presentation, noting the revised plans are not being shown, as those will be submitted in advance of the July meeting where changes to building design, landscaping, and other aspects resulting from Board and community feedback will be presented. Mr. Grover indicates the July meeting will also be when the civil engineering peer review is to be discussed.

Kathy Hoog introduces herself as the executive director of the Salem Housing Authority ("SHA"). Ms. Hoog provides a project outline and discusses funding updates, including \$200,000 in Community Preservation Act funds, as well as updates regarding soil testing, parking, and transportation. Ms. Hoog indicates she would like to respond to many of the questions raised at the last meeting. Regarding why Leefort Terrace needs to be redeveloped instead of renovated, Ms. Hoog explains that the proposal is a solution meant to save a development that is functionally obsolete. She describes the properties as public housing with failing units, no handicap accessibility, that are ground level in a coastal flood plain. Ms. Hoog maintains the 371 square foot units cannot be adapted, and that permits are not obtainable for ground floor renovations in a flood plain. The approach to redevelop the properties is a climate resilient design, according to Ms. Hoog. In response to why the properties are being rebuilt at the existing site, Ms. Hoog explains that land prices are high and available land is scarce. This land is already owned by the SHA, and the proposal furthers the mission of preserving and building more affordable housing in the City. Ms. Hoog also contends the location is favorable for low income residents due to the access to amenities and services, as well as walkability. Next, Ms. Hoog indicates Ben Phillips, the senior vice president of development at Beacon Communities, is here to explain why the project is being proposed as a public-private partnership and why Beacon is involved. Mr. Phillips explains that currently this approach is the only way that new public housing is being created or replaced in the United States, as there is no state or federal funding currently outside of the public-private structure. Mr. Phillips contends that affordable housing evolved in the 1980's, and that through partnership with private investors, it became possible to create affordable housing that was more stable, attractively built, and better managed and maintained than traditional public housing. Mr. Phillips asserts that Beacon is very experienced with this kind of partnership and replacement of public housing, and that they have had success working with housing authorities in Boston, New Haven, and other locations. Because there is a high compliance regime and high stakes are involved, Mr. Phillips contends

familiarity and experience is important, particularly with respect to tax credits, property and asset management, and government compliance. Mr. Phillips indicates Beacon has a community engagement team with expertise working with residents to connect them with services, amenities, and forms of enrichment. He also notes that SHA is limited in staffing and resources, but will retain ownership of the land and maintain the Leefort Section 8 Project Based Voucher contract.

Courtney Koslow introduces herself as the development director at Beacon Communities, and responds to the question of why Leefort Terrace will be an intergenerational development. She explains the plan will be 50 one-bedroom replacement units reserved for the elderly, along with 74 one, two, and three-bedroom units open to households without an age restriction. Ms. Koslow indicates Beacon has had success with intergeneration communities at various locations, and that the proposal balances the need for age restrictions on the replacement units, while also addressing the need for affordable family housing. She also notes that this reflects the way people have historically lived together.

Ms. Koslow next discusses soil testing and investigations into previous uses, noting that McPhail Associates conducted a Phase I Environmental Site Assessment as well as a Phase II Environmental Soil Testing. While the abutting properties had hazardous uses in the past, Leefort Terrace parcels had no previous development. The land was infilled, and Ms. Koslow explains it was undeveloped prior to 1957 when the existing housing was built. Ms. Koslow asserts that testing has confirmed no contamination was identified, and that the properties have not been impacted by contamination of adjunct parcels. Therefore, Ms. Koslow states no remediation is needed. She notes additional testing may be done as the team continues to monitor.

Mr. Copelas asks if the petitioners could speak to the terminology, as public housing and low-income housing seem to be used interchangeably by many, and he does not believe they are the same. He notes that most people may be familiar with Section 8 housing or vouchers, but asks if the petitioners can speak to how the low income and age restriction requirements work in the proposal, and compare them to what exists currently for Leefort Terrace.

Ms. Hoog indicates it is not unusual for people to be confused by the many terms, such as public housing, low income housing, Section 8 housing, and congregate housing. Ms. Hoog explains that Leefort Terrace is considered a public housing development for folks at very low incomes at 30 percent of the are median income or lower. The development was initially funded by the state, and is currently reserved for the elderly and disable.

Ms. Koslow explains that with the new development, the 50 units will still be considered state public housing but will not be funded by the state public funding it currently receives. Instead, Ms. Koslo indicates the 50 units are subsidized through project based Section 8 vouchers. Residents will continue to pay what they pay today, according to Ms. Koslow, but including the voucher revenue the rates will be closer to fair market values. She contends this is what makes the project feasible. She further explains that since the 1980's and 90's, financings and the tax credits available have changed, and that over the years the housing authorities have had difficulty accessing properties, complying with regulations, and maintaining properties, whereas her organization has whole departments for those things. Of the Total 124 units, 13 percent will be at 30 percent AMI according to Ms. Koslow, and she explains there will be 65 project-based Section 8 vouchers, with 50 replacement units and 15 that will be non-age restricted to allow for families. She adds that 60

percent is the cap for low income housing tax income eligibility, but that that can increase as the residents life there and are grandfathered in.

