

City of Salem Zoning Board of Appeals
Meeting Minutes
April 27, 2022

A meeting of the Salem Zoning Board of Appeals (“Salem ZBA”) was held on Wednesday, April 27, 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.

Chair Mike Duffy calls the meeting to order at 6:30 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), Peter Copelas, Carly McClain, Rosa Ordaz, Steven Smalley, and Paul Viccica. Also in attendance were Daniel Laroe – Staff Planner, and Jonathan Pinto – Recording Clerk. Those absent were: None

CONTINUATIONS

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 June 10, 2021 and supporting documentation

Chair Duffy introduces the petition, and explains there has been a request to withdraw without prejudice from Attorney Keilty.

Motion and Vote: Mr. Copelas motions to approve the request to withdraw without prejudice 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).

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

Location: **16 Loring Avenue (Map 32, Lot 88) (R2 Zoning District)**

Applicant: **Sandra S. Power**

Project: A public hearing for all persons interested in the petition of SANDRA S. POWER at 16 LORING AVENUE (Map 32, Lot 88) (R2 Zoning District), for a Special Permit for per Section 3.3.2 *Nonconforming Uses* of the Salem Zoning Ordinance to add an additional dwelling unit on the second floor to convert the five (5) family use to a six (6) family use. ALSO AREA LOT PER DWELLING???? 6:38

Documents and Exhibitions

- Application date-stamped February 14, 2022 and supporting documentation

Chair Duffy introduces the petition.

Attorney Bill Quinn introduces himself on behalf of the applicant, and describes the property as a grand old victorian mansion built in 1894. Mr. Quinn explains the property history, noting there was a dramatically sloping back yard to the street behind, which the original owner filled pursuant to the old Salem fire and was able to create a six-baby garage with a concrete roof. Mr. Quinn states his clients acquired the property in 1962 as a large 25 room mansion. The original design was half houses on each side of two stories, with maids quarters on the third floor. Mr. Quinn indicates the owners have spent huge amounts of money to keep the home in operating condition and true to its historic character. In 1976 the owners came before the ZBA as the property was used as a four-unit residential property and they wanted to subdivide the second floor to create five units in total. Mr. Quinn explains a copy of the granted variance is included in the petition. Mr. Quinn states the applicant, Sandra, who is the widow of Walter Power, is seeking to subdivide her two-floor unit on the opposite side to a flat apartment for her to live in, and rent the second floor as an additional unit. He explains that each half of the house would be three flats on three stories, totaling six units. The current owners have been here since the 1960's, raised their family here, and Mr. Quinn notes that Ms. Power's daughter is an architect and her son helps her run the property. Mr. Quinn contends the proposal is appropriate due to the proximity to Salem State University, the lack of family housing in the area, and because the ZBA previously granted relief for a fifth unit under similar circumstances. While the property is lovely, Mr. Quinn explains it has been very difficult and costly to maintain as everything is custom. He also notes the costly drainage system which needs to be maintained, as the garage ceiling has historically had issues with leaking. A recent improvement to the system cost approximately \$40,000. The proposal would allow Ms. Power to continue to live in her home while supplementing her income to offset the expenses of the large wood frame home. Mr. Quinn presents photos of the garage from Charles Street, the retaining walls holding up the yard, and other photos of the property. Mr. Quinn maintains the proposal would turn a nonconforming five-family dwelling to a nonconforming six-family, and that the lot area per dwelling will be reduced, requiring a variance. He notes there are nine parking spaces on the site plan, and therefore there is adequate parking for the sixth unit. Mr. Quinn identifies an outside stairway in the back that will serve all three floors but will not be visible from the street.

Mr. Quinn discusses the grounds for the variance and special permit requests, citing case law regarding preservation of historically significant buildings. He notes the maintenance and cost are hardships for approval of the variance, as are the unique soil conditions. Regarding the special permit, Mr. Quinn contends the proposal is not out of character for the area given the nature of the nearby multifamily buildings. He adds that traffic and parking will not be an issue, and notes there are two driveways into the back.

Ms. Ordaz notes the Board received a memo from Patty Kelleher on behalf of the Historical Commission explaining that while this is not a historic property per se, it is one the Commission would be interested in discussing with the applicant to ensure the beautiful details are maintained. Ms. Ordaz asks if the applicant has had a chance to speak with them, or if the applicant plans to do so.

Mr. Quinn states Ms. Powers has not received any communications but that he would be happy to reach out to Ms. Kelleher, and that the applicant would be willing to have a special condition if necessary for approval.

Chair Duffy opens the floor to public comment.

Ward 5 Councilor Jeff Cohen of 12 Hancock Street introduces himself and states he has known Ms. Powers for a long time, and that she is proud to show all of the work on the home over the years to create great living space while maintaining the historic character. He states he is supportive of the petition.

Todd Waller of 26 Hardy Street introduces himself and also voices support for the applicant. He states he has had properties neighboring Ms. Power, and that he has known her for quite some time as well.

Chair Duffy speaks to nature of the requested relief and support for findings of unique conditions for the variance. He acknowledges the relief would make maintaining the property a more affordable pursuit. Chair Duffy recognizes the statement of grounds provided as well, and asks if any Board members would like to put forth a motion.

Motion and Vote: Mr. Copelas motions to approve the petition of SANDRA S. POWER at 16 LORING AVENUE (Map 32, Lot 88) (R2 Zoning District), for a Special Permit for per Section 3.3.2 *Nonconforming Uses* of the Salem Zoning Ordinance to add an additional dwelling unit on the second floor to convert the five (5) family dwelling to a six (6) family dwelling and a variance for 4.1 Dimensional Requirements for LOT AREA PER DWELLING Unit.... 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.

And the following special condition:

1. The applicant will meet with the Historic Commission and discuss their plans.

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

REGULAR AGENDA

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

Applicant: **Jessica Blomerth**

Project: 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

Chair Duffy introduces the petition.

Michael Blomerth introduces himself and states he and his wife Jessica purchased the property in 2020, and that they had been renting it prior to that. Since owning the property, Mr. Blomerth explains their family has expanded, and they are quickly running out of room with a baby and a dog. Mr. Blomerth indicates they would like to build up on their one-floor living cape with an unfinished second floor, while maintaining the existing footprint, to make their forever home. With a second story addition, Mr. Blomerth states it will afford his family the room to stay here long-term. He adds that the proposed roof deck is the cherry on top for optimal views. He states he is not seeking a height variance, just a special permit for the technical third floor of additional living space.

