

City of Salem Zoning Board of Appeals
Meeting Minutes
October 20, 2021

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

Chair Mike Duffy calls the meeting to order at 6:31 pm.

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

ROLL CALL

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

Chair Duffy notes that tonight there are only four Board members present, and therefore applicants have been notified and provided with an opportunity to continue to the next meeting when a full Board will be present.

Chair Duffy acknowledges a member of the public, Steve Feldmann, with their hand raised, and allows him to speak. Mr. Feldmann introduces himself, and states he thought he was supposed to be on tonight’s agenda with a petition for 22 Orange Street. Chair Duffy confirms that petition is not on the agenda for the evening, and suggests it may have been due to having a full agenda. He encourages Mr. Feldmann to reach out to the Planning Department the following day to further clarify. Chair Duffy explains that without having the petition noticed and put on the agenda, it cannot be heard.

CONTINUATIONS

Location:	10 Lynn Street (Map 26, Lot 206) (R2 Zoning District)
Applicant:	Timothy Doggett
Project:	A continuation of a public hearing for all persons interested in the petition of TIMOTHY DOGGETT to appeal a decision of the Building Inspector per M.G.L ch.40A sections 8 and 15. The petitioner is appealing the Building Inspector’s decision to grant a Building Permit for a two-family residential dwelling at 10 LYNN STREET (Map 26, Lot 206) (R2 Zoning District).

Documents and Exhibitions

- Application date-stamped August 5th, 2021 and supporting documentation

Chair Duffy introduces the petition and notes that a written request to continue was submitted.

Attorney Bill Quinn introduces himself on behalf of applicant. Mr. Quinn asserts he initiated conversations with Attorney Carr and his neighbors, and explains his client is very interested in the

long term historic preservation of property. Mr. Quinn states he and Mr. Carr have agreed to continue taking, and for that and other reasons it is appropriate to continue the petition.

Motion and Vote: Mr. Copelas motions to continue the petition of TIMOTHY DOGGETT to appeal a decision of the Building Inspector per M.G.L ch.40A sections 8 and 15. The petitioner is appealing the Building Inspector’s decision to grant a Building Permit for a two-family residential dwelling at 10 LYNN STREET (Map 26, Lot 206) (R2 Zoning District) to the next regularly scheduled meeting of the Zoning Board of Appeals on November 17, 2021.

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

Location: **66 Willson Street (Map 24, Lot 23) (R1 Zoning District)**
Applicant: **Cynthia Nina-Soto**
Project: A continuation of a public hearing for all persons interested in the petition of CYNTHIA NINA-SOTO for a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance to expand an existing single-family home by adding a three-car garage within the required front-yard setback, and adding paved driveways that exceed the maximum twenty (20) foot width at the street lot line at 66 WILLSON STREET (Map 24, Lot 23) (R1 Zoning District).

Documents and Exhibitions

- Application date-stamped August 31, 2021 and supporting documentation

Chair Duffy introduces the petition.

Cynthia Nina-Soto introduces herself as a Salem resident, and explains she purchased the property at 66 Wilson Street to become her primary residence. It was a property she wanted to purchase for many years which finally came up for sale. Ms. Nina-Soto indicates she has permits on hand for the main structure and proposed ADU, and discusses in detail the plans for the home renovation, noting she worked with Flow Design Architects. She contends the design is comparable to what currently exists and is happening in the neighborhood. The property is on the corner of Wilson Street and Old Road. Ms. Nina-Soto presents a survey and floor plans, explaining that the existing garage was used as a shed. The current structure measures 23.5 feet wide along the Old Road side of the property, which is within the 15 foot setback, sitting at 9 feet from the property line. During design, Ms. Nina-Soto explains they tried to push this back to stay within the setback, but that it would eliminate the second means of egress for the main house and ADU that has already been approved. The current plan takes the existing structure and connects it to the main house, which is currently separated by a space of 30 inches. The proposal is to further extend the structure five feet down the Old Road side in order to establish needed parking, and ensure that cars are kept off Old Road as it is a street with no sidewalks. The structure will be within 30 feet of the rear setback according to the applicant.