Mr. Viccica asks about the project affordability and the relationship between Beacon and the City. He questions what would happen to the relationship should the project essentially become unaffordable if costs end up beyond what is profitable, particularly given the current state of inflation and other forces increasing construction costs.

Mr. Phillips indicates the risk is Beacon's, and states it is an ongoing collaborative process. Legally, Mr. Phillips explains, Beacon spends the money, takes on the risk until construction, and has completion guarantees they must abide by. Even if the project ends up above budget it will be completed, and he maintains that managing risk is at the heart of their business. Mr. Phillips suggests there are in depth analyses that go along with the underwriting to make sure it will work for the long haul. Ms. Koslow adds that rents go up as incomes go up, and that they underwrite with expenses going up at three percent and rents increasing at two percent, noting there is a built-in cushion.

Mr. Copelas states he has seen the memorandum of understanding ("MOU") with the Housing Authority, but asks about legal contracts between the City and or the Housing Authority and Beacon that bind them to what they are presenting. Mr. Phillips indicates in addition to the MOU, once construction is complete there will be covenants recorded against the property as well as a ground lease with the Housing Authority. Ms. Hoog also notes that the Housing Authority is a quasi-governmental agency and technically separate from the City. Ms. Koslow states that CPA funds are how the City is involved, and that there are documents and restrictions associated with those funds requiring compliance.

Ms. McClain asks for further clarification on the affordable units, and Ms. Koslow states that 65 units will be project based, the 50 replacement units and then an additional 15. Mr. Phillips explains the additional 15 will come from the federal project based voucher budget. Ms. McClain asks if there are RFP's for subsidies, and Mr. Phillips states it is based on competitive solicitation processes.

Mr. Viccica asks if Board approval also approves the mix or proportion of units. Mr. Phillips states that is correct, the mix would be set in stone.

Mr. Grover next moves on to the Traffic, Parking, Transportation section of the presentation, and introduces Giles Ham from Vanasse and Associates.

Mr. Ham states they received a May 6th letter from the Traffic and Parking Commission, and that his team provided responses to comments received. Mr. Ham provides the transportation impact assessment, noting that standards were based on MassDOT guidelines, as well as those of the Institute of Transportation Engineers and the American Association of State Highway and Transportation Officials ("ASHTO"). Mr. Ham discusses existing conditions regarding traffic volumes, pedestrian and bicycle facilities, and public transportation. He also notes a safety analysis was conducted with respect to accidents, speeds, and sight distances. For future conditions, Mr. Ham explains that area growth and development were considered, as well as traffic generation, and that a parking demand analysis and operations analysis have been conducted. While discussing trip rates, he notes that the analysis assume market rate housing, but that actual trip generation will be less when accounting for the affordability component. Total daily weekday trips for the 124 units is

shown as 448, with a weekday morning peak of 27 and evening peak of 39. He adds that these are conservative projections. Regarding parking, Mr. Ham indicates the plans include 100 spaces, which amounts to .81 spaces per unit. Mr. Ham explains that currently at Leefort Terrace ownership is at .38 vehicles per unit. He references another Beacon facility, which has an ownership rate of .66 vehicles per unit. Spaces would be assigned on a first-come-first-serve basis. Mr. Ham maintains this would be adequate parking. Next Mr. Ham presents the sight distance evaluation for the proposed site driveway, noting proposed locations for “No Parking Here to Corner” signs, and a proposed five to seven foot shoulder line, making 12 foot travel lanes. With respect to bikes, City guidelines recommend 155 spaces, (124 long term, and 31 short term), but Mr. Ham states that seniors yield less demand for bike parking. The proposal includes 31 visitor bicycle spaces outdoor, as well as 54 long term covered garage bicycle spaces for a total of 85. Regarding EV charging stations, Mr. Ham indicates there are no City requirements, but that Leefort Terrace will comply with the PassiveHouse requirements, which include 2 EV-ready spaces and 20 EV-capable spaces which can come on-line as needed. Mr. Ham also explains that the existing sign for the senior shuttle is outdated, and that the service is no on-demand. He also references the City’s Skipper on-demand service, and notes that Beacon and the SHA welcome future shuttle stops if such a service were to be offered.

Mr. Viccica asks if EV-capable means there is a conduit to future electrification, and Mr. Ham confirms.

Mr. Copelas states his understanding is that there are two shuttle options, one operated by the senior center, and the Salem Skipper on-demand service, both of which could service the project. Mr. Ham states that is correct.