Mr. Viccica asks the applicant to walk through the design drawings. Mr. Blomerth presents street views showing the proposed addition, noting the roof line height will go to 30 feet, 34 feet with the roof deck railing. Mr. Blomerth contends the 2.5 story look will be maintained with a mansard style roof in front. He states he is fortunate to be the son of a talented engineer and contractor who hand drew the plans. Mr. Blomerth identifies the third level dormers on the front and also presents side elevations. To roof deck would provide 180 degrees of water view. Mr. Blomerth maintains that the height will only go up seven feet in total, and therefore there will be no issue with casting shadows on neighbors, and that the footprint will remain unchanged. He adds that across from the property is an open field.

Mr. Viccica asks if the proposal is three stories, and Mr. Blomerth confirms it is, as the property is currently a cape. Chair Duffy and Mr. Viccica discuss whether the height issue needs to be addressed with respect to the number of stories and whether the application and notice are missing parts. Mr. Blomerth contends there was no request for a height variance, just a three story special permit. Chair Duffy asks if the property is already nonconforming in some way. Mr. St. Pierre

states the property is currently conforming, and that while the wording is not smooth, the petition should cover the request. A plot plan is presented.

Ms. Ordaz asks if at least fifty percent of the roof will be removed, in which case the applicant may need to meet with the Historic Commission pursuant to the recent demolition delay ordinance. Mr. Blomerth states he is unaware of the ordinance, but that he is happy to meet with anyone necessary to go forward. Mr. Viccica clarifies that a letter was submitted from Patty Kelleher noting that if a building is more than 50 years old, and more than 50 percent of the building or roof is to be removed, it is subject to a demolition delay review. He adds that these designs probably need further review. Mr. Viccica suggests continuing the petition, as the plans are likely to come back different or with modifications, and it would be better to see how they plans evolve rather than approval with contingencies. He suggests continuing to the next meeting or the one following, to provide adequate time. Ms. Ordaz agrees.

Chair Duffy raises a question as to whether a variance is needed or if a special permit is adequate given that the current building is a conforming structure. Mr. Copelas states the Board generally sees nonconforming properties, and would like to dig into the matter more. Mr. St. Pierre states he will look into the matter further as well and get back to the Board. Mr. Copelas suggests continuing to the June 15th meeting to provide adequate time.

Chair Duffy opens the floor to public comment.

Michael Robins of 41 Columbus Avenue introduces himself as the lot owner directly behind the property in question. Mr. Robins states he and his wife are in favor of the proposal, as the drawings were shown to them and they believe they are clear. He expresses support for his neighbor making sure his home is adequate as their family and needs grow.

Virginia Lavoie of 135 Fort Avenue introduces herself as the next door neighbor, and states she has lived here her whole life and did not receive any notification of this meeting by mail. Ms. Lavoie notes she is supportive of the Blomerth's request, as they are a wonderful family, great neighbors, and keep the property looking nice. She states their children will need more room, and that they have been open and honest neighbors throughout the process.

Chair Duffy suggests the applicant connect with the planning department to walk through who to contact and how to get materials in front of the Board in most effective way to proceed.

Mr. Copelas asks if the applicant is comfortable continuing to June, and Mr. Blomerth states that is acceptable.

Motion and Vote: Mr. Viccica motions to continue 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 to the June 15th, 2022 meeting of the Zoning Board of Appeals.

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

Location: 61 Mason Street (Map 26, Lot 92) (I/NRCC Zoning District)

Applicant: Katie B. and Philip Bock

Project: A public hearing for all persons interested in the petition of KATIE B. AND PHILIP BOCK, AS TRUSTEES OF SACHEL'S REALTY TRUST at 61 MASON STREET (Map 26, Lot 92) (I/NRCC Zoning District), for a Special Permit under Sections 8.4.5 (4.4) and (4.5). to enlarge the existing 2-family structure to a 3-family with a new dormer and 2-car garage below, and to construct an attached 2-unit addition with a 3-car garage below, thereby creating a multifamily use of 5 total units. A total of 7 off-street parking spaces will be provided on site, where 8 spaces are required by Section 8.4.9 (4) (a). The petitioner also seeks two variances from Section 4.1.1 *Dimensional Requirements* of the Salem Zoning Ordinance for relief from lot area per dwelling where 1,664 sq.ft is being provided and 3,500 sq.ft is required. Also, Section 8.4.9.a *Required Off-Street Parking* where seven (7) spaces are being provided and eight (8) spaces are required.

Documents and Exhibitions

- Application date-stamped February 23, 2022 and documentation

Chair Duffy introduces the petition.

Attorney Bill Quinn introduces himself on behalf of the applicant, who he describes as a young couple with a young child. Mr. Quinn states that Katie grew up in the house and neighborhood for decades, as the property belonged to her parents, and the applicants recently bought the existing two-family. Mr. Quinn contends the property is in a deteriorated condition, and that the owners wish to live there into the future and are looking at options to improve and maintain the property. They seek to generate additional income to get the home into good shape. Mr. Quinn describes the property as a 2.5 story home that backs up to the Halstead Station apartment complex, abuts the property and shares a driveway. To the left of the property at 59 Mason Street is a large single-story brick building on the same level as this two-family home, but is a commercial structure and lot. On the other side of the shared driveway at 65 Mason is a 4-8 unit apartment structure which is nonconforming, technically a two-story with a flat roof. Mr. Quinn states that Halstead Station looms behind everything, and while beautiful, is certainly large. Mr. Quinn states that abutting a residential use is an important factor in the application. He also notes that the end of Tremont Street is across the street and zoned residential. Mr. Quinn suggests the location is a bit odd, and that the unusual topography, as the house and a few parking spaces sit atop a small plateau, and the whole backyard sweeps down with the driveway toward Halstead Station. Mr. Quinn shows the property access, and indicates the grounds for variances are based on the change in topography and the additional expense for renovations. Mr. Quinn explains the difficulties, including regrading issues and melding a building one story lower than currently exists. The end proposal results in five units, compared to the existing two. Mr. Quinn also notes a dormer on the third floor is proposed due to a lack of head space. The property is located in the NRCC district, and is a transitional zone, which is one that is adjacent to an NRCC that also abuts residential properties. Mr. Quinn states this detail makes a difference in what the overall height can be, but that the rest of the zoning is governed by the normal provisions of the ordinance. Relief for lot area per dwelling is triggered, as is a need for a parking variance. Mr. Quinn contends that several configurations and arrangements were considered, and that attempts to fit eight parking spaces failed. Mr. Quinn indicates there is