Ms. Nina-Soto indicates the second request is to pave the space from the end of the garage near the rear setback to create additional parking for guests and family. This would require a larger curb cut than the 20 feet currently allowed.

Chair Duffy opens the floor to questions and comments from the Board.

Mr. Viccica notes the petition requests a three-car garage, but there are only two bay doors. Ms. Nina-Soto explains that she wanted to respect the lot and preserve the look of the property as much as possible. She indicates the two bay doors will be different sizes, one 16 feet wide, and the other a more regular nine feet in width.

Mr. Copelas asks if the request is for a variance or a special permit. Chair Duffy notes the agenda lists it as a special permit. Mr. Copelas indicates that if the request should be for a variance, that would be a problem. Ms. Nina-Soto maintains that the Staff Planner at the time, Mr. McCarthy, indicated it should fall under both a special permit and variance request.

Chair Duffy confirms that a variance would be required for a curb cut. Mr. Copelas states that the Board cannot act on it if not properly advertised. Chair Duffy suggests only acting on the special permit, but not the variance request, and instead taking up the variance next month. Mr. Viccica suggests it may be best to continue the petition as the requests appear to be linked in a significant way. Ms. Nina-Soto contends that waiting until the following month could limit the ability to build due to frost. Mr. St. Pierre offers that in timing for building can be an important factor, and opines that it may make sense to consider the special permit tonight, provided the petitioner is willing to take the chance that the variance gets denied and can only build a curb cut by right. Mr. St. Pierre also notes that there have been some discussions regarding certain requests falling under special permits when related to a two-family, and that this particular request might fall in a gray area. Mr. St. Pierre indicates he will talk to the City Solicitor about the matter further. As an example, Mr. St. Pierre notes that lot area per dwelling unit is allowed relief as a special permit for two-family dwellings. Mr. Copelas asks about the ramifications of declining the variance, if required, but approving the special permit. Mr. St. Pierre indicates the driveway would have to be a wine glass shape with a 20 foot opening that then flares out. While not the most desirable design, it would not prevent other aspects of the petitioners proposal. Ms. McClain suggests approving the special permit with a contingency such that if the City Solicitor finds that a variance is not necessary, the whole petition can be approved so the petitioner does not have to return. Mr. St. Pierre opines that that is reasonable, but ultimately the Chair's decision. Mr. Viccica suggests that could be a slippery slope, and that while he is fine with voting on the special permit, he would not want to discuss the other request on the presumption that it would also qualify as a special permit rather than a variance. Mr. Copelas indicates he is sympathetic to the desire to get going with construction, and is therefore comfortable voting on the special permit but not on the variance. Mr. Viccica agrees.

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

Chair Duffy explains there is a written statement of grounds regarding the special permit and he summarizes how they are met by the applicant.

Motion and Vote: Mr. Copelas motions to approve the petition of CYNTHIA NINA-SOTO for a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance to expand an existing single-family home by adding a three-car garage within the required front-yard setback at 66 WILLSON STREET (Map 24, Lot 23) (R1 Zoning District) 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. 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.

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

Location: **44 Buffum Street (Map 27, Lot 82) (R2 Zoning District)**

Applicant: **Peter Souhleris**

Project: A continuation of a public hearing for all persons interested in the petition of PETER SOUHLERIS, for a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance to convert a single-family dwelling to a two-family dwelling at 44 BUFFUM STREET (Map 27, Lot 82) (R2 Zoning District).

Documents and Exhibitions

- Application date-stamped August 30, 2021 and supporting documentation

Chair Duffy introduces the petition.