Mr. Grover states that Christina Hodge, Assistant Director of Traffic and Parking is present to speak to the comments in the memo. Ms. Hodge explains the memo was submitted last month with initial comments and concerns based on the traffic study provided. She confirms what Mr. Ham stated regarding the sight evaluation and proposed solution. Ms. Hodge notes that the comparable Beacon property referenced is right on Rantoul street near the train station, and so the numbers might be skewed a bit, but she states she appreciates the research and data provided from other properties. She states that all other concerns of Traffic and Parking have been satisfied.

Acting Chair Copelas opens the floor to public comment.

Lesley Niccolini of 14 Fort Avenue introduces herself as a rear abutter. Ms. Niccolini indicates she has major concerns about the project, particularly relating to parking and traffic. Ms. Niccolini states that cars and traffic are horrendous in Salem, and asks when it will stop. Ms. Niccolini says she cannot imagine adding more cars the street her driveway is on, particularly if there will be over 100 cars coming in and out. She notes that the location is not close to the Salem train station, and that she herself does not walk to the train, but drives because it is not close enough. She acknowledges that she technically could walk to the train, but that it is quicker for her to drive. Ms. Niccolini questions what benefit Beacon gets out of this and how they will be making money off of the project. She states that none of her concerns have been addressed. Ms. Niccolini also suggests her water view will be taken away, and that she is not sure how the project got this far. She suggests everything is going too fast and reiterates her concerns about traffic. Ms. Niccolini states she will fight this to the end.

Brian Grable of 13 Fort Avenue introduces himself and states he has lived here forever. Mr. Grable characterizes the proposal as a glorified land grab, and suggests Beacon is only doing this for profit and not to help poor people. Mr. Grable suggests Beacon has lied and intends to bring in over 300 people where there is not enough space. Mr. Grable states the traffic analysis is nothing but junk, and contends that the City has more traffic than it knows what to do with. Mr. Grable suggests Beacon should be ashamed, insisting they are lying about their claims. Mr. Grable indicates there are over 400 signatures opposing the project, and suggests he will get a lawyer and sue the City. He states that he will make sure anyone who lets this proposal go through during a pandemic without proper process will not be able to get a job as even a dog catcher.

Mr. Copelas cautions members of the public to keep personal insults and threats to themselves as they are inappropriate. Mr. Copelas states members have a right to oppose the proposal, but that threats and insults will not be tolerated.

Thomas Cote of 12.5 R Fort Avenue introduces himself. Mr. Cote explains he has attended all the zoom and neighborhood meetings and that he is very well versed in the project. He states he has been against the proposal since the beginning because of the size and scope. Mr. Cote acknowledges that affordable units are important and needed, but states he does not think this is the right neighborhood for this building. He suggests the height is too much and that there are too many bedrooms. While he acknowledges the beautiful design and resiliency aspects, he reiterates that it is not appropriate for this neighborhood, noting it is an R1/R2 district. Mr. Cote states the Board is meant to protect residents from overcrowding and overdevelopment, and indicates that no other home in the area would be able to go up 5.5 stories. He also suggests that the parking and traffic estimates are too low, noting that there will be families with children, who at some point will get drivers licenses and want vehicles of their own. Finally, Mr. Cote suggests that this project will not just benefit Salem, as anyone from the surrounding communities can move in if they qualify.

Cindy Jerzylo of 17 Bay View Avenue introduces herself, and states that the community leaders supporting this project consistently justify it on the grounds that we need more affordable housing for Salem residents. She contends that while this true, the project will not guarantee that only Salem residents benefit as Mr. Cote mentioned. Ms. Jerzylo states that while the 50 replacement units will be for existing residents, the rest cannot be reserved for Salem residents. As a result, she argues that the project will not serve the needs of Salem residents specifically even though it will be Salem paying for the project. Regarding the traffic study, Ms. Jerzylo states they were done in May and February, and suggests that one should be done in July or August when the Willows is full and traffic and parking is a big issue. She discusses traffic difficulties in the area, particularly traffic at Webb and Essex Street. Lastly, Ms. Jerzylo states that the project is too big and will not be just for the benefit of the elderly.

Donald Bates (no address given) introduces himself, and states he has been on many boards before. Mr. Bates indicates that he was initially under the impression that the project was just to renovate the 50 units, in which case he would not object. He states they have been good neighbors and there have been no major issues in the past. Mr. Bates explains he was surprised to learn before the last Board meeting that the size was larger, and he suggests the current proposal of 124 units does not tell the whole story, as the existing units are 371 square feet, but that the average size of the new units will be 800 square feet. Overall he suggests this will be a 500 percent increase over what exists at the site, and that the residents will increase five-fold in a small area of 3.4 acres. Mr. Bates argues

the development will have a significant negative impact for everyone in the area, all the way to the Common. He states that the existing 50 units already exceed zoning limits for land area, and that the new proposal will exceed limits by 104 units. Mr. Bates suggests a reasonable development would be replacement of the 50 units at a size of approximately 600 square feet, with perhaps five multi-family units. Mr. Bates maintains that the area is already burdened by the treatment plant and power plant, and that with the proposed wind turbine facility the burden will only increase.