more than one space per unit in the proposal, but that the eighth space necessary when rounding up from the required 7.5 spaces is unable to be accommodated. He notes there is lots of neighborhood parking on Mason and Tremont Streets nearby, as well as some public parking near the park entrance with 11 spaces just 50 feet away and not designated for any person or property. The plans submitted include a third story dormer, and addition at the rear with garage, and a two-unit apartment addition with two-car garage underneath to the side. Mr. Quinn introduces Dan Ricciarelli, the project architect.

Mr. Ricciarelli introduces himself and presents photographs of the existing house, which he describes as an 1850's Greek revival. Mr. Ricciarelli states the property is fairly tired, has aluminum siding, and has not been maintained in quite some time. The goal is to restore the existing building and created additions to the rear and side off of Mason Street to accommodate five units. He describes the existing conditions more, and presents elevations of both existing and proposed conditions. Mr. Ricciarelli explains that the lot coverage is only being increased by three percent, holding onto the North River Corridor requirements. By restoring the building, the petition would improve the neighborhood according to Mr. Ricciarelli. While one required space is missing, Mr. Ricciarelli suggests there is ample parking in the area. Mr. Ricciarelli presents floor plans of the units, noting they will be three and two-bedroom units.

Ms. McClain asks the petitioners to elaborate on the hardship related to lot area per dwelling unit, and whether it is because of the topography precluding them from using more space. Mr. Quinn explains the change of topography and the lack of access except for the shared driveway are the hardships. Further, the work and expenses to upgrade the property present a hardship. Mr. Quinn notes that multifamily dwellings are permissible in the NRCC district and that there are no setback or dimensional requirements. The height requirements are generally 50 feet and four stories in the NRCC. Because the property is adjacent to a residential property, Mr. Quinn reiterates that the property is defined as a transition zone there the requirements are 40 feet and three stories, but that the proposal conforms regardless. Mr. Quinn maintains that the change in elevation limits where additional structures and parking can be located, and that comparatively everything nearby is level.

Mr. Copelas asks to see certain drawings again, and acknowledges that the property is unique having a commercial building to the left and several hundred residential units to the right, and additionally is currently an underutilized large lot with a small building. Mr. Copelas next asks about about the rights the petitioners have regarding the paved driveway that goes to the back of the property, noting that the plot plan does not indicate any easement or right-of-way. He expresses concerns regarding the elimination of the Mason Street access and exclusively using the driveway on Flint Street for Halstead Station. Mr. Quinn states that based on facts provided by the applicant's parents, the driveway has existed long before Halstead Station and was there to serve other commercial users in the back. It has been used continuously by the petitioners family for close to 30 years. Mr. Quinn explains that when Halstead was developed, a series of documents were created between them and the City giving the City certain rights of way within and to the property, including the potential extension of Commercial Street. In the process, Mr. Quinn contends his clients parents were given a written license recorded providing the right to use that driveway with no limitations on time, for all purposes of use as a residential driveway. Mr. Quinn states he has been in negotiations with the Halstead lawyers, and provided them with a draft of a formal easement to verify the petitioners rights. Mr. Quinn states he has not seen the final draft, but that that the Halstead lawyers have been authorized to grant the easement.

Mr. Copelas states he has never heard of a license as opposed to an easement or right of way and that he is unsure of what that means legally. He notes that if this is a public right of way there are all types of nuances that come with the space. Mr. Copelas adds he has some apprehension knowing the easement is still under negotiation. Mr. Quinn suggests a special condition for approval requiring a permanent easement be filed. He assures the Board that he is confident it will come soon, as he has already discussed the terms with the Halstead lawyers. Mr. Copelas asks if the petitioner would accept a special condition that requires a recorded permanent easement allowing the petitioner access over the existing paved driveway at 72 Flint Street. Mr. Quinn states that would be acceptable.

Philip Bock introduces himself and states that the concerns regarding the easement were discussed in multiple meetings with the Halstead representatives, and that the issues were worked through and that he has been assured they are just working on a final draft of the easement.

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

Chair Duffy summarizes the requested relief and special permit criteria, which he explains have been met.

Motion and Vote: Mr. Viccica motions to approve the petition of KATIE B. AND PHILIP BOCK, AS TRUSTEES OF SACHEL'S REALTY TRUST at 61 MASON STREET (Map 26, Lot 92) (I/NRCC Zoning District), for a Special Permit under Sections 8.4.5 (4.4) and (4.5) to enlarge the existing 2-family structure to a 3-family with a new dormer and 2-car garage below, and to construct an attached 2-unit addition with a 3-car garage below, thereby creating a multifamily use of 5 total units, as well as two variances from Section 4.1.1 Dimensional Requirements of the Salem Zoning Ordinance for relief from lot area per dwelling where 1,664 sq.ft is being provided and 3,500 sq.ft is required, and Section 8.4.9.a Required off-street parking where seven (7) spaces are being provided and eight (8) spaces are required., 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.

And the following special condition:

1. Subject to a recorded permanent or prescriptive easement to be granted from 72 Flint Street to access the property.

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

Location: **3 Milk Street (Map 35, Lot 554) (R2 Zoning District)**

Applicant: **Erik Sayce**

Project: A public hearing for all persons interested in the petition of ERIK SAYCE at 3 MILK STREET (Map 35, Lot 554) (R2 Zoning District), for a Special Permit for per Section 3.3.5 *Nonconforming Single- and Two-family structures* of the Salem Zoning Ordinance to construct a shed dormer on the south side of the existing gable roof that is approximately 30' by 10".