Attorney Scott Grover introduces himself on behalf of the applicant and property owners, and he expresses that the applicant has an agreement with the current owners to purchase the property at 44 Buffum Street. The property is located at the end of the street on the right had side heading North out of Salem. Mr. Grover indicates the property was continually used as a two-family since it was built well over 100 years ago. He next shows a plot plan and points out the parking on the right. Mr. Grover contends the neighborhood character is predominantly multi-family dwellings, and provides a general history of the property and line of ownership. The current owner's father had previously applied for VA financing to purchase the property, but could not obtain the loan for a multifamily, and so he had asked that records be changed to designate the property as a single family. The second unit was rented to family until ten years ago, at which point it was rented to unrelated third parties. The current owners have decided to retire and sell the property, and in the process Mr. Grover explains the records and two-family status came into question. Mr. Grover indicates Mr. Souhleris filed his petition as the best avenue to properly re-establish the property as a two-family. Mr. Grover argues that it could be considered to have never lost its status because it was always maintained as separate units with occupying tenants. Mr. Grover adds that seeking a

special permit is a conservative approach, and that there are no plans for changes to the property other than cosmetic improvements. He notes the parking on the plan is the existing arrangement.

Chair Duffy opens the floor to questions and comments from the Board, but there are none.

Chair Duffy next opens the floor to public comment.

Ken Mielcarz of 42 Buffum Street introduces himself as the abutter to the right. Mr. Mielcarz indicates he has had issues with water for the last 15 years since the driveway was extended. He notes there have been several attempts to solve this problem, but that there is still an issue with runoff as the petitioner's driveway pitches onto his property line. Mr. Mielcarz states he spoke to Mike Becker earlier who showed the updated plans where the driveway was shortened. Mr. Mielcarz represents that Mr. Becker committed to installing a drainage ditch and dry well to stop the water runoff issue.

Mr. Copelas asks Mr. Grover if the petitioner would be willing to accept a special condition that the drainage ditch be constructed to channel water to stay on the property at 44 Buffum Street. Mr. Grover confirms that would be fine. Mr. Grover asks Mr. St. Pierre if that would be enforceable, and Mr. St. Pierre indicates it would. Mr. St. Pierre reminds the petitioner that if the current driveway is paved up to the property line, it must go back two feet per current requirements.

Mike Becker introduces himself and explains that he met with the abutter regarding the water issue. Mr. Becker explains the existing conditions, and explains further how he intends to solve the runoff issue with a drainage trench and crushed stone dry well. He presents photos to demonstrate the location.

Chair Duffy discusses the statement of grounds, and notes that Mr. Mielcarz also submitted written public comment. Mr. Duffy also notes the Board received a letter from Costa Dimienkopelas of Northern Avenue in favor of the proposal.

Mr. Grover adds that there is a petition that has 12 signatures of close abutters all indicating support for the petition that he was unable to supply in a more timely fashion.

Motion and Vote: Mr. Viccica motions to approve the petition of PETER SOUHLERIS, for a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance to convert a single-family dwelling to a two-family dwelling at 44 BUFFUM STREET (Map 27, Lot 82) (R2 Zoning District) subject to the following standard conditions:

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

8. All construction shall be done per the plans and dimension submitted to and approved by this Board. Any modification to the plans and dimensions must be approved by the Board of Appeals unless such changes are deemed a minor field change by the Building Commissioner in consultation with the Chair of the Board of Appeals.

And the following special condition:

1. The petitioner shall create a drainage ditch to remediate the water issue with the neighbor at 42 Buffum Street, and that the driveway edge shall be kept two feet from the property line.

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

Location: **9 Franklin Street (Map 26, Lot 375) (R2 Zoning District)**
Applicant: **Maria Bova**
Project: A continuation of a public hearing for all persons interested in the petition of MARIA BOVA, for a special permit per Section 3.3.2 *Nonconforming Uses* of the Salem Zoning Ordinance to change from one nonconforming use (commercial – business or professional offices) to another nonconforming use (commercial – kennel) at 9 FRANKLIN STREET (Map 26, Lot 375) (R2 Zoning District).

Documents and Exhibitions

- Application date-stamped September 1, 2021 and supporting documentation

Chair Duffy introduces the petition.