Richard Stafford of 30 Boardman Street introduces himself and asks if there will be visitor parking at the site. Mr. Stafford presents various hypotheticals, and suggests the Board take a site visit of LeeFort Terrace, as well as the development at 72 Flint Street as it is a building of similar size and scale to what is being proposed. Mr. Stafford also notes that Pioneer Terrace, another SHA property, was built on slightly less acreage and has 100 units in two operate two story buildings.

Jennifer Gaffney of 18.5 Webb Street introduces herself and reiterates many of the concerns of prior commenters. Ms. Gaffney emphasizes that the area sees a lot of traffic, particularly in the summer, and that the fork of Fort Avenue and Webb Street is particularly problematic. Ms. Gaffney states she has concerns about snow emergencies and how they will be addressed when there is an overflow of cars. She states that parking in snow emergencies is a real problem, particularly since there is no more parking at the Bentley Street School. Ms. Gaffney contends the building is too large with too many units and not appropriate. She states the community that is at LeeFort Terrace currently is perfect, but that the proposal is not suitable for the community. Ms. Gaffney suggests that anyone who does not live in the neighborhood just could not understand.

Nina Vyeden of 27 Daniels Street introduces herself. Ms. Vaden states that as a person under the age of 50 who has struggled to find places to live and that knows many young people losing apartments because they can no longer afford rising rents, she does not believe the comments heard tonight are representative of the greater Salem community, and suggests that many voices are missing. Ms. Vaden states that commenters taking issue with the project not strictly helping only Salem residents are looking at this the wrong way. Ms. Vaden maintains that we live in the greater Boston area and that housing has become prohibitively expensive. She suggests we live in a growing city that needs new development. She acknowledges there will be growing pains, and that unfortunately neighborhoods will change and adapt, but she states this can be a good thing. Ms. Vaden contends that anyone who is comfortable, with a place to live that they can afford and still live their day-to-day life, is in a place of privilege, and suggesting that we cannot give other people a place to live is wrong. Ms. Vaden suggests that residents evaluate their circumstances, and that if they do not like the traffic in Salem there are plenty of places with less traffic that are not growing vibrant communities. She reiterates that those against the proposal are not the only voices here.

Karen Kahn of 17 Sutton Avenue introduces herself as a resident of the Willows. Ms. Kahn expresses her support for the project. She states that while many of her neighbors feel negative about the proposal, she is excited for the project to move forward. Ms. Kahn indicates Salem needs affordable housing, and suggests this is an underutilized parcel of land that will benefit from more dense housing that gives more families a place to live. Ms. Kahn acknowledges that there can be a lot of traffic in Salem, but she notes that she rides a bike around town and that most days and times of day there really is not that much. She states the issue is usually on weekends, during rush hour, and during events, but that otherwise the City is quite accessible. Ms. Kahn also notes that with affordable housing, not as many people have cars because they are expensive to own and maintain, and that many seniors do not need cars. She opines that the spaces proposed will be adequate for

the residents. Ms. Kahn states she thinks it is great that larger occupancy units for families are being integrated in the proposal. Regarding concerns raised about snow emergencies, Ms. Kahn indicates her understanding is that most of the parking will be below the building, which addresses those concerns. She states she is excited and feels positive about the proposal, noting there are not many opportunities to do this sort of thing.

Perla Peguero of 30 Boardman Street introduces herself and asks if the consultants could come back with information that might be more pertinent to this project, perhaps looking at other Beacon properties that are similar in terms of traffic numbers. She notes that the project being compared to this proposal was just for seniors, and that this one will be intergenerational. Ms. Peguero also notes that her husband, Rich Stafford, got bumped off the meeting.

Laurie Albery of 11 Beech Avenue introduces herself and states there are other people who have not been able to access the meeting. She states she has been holding her phone on FaceTime up to the Zoom so others can listen in.

Mr. Copelas and Mr. Laroe state they are not aware of any technical issues currently, but that no one is being prevented from accessing the meeting.

Ms. Albery states the project has been rushed, and suggests it is too big for the area. She also opines that the parking will not be sufficient. Ms. Albery acknowledges that affordable housing is a big issue, and contends that no one is saying we do not need affordable housing, just not in this location. She notes the area is in a flood plain.

Mr. Cote states that when participants are unmuted, Zoom kicks them out and they have to rejoin. He states he is unsure if it is a glitch, but that he would like the Board to be aware. Mr. Copelas and Mr. Laroe indicate they will look into the matter.

Mr. Copelas asks if Mr. Grover or anyone else would like an opportunity to answer any of the questions raised.