Documents and Exhibitions

- Application date-stamped February 24, 2022 and supporting documentation

Chair Duffy introduces the petition.

Julia Mooradian of Segar Architects introduces herself on behalf of applicants, and notes that Todd Waller is present as well because the applicants just had a baby. The proposal is for the addition of a dormer as the family is growing. Ms. Mooradian explains the property is in the R2 zoning district, nonconforming in lot size, frontage, and front and side setbacks. She notes the proposed dormer would be on the interior of the property, set back four feet from the face of the second floor, and even farther back from the bay window in front. The addition would allow the creation of a master bedroom suite on the third floor and new stairs to get to what is currently an unfinished attic space. Ms. Mooradian presents site plans, and maintains that the proposal will not increase any of the nonconformities of the existing structure.

Chair Duffy opens the floor to public comment.

Gary and Jane Stergwell of 17 Andrew Street introduces themselves, and Mr. Stergwell explains he has been here for 41 years opposite Milk Street. He states his back yard abuts the existing garage at the property. Mr. Stergwell indicates he knew the two owners prior, and that he is happy that the current owners are renovating and keeping up the property in line with the neighborhood.

Lloyd Curtis of 16 Pickman Street introduces himself and states he is 50 years from the property, and has also been here approximately 40 years. Mr. Curtis indicates the petitioners live and work in the neighborhood, and that when he first moved here there were many condo conversions, which he thought was wonderful. He notes the applicants have been great neighbors, and that this is a good way to keep people in the neighborhood as their families grow.

Erik Sayce introduces himself and thanks the Board and neighbors for hearing the petition. He states he recently moved in and that the house was vacant when he purchased it. He is working on making it more habitable, and is excited to keep the property going and grow it for his family to stay in the neighborhood just down the street from their family business.

Chair Duffy states the proposal is straight forward, and that there will be no impact on traffic flow or safety, and that utilities and drainage will not be an issue. The proposal will enhance the value of the property for the current and future residents, while creating some temporary work and enhancing the City tax base.

Motion and Vote: Mr. Copelas motions to approve the petition of ERIK SAYCE at 3 MILK STREET (Map 35, Lot 554) (R2 Zoning District), for a Special Permit for per Section 3.3.5 *Nonconforming Single- and Two-family structures* of the Salem Zoning Ordinance to construct a shed dormer on the south side of the existing gable roof that is approximately 30' by 10" 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. Ordaz seconds the motion. **The vote is five (5) in favor (Paul Viccica, Peter Copelas, Mike Duffy (Chair), Rosa Ordaz, and Carly McClain) and none (0) opposed. The motion passes.**

Location: **10 Howard Street (Map 35, Lot 151) (R2 Zoning District)**

Applicant: **Sullivan Capital, LLC**

Project: A public hearing for all persons interested in the petition of SULLIVAN CAPITAL, LLC at 10 HOWARD STREET (Map 35, Lot 151) (R2 Zoning District), for a Special Permit for per Section 3.3.2 *Nonconforming Uses* of the Salem Zoning Ordinance to convert the current boarding house to a place of lodging for tourist and other visitors to the City of Salem. The petitioner is seeking relief in order to renovate the interior and exterior of the building and upgrade the rooms with each having a separate bathroom.

Documents and Exhibitions

- Application date-stamped March 3, 2022 and supporting documentation

Chair Duffy introduces the petition.

Attorney Scott Grover introduces himself on behalf of the applicants, who are purchasing the property from the current owners. Mr. Grover explains he is being joined by Eric Sullivan, principle of Sullivan Capital, LLC. Mr. Grover indicates the property is a rooming house with 16 separate rental units, located directly across from the entrance to the Howard Street Cemetery, and presents photos of existing conditions. Mr. Grover contends the property is in a state of disrepair, as well as the subject of many complaints from the police department, building department, licensing, and others. He characterizes the property as a major nuisance to the neighborhood, stating that the police have been called over 100 times in the last two years to deal with problems. Mr. Grover states Mr. Sullivan plans to upgrade the property from the boarding house to create lodging for visitors to Salem. Mr. Grover indicates the plan is to invest in the interior and exterior, and he presents a rendering of the proposal. Each room would have a separate bathroom and amenities for serving the traveling public. Mr. Grover asserts that while there are 16 rooms currently, some expansion and additional bathrooms will result in slightly fewer rooms once complete. The property is in an R2 zoning district, where the existing rooming house use is not allowed, so Mr. Grover indicates the proposal is starting from a nonconforming use. Mr. Grover states that the use can be changed or extended by special permit per the ZBA, and argues that this is not really a change of use, as it is going from one form of lodging to another, but as the proposal substantially alters the property he felt it was appropriate to seek a special permit. Mr. Grover contends that any adverse affects of the proposal would not outweigh the beneficial impacts, as it will serve a community need by upgrading a problematic property and providing needed lodging alternatives for visitors. He further states that while the extension to an active use may increase some traffic and parking, there is available parking nearby at municipal facilities that should be sufficient for any increased demand. Mr. Grover also notes Howard Street is resident permit parking only, so that visitors will not be able to park there or on nearby streets. He states there will be no impact on public services or natural environment, and that there will be a fiscal benefit to the City as well as an improvement for the neighborhood character.

Mr. Copelas indicates he has strong feelings on the matter, and that he disagrees with many of Mr. Grover's statements. Mr. Copelas explains that he has personally owned a rooming house in Salem in the past for approximately eight years, and that nothing about it requires that it be a nuisance to the neighborhood. He suggests that is a function of the current owners, rather than the nature of the property, and that the City has plenty of tools at its disposal to manage that kind of situation. Regarding community needs, Mr. Copelas states he disagrees that removing a rooming house meets any needs, and that it likely does the opposite. He asserts the City needs a wide range of housing options, and that while many would not choose to have a rooming house in their neighborhood, the proposal represents a loss of 16 spaces for the City's vulnerable population that will never be replaced. Mr. Copelas also questions whether changing from a rooming house

to short term rentals is a similar use, and whether it goes around the City's attempts to manage the explosion of short term rentals. She also suggests traffic and parking issues will likely arise, as there already are problems related to parking in the area, particularly during tourist season, which seems to get longer each year. Noting that some tickets are cheaper than the cost of parking in private lots, Ms. McClain questions the assumption that visitors will not be parking on Howard Street. Ms. McClain also suggests it does not make sense to claim there will be no increased utility usage if bathrooms are being added. Ms. McClain asks why the property could not be upgraded and turned into a nicer boarding house, perhaps with micro units.