Architect Julia Rabin introduces herself on behalf of the applicant, who owns Kissable Paws Dog Groomer and Daycare and just signed a lease for the property at 9 Franklin Street. Ms. Rabin explains that Ms. Bova has worked as a groomer for 25 years and has had an established business in Salem for 14 years, which she now wishes to expand to conduct additional grooming, and engage in overnight boarding as well. Ms. Rabin states it would be beneficial to Salem as there is a high demand for these services in town and the surrounding areas, and that there is a shortage of boarding services. She adds that many Salem residents have to go as far as Boxford to board their dogs. Ms. Rabin describes the property at 9 Franklin, which is off route 114 near the Speedway gas station, in a busy commercial area. In the rear of the lot there are townhouses being build that will be dog friendly condominiums. Ms. Rabin indicates the property is a combination B1/R2 zoning and that it has been occupied by commercial use since 1920. The previous tenant operated a karate studio in the space. Ms. Rabin contends she spoke with Mr. St. Pierre prior to any lease being signed to make sure the proposal would be feasible, which he indicated it would as it would be going from one business use to another. Ms. Rabin notes positive impacts regarding jobs, tax revenues, and internship opportunities associated with the proposal. Ms. Rabin discusses the special permit criteria, and explains how the proposal meets community needs.

Chair Duffy asks if dogs need to go out when being boarded overnight, and if so, how and where. Maria Bova introduces herself and explains that after 7PM there will be no dogs existing the building. Staff will be present for overnight services to watch the animals. Chair Duffy asks where

the dogs will relieve themselves prior to 7PM, and Ms. Bova explains there will be an enclosed fenced in area where there is currently a structurally unsound ramp. The dogs will use this area.

Ms. McClain asks if barking is expected to be an issue, and if the building will be soundproofed. Ms. Rabin indicates it will not be soundproofed, but that with central air none of the windows will be open. Ms. Rabin also notes the nearest house is not particularly close, and that the location is near a Speedway and a boatyard. Ms. Bova adds that she spoke with the landlord and several abutters, and has agreed to soundproof the building without opposition if noise does become a problem in the future, although she does not anticipate it will.

Mr. Viccica asks how many dogs will be boarded, and Ms. Bova states a maximum of 20 during the busy season. She adds that the plan is for it to be upscale, like a hotel for dogs with each having their own room, rather than a caged environment like a kennel.

Chair Duffy opens the floor to public comment.

Victoria Ricciardiello (no address given) introduces herself and asks if there is a difference between a grooming facility and a daycare. She also asks about difficulties transitioning from a grooming business to a boarding business with up to 50 dogs during the day and potentially 20 overnight. She notes the new condos being built, and wonders if they will be impacted by any noise.

Ms. Bova explains that they currently have about 10 dogs a day currently, and that it is usually herself accompanied by one employee. In the new facility, Ms. Bova explains she would have more employees in the daycare portion while she and one other employee operate the grooming section. Overnight there would be two employees. Ms. Bova reiterates her commitment to soundproofing if it is proven to be an issue in the future.

Patricia Murphy of 27 Foster Street introduces herself and states she spoke with Ms. Bova during the meeting with abutters. She notes the Ward 6 Councilor was present as well. Ms. Murphy asks if the property is actually at 9 or 11 Franklin Street, noting some confusion. Ms. Murphy asks if the ambulance company being built nearby could make sound an issue if the sirens disturb the dogs in the future. She also asks about the legal definition of a grooming or kennel business as it applies to the Salem Zoning Ordinance. Ms. Murphy asks if there will be an ADA compliant entrance ramp, and where the dog run will be placed. She also expressed concern regarding dog feces removal, and suggests the business will create lots of dog waste so close to a children's park.

Chair Duffy clarifies the location of the building, and Ms. Rabin and Ms. Bova confirm that technically the building is 11 Franklin Street.

Regarding dog waste, Ms. Bova states she will do what she has always done, which is bag and dispose of dog feces immediately. The waste is then disposed of weekly when the dumpster gets taken away. She notes this is exactly how her other business operates and that she has never received any complaints.

Chair Duffy asks about the potential for a noise issue, and notes the building is block concrete. Ms. Bova confirms she would be willing to soundproof if the neighbors can prove it has become an issue. Regarding the ramp, Ms. Bova explains the fenced in dog area is going where the existing

ramp is, and that a new ADA compliant ramp will be installed on the opposite side of the staircase in the existing parking lot.

Mr. St. Pierre notes that the City Dog Officer will have some jurisdiction, and that this will not operate in a vacuum. There will be inspections and regulations overseen by Officer Famico.