Mr. Ham notes that the traffic counts were done in February, but that they were adjusted based on data for the impacts of Covid, along with seasonality adjustments. He explains that the state requirements are to look at average monthly conditions, because they are looking at the incremental impact of projects. Mr. Ham acknowledges there are peaking conditions, but that the focus is on the incremental change. Counts were increased by 10-16 percent to reflect Covid impacts, and all counts were increased by an additional 15 percent, which he believes is appropriate based on the hundreds of studies he has been involved with. Mr. Ham again notes that senior demand for parking is very low, noting the existing demand for the 50 units is .38 vehicles per unit. The proposal allows for other units that are not senior affordable units to have demand that is greater. Mr. Ham also notes that all the units will be affordable, and that affordability also yields less parking and traffic demand based on data. Regarding guest parking, the quoted supply includes residents and guests. He notes that some residents leave during the day, which frees up spaces for guests and services. He also suggests he will talk to Beacon about looking at other properties and projects to compare actual demand.

Ms. Koslow adds that the goal is to have enough parking for residents, as providing less would make it more difficult to manage the property. The percentages proposed are based on what they know

and have experienced with other properties. She adds that there will be 86 spaces below the building and 14 above ground spaces.

Mr. Copelas asks what the next steps would be.

Mr. Grover explains the plan for the next meeting is to present the changes that have been evolving as a result of comments from the Board and public, and therefore they would like to continue to the next meeting in July. Plan revisions will be presented with respect to building design and landscape, and if completed the civil peer review will also be presented.

Motion and Vote: Mr. Viccica motions to continue the petition of BC LEEFORT TERRACE LANE COMMUNITIES, LLC at 1 LEEFORT TERRACE LANE(Map 41, Lot 249) and at 2 LEEFORT TERRACE LANE(Map 41, Lot 242) (R2 Zoning District), for a Comprehensive Permit pursuant to M.G.L. Chapter 40B, to construct one hundred twenty-four (124) new units, Fifty (50) of those units will be replacing the current units at Leefort Terrace to the next regularly scheduled meeting of the Zoning Board of Appeals on July 20, 2022.

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

REGULAR AGENDA

Location: **50 Circle Hill Road (Map 9, Lot 256) (R1 Zoning District)**

Applicant: **Pasquanna Developers, Inc.**

Project: A public hearing for all persons interested in the petition of PASQUANNA DEVELOPERS, INC. at 50 CIRCLE HILL ROAD(Map 9, Lot 256) (R1 Zoning District), for a Variance per Section 4.1 Dimensional Requirements of the Salem Zoning Ordinance to construct two (2) single-family dwellings on five (5) separate and contiguous land court parcels. One dwelling will meet the requirements of the Salem Zoning Ordinance for R1 Zoning. The other dwelling will be constructed at 10,788 sq.ft. the relief, if granted, would be for minimum lot area, lot area per dwelling unit and lot width.

Documents and Exhibitions

- Application date-stamped April 12, 2022 and supporting documentation

Acting Chair Copelas introduces the petition and explains the petitioner is seeking a continuance.

Motion and Vote: Ms. McClain motions to continue the petition of PASQUANNA DEVELOPERS, INC. at 50 CIRCLE HILL ROAD(Map 9, Lot 256) (R1 Zoning District), for a Variance per Section 4.1 Dimensional Requirements of the Salem Zoning Ordinance to construct two (2) single-family dwellings on five (5) separate and contiguous land court parcels with relief for minimum lot area, lot area per dwelling unit and lot width to the next regularly scheduled meeting of the Zoning Board of Appeals on July 20, 2022.

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

Location: **143-145 Derby Street (Map 41, Lot 319) (B1 Zoning District)**

Applicant: **Peter Lutts**

Project: A public hearing for all persons interested in the petition of PETER LUTTS at 143-145 DERBY STREET (Map 41, Lot 319) (B1 Zoning District), for a Variance per Section 4.1.1 Dimensional Requirements of the Salem Zoning Ordinance to construct five (5) residential dwelling units. The relief, if approved, will be for lot area per dwelling at 1,781 sq.ft where 3,500 sq. ft is required. Also, front, rear and side yard setbacks relief is requested.

Documents and Exhibitions

- Application date-stamped April 26, 2022 and supporting documentation

Acting Chair Copelas introduces the petition.