Mr. Copelas states that based on his own first-hand knowledge, there is nothing about a rooming house from a financial point of view that requires it be run down and disreputable. It can still be a profitable investment while serving a crucial need for the City, and Mr. Copelas contends it does not have to be one or the other.

Mr. Viccica asks if Mr. Grover could respond to the Board's concerns.

Mr. Grover explains that he did not mean to suggest that all rooming houses are a nuisance, but that that this one has been, and that the City has not been able to manage it. He contends that there have been several owners over the years, and that it continues to be a problem and likely will continue to be. Regarding the short term rental concerns, Mr. Grover states the ordinance recognizes an inn as a separate use distinct from short term rentals, and that the proposal seeks to go from one nonconforming use to another. He emphasizes that the petitioner is not trying to get around the short term rental regulations. For utilities, Mr. Grover states there will only be a few additional bathrooms, and that the impact will not be significant. He also notes that he is aware of the need for more affordable housing, as he is involved in many affordable housing projects, but suggests there are better alternatives for affordable housing than the existing rooming house in its current condition.

Ms. Ordaz emphasizes the concerns regarding the elimination of 16 affordable housing spaces for people that might not have other options, particularly when long wait lists exist for affordable housing. Regarding the rentals, Ms. Ordaz asks how they will be listed. Mr. Sullivan states it would operate as a traditional inn, with bookings through Expedia or Booking.com. Mr. Viccica asks if it would be licensed as a hotel, and Mr. Sullivan states it would be licensed and operate as an inn, and that he was informed coming before the Board was the appropriate first step in changing the use of the property. Ms. Ordaz asks about the timeline for licensing, and Mr. Grover indicates the licensing board cannot entertain the matter until a change in use is approved. Mr. Viccica states that at a minimum there would need to be a special condition that states the inn must be licensed by the City to run as a hotel. Mr. Grover indicates the petitioner owns the Coach House Inn currently, and that the licensing would be similar.

Ms. McClain asks if a relocation plan has been put together for the 16 residents, or if they are to simply be evicted. Mr. Sullivan states he tries to work with people, although there is not a set plan in place. He states, however, that he is a Salem resident and that he takes the issue personally. Mr. Sullivan maintains he would like to work with the people to find new locations, or provide them with a monetary stipend to help them move, as he is understanding of their situations.

Mr. Copelas returns to the special permit criteria, and states that nothing he has heard changes his opinion that the first criteria regarding community need is not met by this proposal. He also states there is no question that traffic and parking will be affected by the proposal, and that the displacement and reduction of rooming house spaces does not benefit the economics of the City. Mr. Copelas states that regardless of whether a relocation plan exists, he does not believe the petition meets the special permit criteria based on the statement of grounds provided.

Mr. Viccica states he has not yet decided whether he is in support of the proposal or not, acknowledging that Hotel Salem and the Merchant do not have parking, and are nonetheless legitimate businesses providing lodging in Salem. He notes the issues here are broad and City wide, certainly ones this Board cannot alone

solve, and that some City Councilors are on the call. Mr. Viccica states he has a problem with the Zoning Board looking at the special permit criteria in order to inflict what the City Council and Mayor should be addressing within the City. He states that if the business attempt is legitimate, than a parking plan must be in place, as Hotel Salem has a parking plan for guests. Mr. Viccica acknowledges the critical issues at play, but questions whether it is necessarily a Zoning Board issue to solve.

Mr. Copelas states he appreciates that the Board's job is not to solve global City problems that exist regarding affordable housing or other issues, however, he believes a good argument can be made that the community needs criterion is not met by removing 16 rooming house spaces for the most vulnerable members of the community in order to serve the tourist community. Mr. Copelas states he does not believe it is appropriate to prioritize the tourist community over and above the vulnerable members of our full time community that need an option that is in short supply.

Mr. Viccica states he does not disagree, but that based on that argument that criterion could be used to deny every single multi-unit housing project that comes before the Board that does not offer reasonable or low-rent housing for residents of Salem. He states he is very sensitive to Mr. Copelas and Ms. McClain's concerns, but suggests this Board is not going to solve the problem with this one project. He encourages City Councilors on the call to begin to address the issue from a city-wide approach, because it is their job, not the Boards.

Mr. Copelas agrees that the problem is larger than what the Board is tasked to deliberate on, and that the City must deal with the issue in a holistic manner, but suggests the difference here is that the proposal removes 16 existing very low income spaces meant to serve people who are on the margins of society. Mr. Copelas states we could all agree that there is not enough affordable housing in the City, but at least with respect to this petition it already exists, and he believes it is within the Board's purview to express this opinion.

Mr. Sullivan offers to address the parking concerns, and states he spoke with the gentleman at the parking garage and called around to the other hotels in the area with no parking. Mr. Sullivan suggests his plan is to purchase licenses to provide for visitors coming to the property. Mr. Viccica asks how many spaces, and Mr. Sullivan states it would be the same as the number of rooms, probably 13 or 14.

Chair Duffy opens the floor to public comment.

Tim Walsh of 5 Howard Street introduces himself and states he looks at 10 Howard out of his living room window. Mr. Walsh thanks the Board, stating he has been on zoning boards in the past and that he knows it is not easy to deal with emotional issues such as public housing. Mr. Walsh expresses that this particular lodging house has been a problem house in Salem for the six years he has lived here, and that based on discussions with neighbors the issues have been ongoing for much longer than that. He states the lodging house license has been scrutinized by the Licensing Board over the past year, and that the owner is in jeopardy of losing the license. Mr. Walsh contends the property is unpleasant for the neighborhood, and asks that the Board consider the neighborhood when thinking of the impact on the community rather than the City as a whole. Mr. Walsh suggests this residential area is different from others in the City, and while there will be displacements, he argues it is not a pleasant place to live as it is not well maintained. Mr. Walsh expresses concerns regarding increased traffic on the narrow street, but opines the improvements to the property would benefit the neighborhood. Mr. Walsh states he is constantly picking up needles, nips, and alcohol bottles in the street, and regularly witnesses intoxicated people screaming and fighting. He acknowledges that not all lodging houses are like this, and says while this may be attributed to the landlord, but regardless of the reason this property has been troubled. Mr. Walsh states he thinks an inn would be a good idea, and that he is supportive of the proposal.