Chair Duffy discusses the statement of grounds, and notes there is an additional member of the public wishing to provide comment.

Meg Fairshaw of Street introduces herself, and expresses traffic concerns, particularly in light of the existing gas station and new condos being built. She states she is worried traffic problems will be exacerbated in the neighborhood if overnight boarding is allowed.

Ms. Bova explains that overnight boarding should not have an impact any greater than the grooming business, as most people just drop off the dogs in the morning and pick them up in the afternoon. She assures that adding the boarding component to the existing business should not impact traffic.

Motion and Vote: Ms. McClain motions to approve the petition of MARIA BOVA, for a special permit per Section 3.3.2 *Nonconforming Uses* of the Salem Zoning Ordinance to change from one nonconforming use (commercial – business or professional offices) to another nonconforming use (commercial – kennel) at 9 FRANKLIN STREET (Map 26, Lot 375) (R2 Zoning District) 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. 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.
11. 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.

And the following special condition:

1. The petitioner shall soundproof the building upon a third party determination of a noise issue if deemed necessary by the City Dog Officer.

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

Location: **0 Story Street (Map 23, Lot 12) (RC Zoning District)**

Applicant: **Castle Hill Realty Group, LLC**

Project: A continuation of a public hearing for all persons interested in the petition of CASTLE HILL REALTY GROUP, LLC to appeal a decision of the Building Inspector per M.G.L. ch.40A sections 8 and 15 to construct two foundations for two single-family dwellings at 0 STORY STREET (Map 23, Lot 12) (RC Zoning District).

Documents and Exhibitions

- Application date-stamped July 10, 2021 and supporting documentation

Chair Duffy introduces the petition and notes there was a request to continue. Mr. Laroe confirms the request was submitted in writing.

Attorney John Kelty introduces himself on behalf of applicant, and explains that the applicant would like to continue to the next regularly scheduled meeting.

Motion and Vote: Mr. Copelas motions to continue the petition of CASTLE HILL REALTY GROUP, LLC to appeal a decision of the Building Inspector per M.G.L. ch.40A sections 8 and 15 to construct two foundations for two single-family dwellings at 0 STORY STREET (Map 23, Lot 12) (RC Zoning District) to the next regularly scheduled meeting of the Zoning Board of Appeals on November 17, 2021

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

Location: **9 Buffum Street (Map 26, Lot 318) (R2 Zoning District)**

Applicant: **Valerina Condor, LLC**

Project: A continuation of a public hearing for all persons interested in the petition of VALERINA CONDOR, LLC for a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance to expand a nonconforming two-family home by expanding the third story from a gable to mansard roof at 9 BUFFUM STREET. Additionally, the Petitioner seeks an infill addition to the side porch area.

Documents and Exhibitions

- Application date-stamped July 28, 2021 and supporting documentation

Chair Duffy introduces the petition and explains the applicant is seeking a continuance.

Attorney Kolick introduces herself on behalf of the applicant. She notes this is the first of three projects she is here to represent and request continuances for due to lack of a full Board this evening. Ms. Kolick states a request was submitted in writing.

Motion and Vote: Mr. Viccica motions to continue the petition of VALERINA CONDOR, LLC for a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance to expand a nonconforming two-family home by expanding the third story from a gable to mansard roof at 9 BUFFUM STREET (Map 26, Lot 318) (R2 Zoning District) to the next regularly scheduled meeting on November 17, 2021.

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

Location: **31 Calumet Street (Map 10, Lot 57) (R1 Zoning District)**
Applicant: **Roberta Reddy**
Project: A continuation of a public hearing for all persons interested in the petition of ROBERTA REDDY, for variances from provisions of Section 4.1.1. *Dimensional Requirements* of the Salem Zoning Ordinance for minimum lot area, minimum lot area per dwelling unit, and minimum lot frontage to create four lots at 31 CALUMET STREET (Map 10, Lot 57) (R1 Zoning District).

Documents and Exhibitions

- Application date-stamped July 28, 2021 and supporting documentation

Chair Duffy introduces the petition.