Attorney Scott Grover introduces himself on behalf of the petitioner, who he explains has entered into a purchase and sale agreement to purchase the property from the current owner. Mr. Grover indicates the property is the current site of Captain Dusty's Ice Cream. The owner of the property previously filed a petition to redevelop the property, and the proposal had a much larger impact than what is being presented tonight, according to Mr. Grover. That petition was withdrawn, and the property owners decided to sell the property to the current applicant. Mr. Grover indicates the property is in a B1 district and also in the Derby Historic District, which means the Historic Commission has jurisdiction. Mr. Grover describes the lot as large and in a densely developed neighborhood of lower Derby Street, with 900 square feet of land. The lot has a small building tucked in the left hand corner, which is where the ice cream shop is currently located. Mr. Grover explains that the Historic Commission will require the existing building to be preserved, and notes the remainder of the lot consists of a large unkempt parking lot used by patrons of the business and neighborhood residents. Mr. Grover describes the lot as having a classic pork-chop shape, and states it is a corner lot with frontage on Derby Street and Daniels Street. The current proposal eliminates the commercial use, and will construct five new residential units on the property: one in the historic building, with a second unit addition in the rear, and a three-unit building to be built on Daniels Street. Mr. Grover explains the proposal includes ten parking spaces, which exceeds the 1.5 spaces per unit requirement. He also notes the height will comply with the 30 feet restrictions of the zoning district. Mr. Grover contends the relief sought is limited, noting the existing building does not comply with front and side yard setbacks, and that the new buildings will require the same relief, in addition to relief from the rear setback requirement. Mr. Grover presents an aerial site view, and indicates the lot area per dwelling unit is somewhat below the requirement, which will require a variance.

Mr. Grover states the special conditions affecting the property and not others include the irregular lot shape, the fact that the property is a corner lot, and the existence of the historic house that must be preserved. Mr. Grover argues a hardship exists for the current owner and anyone trying to improve this site, and that the relief requested will allow the property to be developed without detriment and without substantial departure from the zoning ordinance.

Thad Siemasko introduces himself as the project architect. Mr. Siemasko notes that with the prior application, neighborhood residents were not happy with accessing the site from Daniels Street, and so that is not proposed here. He provides photos of existing conditions. Mr. Siemasko also presents an old map from the 1970's showing there used to be two four-story buildings on the lot, noting the history of the neighborhood has always been dense. Mr. Siemasko shows what the buildable area would be if zoning ordinances were literally enforced, and next shows the actual proposal. He identifies parking inside garages in the three-unit building on the corner, which will be townhouse style and three stories. The existing home will be restored, and a second floor addition will be added to the one story portion of the building. He identifies additional parking spaces outdoors, noting a total of ten spaces. Mr. Siemasko presents elevations and discusses the proposed landscaping as well as exterior building materials, which will be traditional. The driveway will be moved closer to the existing building, which improves the operation of both Daniels and Derby Streets, which are both one-way. The petitioners claim there will be adequate space for maneuvering and parking, and that there will be adequate drainage and utilities. Soil testing will be done on site as the project proceeds.

Mr. Copelas jokes that it will be hard to convince many that losing Captain Dusty's will not be detrimental to the neighborhood. Aside from that, Mr. Copelas states the entrance on Derby seems like a good approach, and that the streetscape with the buildings nearby seems appropriate. Mr. Copelas asks what the oversight and requirements will be regarding historic preservation.

Mr. Grover indicates there will be heavy oversight by the Historic Commission, and that a certificate of appropriateness with respect to the existing building will be required, as well as for the new buildings to ensure that they are appropriate for the historic district. Until the Commission is satisfied, the project cannot be built, according to Mr. Grover. He explains that if relief is granted by the Board, the next step would be to apply for the certificates of appropriateness.

Mr. Viccica asks if the petitioner would need to come back before the Board if the Historic Commission has issues with the rear addition that result in changes to the scale or mass. Mr. Copelas states that it should be covered by one of the standard conditions. Mr. Viccica notes it presents a significant addition onto the rear building, and suggests the Historic Commission may have a problem with that. Mr. Siemasko adds that if it were to be changed, his guess is that it would be smaller not bigger.

Ms. McClain indicates she appreciates the new access on Derby Street, and acknowledges the difficulties of the lot shape. Ms. McClain states she is comfortable with the current proposal submitted.

Acting Chair Copelas opens the floor to public comment.

Nina Vyedin of 27 Daniels Street introduces herself and states the current proposal is much better than what was previously presented. She notes that the design elements look almost like a carriage house. Ms. Vyedin comments on the loss of commercial space, noting that there will be a transition from having some public space where people gather, stand and sit to eat ice cream, to a very private space. She acknowledges there may not be many options, but suggests taking that into consideration for the corner and neighborhood generally. Ms. Vyedin also comments on the height of the fence on Daniel's Street, noting that a height of six feet will take away the whole corner. She states a

preference for a lower height that allows for interactions with the street, as the corner is important for public life. Ms. Vyedin also notes there is a tree on Derby Street that will be in the way of the proposed new driveway, and that there was another tree that the previous owners cut down that was supposed to be replaced. She asks that some creativity be used to find a way to replace and/or preserve trees in public spaces. She also comments on the materials, noting that while she loves the design, she worries about the hardy plank and vinyl windows. Ms. Vyedin hopes that the final construction will look similar to the neighboring homes. She also asks if any of the units will be considered affordable, and about the square footage of units.