Stewart Won of 28 Howard Street introduces himself, and states his main concern regarding the proposal is parking. Mr. Won notes that while there are resident permit parking signs, it does not mean people abide. Mr. Won explains that the street is very narrow and that he has lived here for seven years. He states he has two young children that he walks with often and that he has never had any issues with any of the residents at 10 Howard. He also notes that some residents have been at 10 Howard longer than he has lived at his property. Mr. Won states he has seen police lights a few times, but he suggests that the claims of over 100 police calls may be exaggerated.

City Councilor Ty Hapworth of 6 Brown Street introduces himself and explains he lives in a neighboring property around the corner. Councilor Hapworth thanks Mr. Copelas and Ms. McClain for their comments, noting that he believes the language regarding this proposal being an upgrade to the neighborhood is poorly chosen. Mr. Hapworth states rooming houses are a disappearing type of housing not only in the City, but across the country, and that once they disappear they are not replaced, and are not allowed in the R2 district. Mr. Hapworth acknowledges the prior conversation regarding the ZBA not solving city-wide problems as fair, and maintains the City is discussing the housing roadmap currently, looking to create more small, flexible opportunities. Councilor Hapworth indicates Salem's zoning is built around one and two-family, as well as multifamily structures, but that at various times in life people do not live in a family unit and have different needs. Councilor Hapworth states that while the property has been problematic in some sense, the issues relate to a minority of the residents. He states these are 16 people that he sees and says "hello" to regularly, and again suggests the language describing the proposal as an upgrade for the community is problematic. Councilor Hapworth acknowledges that he operates a short term rental around the corner, but assures that this is not the reason for his opposition to the proposal. He states that mixed use neighborhoods are great, and suggests that getting rid of the rooming house would have a detrimental impact. Mr. Hapworth thanks the applicant, and states he appreciates the desire to invest here, but says the change from a rooming house to an inn would not be a net benefit for Salem.

Michael Hardiman of 12 Howard Street introduces himself as the owner of a two-family home next door, and states he supports the claim of 100 or more calls to City services to address emergencies at 10 Howard. Mr. Hardiman states the building has been problematic for the ten years he has lived here. He indicates he supports affordable housing at a broader level, but suggests that this particular situation is not working. Mr. Hardiman describes the situation at 10 Howard as one of an absentee landlord, essentially a free-for-all, with poor design that does not allow for any kind of sense of ownership for the residents. Mr. Hardiman acknowledges that most of the residents at 10 Howard are respectful neighbors, but he contends there are a few that are wild cars and cause the incidents that require City services at all hours of the night.

Laurie Brooks of 2 Kimball Court introduces herself as a rear abutter, and states she feels bad for the residents as they are living in a poorly maintained property that is a terrible place to live. She describes screens hanging off of windows, people hanging out of windows, and indicates she fears there will be an accident some day. Ms. Brooks asks if with the proposal someone will be on site 24 hours, and what counts as a short term rental.

Ward 4 Councilor Lev McClain of 22 Albion Street introduces himself, and states he has an associate who lived in a different rooming house in the area who was faced with a similar situation where the property was purchased and planned to be converted to housing. Councilor McClain

explains this person was dismissed after having their rent tripled and had to scramble with a team of help to secure housing. Mr. McClain suggests that loss of housing of any class is a problem in the City, and that if we are not creating housing for certain income brackets, then we are not serving the community needs. Councilor McClain argues that the notion that the property can only be upgraded or improved by a change of use is problematic, and states that we do not need to displace these individuals to move forward. Further, Councilor McClain contends the idea that this is not the ZBA's job is false, as we have multiple bodies in the City, such as councilors, the mayor, and regulatory boards, that must work together to address large problems. Mr. McClain states that no goals are achieved in a vacuum, and that everyone is charged with participating. Councilor McClain maintains that the community impact is clearly one of the criteria to be considered, and that Board members must take their role in the City seriously. Councilor McClain suggests not moving forward with the proposal of converting the rooming house to a business for tourists.

Mr. Viccica states he would like respond, and indicate the Zoning Board is actually here to protect existing ordinances that the City continues to create over time. Mr. Viccica maintains the Board does not create the laws, but rather attempts to deliberate and understand how proposals fit with existing ordinances. Mr. Viccica suggests what is not in front of the Board is a choice between a business and a housing project, and asks that the application be looked at agnostically. Mr. Viccica states he takes his role incredibly seriously, and that if Councilor McClain attended any prior meetings in the past he would see how seriously the Board takes the issues before them. Mr. Viccica explains that what he fears is this particular rooming house not surviving as one for various reasons, and that the owner may ultimately dispose of it and the property will go to market and the issue will be before the Board once again. In that instance, Mr. Viccica notes the residents would still be displaced. Mr. Viccica also clarifies that he has not yet made a decision on the matter, and that he takes offense at the suggestion that the Board does not take these issues seriously, as the seriousness of the proposal is exactly why the discussion has gone for over an hour.

Carol Sullivan of 8 Howard Street introduces herself and states while there have been some disturbances at 10 Howard, she warns other neighborhood residents that they have not yet lived with an inn on the street, and it may not be as disturbance free as assumed. Ms. Sullivan suggests it may end up being trading one type of disturbance for another. She states she is neither in favor nor against, but that she does not think the proposal will be the salvation for the street that it has been characterized as.

Mr. Copelas states he does not wish to extend the conversation further, but also emphasizes that he takes the role and issue seriously, and perhaps personally, as Board members have a wide variety of experience which they bring to the table. Mr. Copelas states that from personal experience he knows you can have a rooming house that is a responsible neighbor and also a reasonable investment, that they are not mutually exclusive. He suggests the owner being a nuisance is not enough, and that when considering the statement of grounds he does not believe this petition meets the community needs. Mr. Copelas argues that we should not put tourists over our residential economy and that is what this petition does.