Attorney Scott Grover introduces himself on behalf of the applicant. Mr. Grover indicates the applicant would like the benefit of a full Board, and therefore requests to continue to the next regularly scheduled meeting.

Motion and Vote: Mr. Viccica motions to continue the petition of ROBERTA REDDY, for variances from provisions of Section 4.1.1. *Dimensional Requirements* of the Salem Zoning Ordinance for minimum lot area, minimum lot area per dwelling unit, and minimum lot frontage to create four lots at 31 CALUMET STREET (Map 10, Lot 57) (R1 Zoning District) to the next regularly scheduled meeting on November 17, 2021:

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

REGULAR AGENDA

Location: **6 Lathrop Street (Map 26, Lot 337) (B4 Zoning District)**
Applicant: **Michael Buonfiglio**
Project: A public hearing for all persons interested in the petition of MICHAEL BUONFIGLIO for a special permit per Section 3.3.2 *Nonconforming Uses* of the Salem Zoning Ordinance to change from one nonconforming use (two-family dwelling) to another nonconforming use

(three-family dwelling) at 6 LATHROP STREET (Map 26, Lot 337) (B4 Zoning District).

Documents and Exhibitions

- Application date-stamped September 29, 2021 and supporting documentation

Chair Duffy introduces the petition.

Attorney Kolick introduces herself on behalf of the applicant. Ms. Kolick notes she submitted a request to continue in writing due to the lack of a full Board this evening.

Motion and Vote: Mr. Viccica motions to continue the petition of MICHAEL BUONFIGLIO for a special permit per Section 3.3.2 Nonconforming Uses of the Salem Zoning Ordinance to change from one nonconforming use (two-family dwelling) to another nonconforming use (three-family dwelling) at 6 LATHROP STREET (Map 26, Lot 337) (B4 Zoning District) to the next regularly scheduled meeting on November 17, 2021:

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

Location: **2 Oliver Street (Map 35, Lot 99) (R2 Zoning District)**

Applicant: **33 WSNS LLC**

Project: A public hearing for all persons interested in the petition of 33 WSNS LLC for a special permit per Section 3.3.5 Nonconforming Single- and Two-Family Residential Structures of the Salem Zoning Ordinance to expand an existing nonconforming single-family home by adding a two-story addition and raised patio at 2 OLIVER STREET (Map 35, Lot 99) (R2 Zoning District).

Documents and Exhibitions

- Application date-stamped September 28, 2021 and supporting documentation

Chair Duffy introduces the petition.

Attorney Bill Quinn introduces himself on behalf of the petitioner, and explains the property is a historic mansion facing the Salem Common. He explains his client seeks to modernize the structure, primarily inside so that the living space is more contemporary and efficient for he and his family. The property contains two residential structures, a large single family townhouse and a two-story brick carriage house approved in the past for residential use. The petitioner seeks to make an addition to the single family structure on the property, but Mr. Quinn stresses they are not proposing to add a unit. He maintains it is an exterior addition with interior improvements. Mr. Quinn indicates the property has adequate parking for the existing residents, and as there are no additional units being added no further parking is required. Mr. Quinn presents the proposal plans, and explains the addition in more detail. He notes there will be no changes to setbacks or height, and that only lot coverage will change. Mr. Quinn introduces Peter Pitman as the project architect. He adds that the proposal appeared before the Historical Commission, which approve the exterior design and improvements subject to further discussions if approved by the Zoning Board of Appeals.

Peter Pitman introduces himself and presents photographs and a site plan. Mr. Pitman demonstrates the expansion and the as-built site plans. An existing addition that measures only 10 feet by four feet and houses a staircase, is essentially a very long hallway. Mr. Pitman explains that the proposal is to widen this addition and expand it to make it a more functional living space, while maintaining the existing patio space outside. He next presents floor plans of existing and proposed conditions. The addition will contain a guest space, small kitchenette bar space, and some entertainment space. Mr. Pitman notes the Historic Commission suggested some accommodations, and will further review assembly details such as windows and trim, pursuant to ZBA approval.