Mr. Siemasko shows photos of a similar project completed in Beverly with vinyl windows with historically styled sills and back bands. He acknowledges Ms. Vyedin's concerns and states the goal is to have a maintenance free exterior using modern materials in a traditional way. Mr. Siemasko states he expects there will be various negotiations with the Historic Commission, and that the goal will be to look as close to a traditional building as possible. Regarding the fence height, Mr. Siemasko states a four foot height is being considered, so that residents have some privacy while sitting but people on the street are not walking by a wall. He recognizes a need for the neighborhood spaces to be shared visually. He also acknowledges the points made regarding trees, and states that if there is room to accommodate trees in the sidewalk that will be looked at. Mr. Siemasko states the square footage will be approximately 1500 to 1800 square feet, and that the units will be sprinkled for fire.

Mr. Copelas asks if the tree will need to be removed and whether they are required to replace it. Mr. Siemasko states it will need to be removed, but he is unsure whether they will be required to replace it, but that they will attempt to.

Dean Leiberg of 131 Derby Street introduces himself as an abutter on the upper left hand corner of the property, and expresses concerns that the corner of the property not be used as a dumping ground, as it is close to his window.

Motion and Vote: Mr. Viccica motions to approve the petition of PETER LUTTS at 143-145 DERBY STREET (Map 41, Lot 319) (B1 Zoning District), for a Variance per Section 4.1.1 Dimensional Requirements of the Salem Zoning Ordinance to construct five (5) residential dwelling units, with relief for lot area per dwelling at 1,781 sq.ft where 3,500 sq. ft is required, as well as front, rear, and side yard setback relief, 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.

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

Location: **70 Proctor Street (Map 15, Lot 386) (R1 Zoning District)**

Applicant: **George Lambos**

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

Documents and Exhibitions

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

Acting Chair Copelas introduces the petition and explains the petitioner has requested a continuance.

Motion and Vote: Ms. McClain motions to continue the petition of GEORGE LAMBOS at 70 PROCTOR STREET(Map 15, Lot 386) (R1 Zoning District), for a Special Permit per Section 3.3.5 Non-conforming Single- and Two-Family Residential Structures of the Salem Zoning Ordinance to convert a two (2) family dwelling into a three (3) family dwelling by constructing the third (3rd) dwelling in the basement to the next regularly scheduled meeting of the Zoning Board of Appeals on July 20, 2022.

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

Location: **75 North Street (Map 26, Lot 58) (NRCC/BPD Zoning District)**

Applicant: **R. Eric Rumpf, Trustee of 75 North Street Realty Trust**

Project: A public hearing for all persons interested in the petition of R. ERIC RUMPF, TRUSTEE OF 75 NORTH STREET REALTY TRUST at 75 NORTH STREET (Map 26, Lot 58) (NRCC/BPD Zoning District), for a Special Permit per Section 3.3.2 Nonconforming Uses of the Salem Zoning Ordinance to convert from a nonconforming light manufacturing, fabrication and assembly use to a nonconforming dog training facility use.

Documents and Exhibitions

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

Acting Chair Copelas introduces the petition.

Attorney Bill Quinn introduces himself on behalf of the petitioners. He explains his clients are two women with experience seeking to start a business, and that the owner of the property plans to lease the building to them for that purpose. Mr. Quinn describes the building as the former Salem Paint Company, noting that what is left on the property is the foundation of the building, and housing for a single story industrial purpose. When the NRCC district was enacted and replaced the industrial district, the use became legally nonconforming, according to Mr. Quinn. He explains that the proposal is to run a dog training facility, and that it requires a special permit to go from one nonconforming use to another. Mr. Quinn indicates this will not be a dog daycare or kennel, and that there will be no overnighting or caging facilities. While the zoning was silent to this particular use, he and the petitioners felt it was prudent to come before the Board for permission. Papers and plans have been submitted showing the interior renovations for the proposal, along with a map of the neighborhood and information regarding traffic patterns. Mr. Quinn indicates the abutters are Bill's Auto Towing behind on Commercial Street, and a veterinary clinic farther down, and that the City of Salem dog park is a two minute walk away. He argues that the proposal is appropriate given proximity to the dog park and veterinary clinic, and that there are a lack of dog training facilities locally. He notes this part of the district has little to no residential use, with some condos being developed a few blocks away on Mason Street. Based on the area, Mr. Quinn contends that residential redevelopment of the property would not be appropriate, and that this proposal makes more sense than a more industrial use. Mr. Quinn explains that Mr. Rumpf is the property owner, and that while he currently runs a series of small manufacturing related businesses on the property, he is looking to find a better use for the building and cease those activities. Mr. Quinn stresses this will not be a kennel, and that the plan is to have approximately 20 dogs a year, which would be dropped off, trained and socialized for several hours, and that dog owners would return to discuss training and engage in active participation. The hours of operation would be Monday through Friday 8AM to 6PM, as well as Saturday mornings until 1PM. Mr. Quinn explains the two owners will be the main employees, with potential for a third employee to operate a front desk and receive dogs if necessary. There is parking on the premises for three employees, and the street offers public parking as well. He adds that there will be sealed waste containers and no long term storage of animal refuse.