Joe Hallman of 1 Kimbal Court introduces himself as a rear abutter to 10 Howard Street residing here for 20 years. Mr. Hallman states he is not opposed to the proposal, as the property has been a nuisance. He contends he has had to call the police and Board of Health many times because of what he has found in the yard, and that it has been nothing but problems. Mr. Hallman states he

feels bad for the tenants, and that he has been inside and cannot imagine anyone living in those conditions. He states he would be fine with an inn or hotel replacing the rooming house.

Richard Brooks of 2 Kimbal Court introduces himself and argues the community needs are served through a change in use, because the problems have been going on for a long time. Mr. Brooks indicates the property is not well maintained or taken care of it, and that no one seems to be in control. Mr. Brooks acknowledges there is a need for housing, but suggests the existing property is not serving the needs of the community and neighborhood.

Chair Duffy asks if the inn would have any onsite management, and Mr. Sullivan states there would not be 24 hour staff, but that there would be cameras and potentially some staff during business hours. He further states that he lives in Salem. Chair Duffy asks if there would be an employee working there, or if visitors would get a code to let themselves in. Mr. Sullivan explains guests would enter via a keypad to unlock the units. He notes at the Coach House Inn there is an office, but that he is unsure if he will have one at this location as floor plans are not complete.

Mr. Grover acknowledges the adverse effects of the proposal such as the displacement of current residents, but suggests the benefits outweigh any negatives. Mr. Grover argues the community that is most affected are the residents of Howard Street and Kimball Court, and that the impact on their lives should be considered. He suggests it is not clear cut to say there is not a community need served by the proposal.

Chair Duffy states this is not an easy question, but one that requires the Board to think about how priorities and competing needs are balanced, and how to weigh diverging view points of both residents and fellow Board members. The Board members acknowledge the difficulty issue before them and summarize the concerns and points raised.

Motion and Vote: Mr. Viccica motions to approve the petition of SULLIVAN CAPITAL, LLC at 10 HOWARD STREET(Map 35, Lot 151) (R2 Zoning District), for a Special Permit for per Section 3.3.2 *Nonconforming Uses* of the Salem Zoning Ordinance to convert the current boarding house to a place of lodging for tourist and other visitors to the City of Salem, subject to the following standard conditions:

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

replacement cost or more than fifty percent (50%) of its floor area at the time of destruction, it shall not be reconstructed except in conformity with the provisions of the Ordinance

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

And the following special conditions:

1. The property/business must be licensed as a hotel or inn.
2. The petitioner must purchase parking licenses for offsite parking for all of the rooms, now estimated to be 13 or 14.

Mr. Copelas seconds the motion. **The vote is one (1) in favor (Mike Duffy (Chair)) and four (4) opposed (Peter Copelas, Carly McClain, Rosa Ordaz, and Paul Viccica). The motion fails.**

Location: **266 Canal Street (Map 32, Lot 88) (I/B2/ECOD Zoning District)**

Applicant: **Juniper Point Investment Co., LLC**

Project: A public hearing for all persons interested in the petition of JUNIPER POINT INVESTMENT CO, LLC for Variances from Section 4.1.1 *Dimensional Requirements* for maximum height of buildings at 266 CANAL STREET(Map 32, Lot 38), 282 Canal Street (Map 32, Lot 37), 2 Kimball Road (Map 32, Lot 102), 286 Canal Street (Map 32, Lot 36), and 282R Canal Street (Map 23, Lot 144) in the B2 and I Zoning Districts to allow construction of a mixed use development, consisting of a blend of affordable, workforce, and market rate housing, with first floor commercial space along Canal Street. In the B2 Zoning District thirty (30) feet is the maximum height allowed and in the I Zoning District forty-five (45) feet is the maximum height allowed. The petitioner is seeking variances from the maximum building height requirement for seven (7) buildings that range from thirty-three (33) feet to fifty (50) feet in building height.

Documents and Exhibitions

- Application date-stamped February 22, 2022 and supporting documentation

Chair Duffy introduces the petition.

Attorney Joe Correnti introduces himself on behalf of the applicant, and explains the proposal is a big project on a large tract of land. Mr. Correnti states one of the big takeaways is that this will increase the community housing stock and impact it positively, which he states is apropos given the passionate debate on the last petition. Mr. Correnti presents a map showing Rosie's Pond off Canal Street and the acreage around the pond to Parallel Street, Adams Street, and out to Canal. Mr. Correnti describes the property as the Bertini's property, housing Bertini's restaurant and two other buildings, a hair salon, former used car dealer, and a warehouse style building. For the proposal, height variances are required. Mr. Correnti describes the lot shape and topography, explaining the property has eight out of 12.5 acres that are considered wetland. Despite the unique shape and soil

conditions, Mr. Correnti contends this is a spectacular project that will be mixed use of residential and multifamily housing, as well as commercial and retail space that fronts onto Canal Street. There will be three-story buildings on the Canal Street side with a green court in the middle, housing commercial and retail space on the first floor with residences on the second and third. Mr. Correnti notes the nearest residential use is 300 to 400 feet away, and that there are commercial neighbors, as well as the bordering railroad tracks. He explains the area was recently redone with a walkway and multi-use path that runs by it, and that Salem State is nearby. Mr. Correnti presents concept plans and renderings, which will still go before various boards such as the DRB, ConCom, the Historical Commission, and Planning Boards after any approval by the ZBA. The proposal is comprised of seven buildings that are three, four, and five stories with green courtyard spaces, and visual layouts are presented, showing some buildings along the multi-use path and parking under the buildings. Mr. Correnti explains there is a one-to-one parking ratio, but that this project will address the needs of many people that work downtown, as well as people that walk to the train and households with only one or no cars. Because of the shape and topography limitations, parking under the buildings is essential, which is why relief is needed for height. He notes that none of the buildings are 50 feet or higher, and the tables are on the pond with neighboring residences farthest away. Mr. Correnti states the most exciting part is that these will be rental units, but that the total number is still in flux, as is the exact number of studios, one bedroom, and two-bedroom units. Mr. Correnti explains there is a need for single bedroom and studio units, and that there will be a good mix in the project, with a total somewhere between 270 and 280 units. The project will over 20 percent affordable units at 60 percent AMI, which would be 54 units if the final total is 270. Mr. Correnti also notes there will be workforce housing components to the rentals and pricing for certain units, and that some will be market rentals too. He indicates each of the buildings requires a height variance.