Mr. Viccica asks if the space will be used as a temporary residence for guests or a rental. Mr. Quinn states it could not legally be a rental without further action, and that the applicant has not applied for permitting for a second dwelling unit. Mr. Quinn states as far as he knows, this will not be a second residence or rental. Mr. Pitman adds that he made it clear to the property owner that it could not be used as a dwelling without further action from the Board, and that a stove was not installed in the kitchenette as that is what he considers a tipping point in it becoming a rentable space.

Mr. Copelas clarifies that short-term rentals are allowed without a special permit if the property is owner occupied. Mr. Viccica states he would just like it on the record what the purpose of the addition is. Mr. St. Pierre asks to see the second floor plans again, and notes there is a lack of a second egress which would be required to make it a separate legal unit.

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

Chair Duffy discusses the statement of grounds and how the petition meets the special permit criteria.

Mr. Copelas states he would like to probe to proposal further, particularly thinking about the City's more recent modifications regarding ADU's. Mr. Copelas states his understanding is that they are not technically additional units, but additional dwelling space within a unit. He states the proposal certainly looks designed for something along those lines. Mr. Viccica says he will not presume any future City Council decisions, but as long as the applicant is on the record that this will not be, or is not a rental unit, then the Board must take it at face value. If the law or ordinance changes and the applicant needs a special permit in the future, the Board will look at it from there. Mr. Quinn agrees.

Mr. St. Pierre clarifies that ADU's are separate units, and that the Planning Department cannot dictate fire safety codes. He notes that an ADU is still an additional unit and requires two forms of egress or a sprinkler system.

Motion and Vote: Mr. Viccica motions to approve the petition of 33 WSNS LLC for a special permit per Section 3.3.5 Nonconforming Single- and Two-Family Residential Structures of the Salem Zoning Ordinance to expand an existing nonconforming single-family home by adding a two-story addition and raised patio at 2 OLIVER STREET (Map 35, Lot 99) (R2 Zoning District) 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.

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

Location: **9 Appleton Street (Map 35, Lot 99) (R2 Zoning District)**
Applicant: **Wright Family Irrevocable Trust**
Project: A public hearing for all persons interested in the petition of WRIGHT FAMILY IRREVOCABLE TRUST, for a special permit from provisions of Section 3.2.8 Affordable Accessory Dwelling Units of the Salem Zoning Ordinance for an existing detached accessory building as defined in subsection 8 of Section 3.2.8 that is not in compliance with the setbacks of the principal dwelling unit at 9 APPPLETON STREET (Map 35, Lot 99) (R Zoning District).

Documents and Exhibitions

- Application date-stamped September 21, 2021 and supporting documentation

Chair Duffy introduces the petition.

Attorney Kolick introduces herself on behalf of the applicant, and notes a request to continue was submitted in writing due to the lack of a full Board being present.

Motion and Vote: Mr. Copelas motions to continue the petition of WRIGHT FAMILY IRREVOCABLE TRUST for a special permit from provisions of Section 3.2.8 Affordable Accessory Dwelling Units of the Salem Zoning Ordinance for an existing detached accessory building as defined in subsection 8 of Section 3.2.8 that is not in compliance with the setbacks of the principal dwelling unit at 9 APPPLETON STREET (Map 35, Lot 99) (R Zoning District). to the next regularly scheduled meeting on

November 17, 2021.

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

MEETING MINUTES

September 22, 2021

None of the Board members have any proposed edits or comments regarding the meeting minutes being reviewed.

Motion and Vote: Mr. Copelas motions to approve the Zoning Board of Appeals September 22, 2021 meeting minutes as drafted. Ms. McClain seconds the motion. **The vote is four (4) in favor and none (0) opposed. The motion passes.**

OLD/NEW BUSINESS

Chair Duffy welcomes Mr. Laroe to his first meeting.

Mr. Viccica formally thanks Mr. McCarthy for his time with the Board, and Mr. Copelas seconds the sentiment.

ADJOURNMENT

Motion and Vote: Mr. Copelas moves to adjourn the meeting. Ms. McClain seconds the motion. **The vote is four (4) in favor and none (0) opposed. The Motion passes.**

The meeting ends at 8:50 PM on October 20, 2021.

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-2021>

Respectfully submitted,
Daniel Laroe, Staff Planner