Mr. Copelas agrees that this seems like a light use of the space. Mr. Copelas notes that in the rear of the facility there is a small back door that opens with a two foot high U-shaped concrete dam, presumably made to keep water out of the building. He acknowledges that the North River

sometimes floods during high tides, and asks if the owners are required to consider any further mitigation for water infiltration.

Mr. Quinn states the building will not be enlarged, and that permits will be pulled for the interior renovations. He states he would defer to the Building Department regarding whether there are any building code requirements advising further action. He indicates he is unfamiliar with the drainage system, but knows the concrete dam has been there quite a while and used to actually be bigger. As this is not proposed for residential use nor a high level professional use, the interior will likely have concrete floors. He states that even if some flooding occurs there should not be damage to the building or harm to the business that cannot be mopped up.

Mr. Rumpf introduces himself and explains that Commercial Street floods at high tide every couple of months, making it impassable by cars occasionally. He indicates there has been no flooding in the building except for once in January 2015 pursuant to a strong nor'easter storm. He explains the property history some more, and notes that the concrete dam was installed after the 2015 incident.

Acting Chair Copelas opens the floor to public comment.

Victoria Ricciardiello of 5 Foster Street introduces herself and notes there is a large dog facility in the Garing Center on Mason Street which houses at least 50 dogs and is a woman-run business as well. Ms. Ricciardiello questions what kind of dogs will be trained and whether there will be any dobermans or Rottweilers, or if there will be specific breeds trained.

Shawna Duffy, introduces herself as one of the two owners and states that this will be a training facility for pet dogs with no breed restrictions. Ms. Duffy explains some of the training will involve recall, leash reactivity, how to walk and heel, proper socializing, greeting people and other dogs, and how to decompress as a group, and proper play initiation with other dogs.

Nina Vyedin of 27 Daniels Street introduces herself and explains she adopted a dog during the pandemic and often visits the nearby dog park. She states she was not previously aware of this proposal but thinks it is a great idea. Ms. Vyedin acknowledges there are many dog owners in Salem, but not many nearby dog training facilities. She also notes that the turn out of the little section that the building is on onto North Street can be difficult unless you are turning right. She wishes the applicants luck.

Mr. Copelas agrees that turning left onto North Street from there is tricky, but that it should not be too much of an issue with amount of traffic the facility will receive.

Mr. Quinn discusses the grounds for a special permit, noting there is a community need for high quality dog training in the City. He notes the complementary location of the dog park and vet practice, and states that traffic flow impact will be minimal. Mr. Quinn notes there will be two to three new jobs in the neighborhood, and that the structure will be improved, adding value.

Motion and Vote: Ms. McClain motions to approve the petition of R. ERIC RUMPF, TRUSTEE OF 75 NORTH STREET REALTY TRUST at 75 NORTH STREET(Map 26, Lot 58) (NRCC/BPD Zoning District), for a Special Permit per Section 3.3.2 Nonconforming Uses of the Salem Zoning

Ordinance to convert from a nonconforming light manufacturing, fabrication and assembly use to a nonconforming dog training facility, 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.

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

MEETING MINUTES

April 27, 2022

Motion and Vote: Mr. Viccica motions to approve the April 27, 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

Mr. Copelas notes there is draft language regarding an additional condition, that petitioners shall schedule assessing department inspections for the property at least annually prior to the property completion, and a final inspection upon completion. Mr. Copelas indicates the language has been vetted by the City Solicitor, and he asks Mr. St. Pierre if there is any downside to adding the condition, noting that Mr. St. Pierre previously expressed it may not be necessary.

Mr. St. Pierre explains that the concern relates to adding layers of restrictions and requirements on all projects, noting that assessors have a right to assess any property. While there is no harm in adding the condition, according to Mr. St. Pierre, he expresses concern with imposing additional conditions on petitioners.

Mr. Copelas asks who asked for the additional condition, and Mr. Laroe states he believes it was the director of the assessors office. Mr. Viccica asks why it was requested and if it was due to a lack of access, noting that

this does not seem to belong in the list of ZBA conditions. Mr. St. Pierre agrees, noting that in his experience the assessor is great at their job.

Mr. Viccica suggests having the assessor provide a written explanation as to the need for the additional condition, or at a minimum to attend the next meeting to verbally explain. He adds that the standard conditions are not a place to dump everyones potential issues unless it is clearly articulated that it would be a benefit to the City. Mr. St. Pierre says he will discuss further with the City Solicitor and the assessor.

Mr. Copelas suggests tabling the matter and putting it at the beginning of the next agenda.

Ms. McClain indicates she will not be at the next meeting, and that given the full agenda it may be beneficial to take a head count of who will be able to attend. Mr. Viccica notes he also will not be able to attend next months meeting. After further discussion by the Board, it is determined that all members will be available on July 27th as an alternate date.

ADJOURNMENT

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

The meeting ends at 9:50 PM on June 15, 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