Mr. Copelas notes that it appears 95 percent of the project is in the B2 zone or I zone, but that some of it is in an R1 zone, and asks if that has been taken into consideration. Mr. Correnti indicates it has, and describes the relevant restrictions when intruding into more restrictive districts.

Mr. Copelas notes how deceiving the property can be, as you can drive around the City and not really the size of the property and pond because it sits behind Canal Street. Mr. Copelas asks about the density and proximity to the wetlands, and Mr. Correnti demonstrates how the proximity to the wetlands and existence of buffer zones necessitated the density of the proposal. Mr. Copelas notes that for a 270 unit complex, the street view on Canal Street is rather modest compared to the taller buildings behind, and states he is glad the Planning Board will have a large role in the project, as there are many issues regarding aesthetics and design that are beyond the purview of this Board. Mr. Correnti confirms, and notes the DRB will thoroughly review the project as well.

The Board members discuss the proposal further, and Mr. Correnti notes that the ZBA's role is critical, as without the variances the density cannot be achieved, and without the density the affordable and workforce housing are not possible. Without board approval, Mr. Correnti states the options would be either no project, or fewer units at market rates. Mr. Correnti suggests the project is a way to meet community needs, and that with the proposed train stop a half mile away, it would be really beneficial.

Chair Duffy Opens the floor to public comment.

Ward 5 Councilor Jeff Cohen of 12 Hancock Street introduces himself and states he has met with attorney Correnti, the petitioners, former councilor Turtle, and others, and that he feels the proposal

meets many of the criteria for issuing a special permit. Councilor Cohen states the project could be historic, with workforce housing serving those employed by the university or hospital with a great ratio of affordable units. Mr. Cohen states he will help to make sure the project is sustainable and include sufficient one bedroom and studio units, which are greatly needed. Councilor Cohen states he is supportive of the project, and thinks it is something Salem needs.

Ward 7 Councilor Andy Verala of 23 Cedar Crest Avenue introduces himself as a direct abutter to the project, and states he is in favor of granting the height variances to accommodate the proposed parking. Mr. Verala suggests the compromise on height is reasonable, and that the project appears to be beneficial with 54 potential affordable units at 60 percent AMI.

Mr. Copelas notes that this will be a complicated project, but that many boards and commissions will review and provide input. He emphasizes that tonight the ZBA's role is simply to discuss and consider the height variances. Chair Duffy and Mr. Correnti confirm that is the case.

Chair Duffy discusses the statement of hardship and criteria for approving variances.

Motion and Vote: Mr. Copelas motions to approve the petition of JUNIPER POINT INVESTMENT CO, LLC for Variances from Section 4.1.1 *Dimensional Requirements* for maximum height of buildings at 266 CANAL STREET (Map 32, Lot 38), 282 Canal Street (Map 32, Lot 37), 2 Kimball Road (Map 32, Lot 102), 286 Canal Street (Map 32, Lot 36), and 282R Canal Street (Map 23, Lot 144) in the B2 and I Zoning Districts to allow construction of a mixed use development, consisting of a blend of affordable, workforce, and market rate housing, with first floor commercial space along Canal Street, subject to the following standard conditions:

1. Petitioner shall comply with all city and state statutes, ordinances, codes, and regulations.
2. All construction shall be done as per the plans and dimensions submitted to and approved by the Building Commissioner.
3. All requirements of the Salem Fire Department relative to smoke and fire safety shall be strictly adhered to.
4. Petitioner shall obtain a building permit prior to beginning any construction.
5. A Certificate of Occupancy is to be obtained.
6. A Certificate of Inspection is to be obtained.
7. Petitioner shall obtain street numbering form 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. 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. Viccica seconds the motion. **The vote is five (5) in favor (Rosa Ordaz, Mike Duffy (Chair), Paul Viccica, Peter Copelas, and Carly McClain) and none (0) opposed . The motion passes.**

Location: **57 Buffum Street (Map 27, Lot 28) (R2 Zoning District)**

Applicant: **LH Capital Development, LLC**

Project: A public hearing for all persons interested in the petition of LH CAPITAL DEVELOPMENT, LLC at 57 BUFFUM STREET (Map 27, Lot 28) (R2 Zoning District), for a Variance and a Special Permit to construct a 2.5 story addition at the rear of the existing structure to add two new residential units and to provide garage and surface parking on site for eight (8) motor vehicles. The Variance is per Section 4.1.1 *Dimensional Requirements* for lot area per dwelling. In the R2 Zoning District 7,500 sq. feet is required and 1,182 sq. feet is being requested. Maximum lot coverage is 35% and 57.6% is being requested. Maximum height is 2.5 stories and 3 stories are being requested. The petitioner is also seeking an extension for both nonconforming side setbacks. LH CAPITAL, LLC is also seeking a Special Permit per section 3.3.2 *Nonconforming Uses* to extend the existing nonconforming three (3) family use to a nonconforming five (5) family use.

Documents and Exhibitions

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

Chair Duffy introduces the petition.

Mr. Copelas explains that he previously owned this building two owners prior, and that while he does not have any conflict or existing financial ties or relationship with the property or petitioner, he wanted to be clear for the record and will not be recusing himself.

Attorney Bill Quinn explains that the Board previously saw a bigger proposal regarding the three-family at 57 Buffum Street. Mr. Quinn presents a comparison of the prior and current proposal, noting the height has not changed, but the size and scale of the additions have been cut in half, with more parking and open space. The updated proposal adds a dormer to the third story to get three flat units, with two units proposed over the garage space that are half as big as originally proposed. Elevations are presented, as are demonstrations of the scale of changes and lot coverage. The total units have been reduced to 5, and Mr. Quinn explains there will be eight parking spaces comprised of the garage spaces and some surface parking. Mr. Quinn indicates dimensional relief is required, as is a special permit to convert the existing nonconforming three-family dwelling to a five-family dwelling. He further explains that the prior proposal plans had errors and faced many objections from neighbors, as well as concerns regarding adequate parking. Mr. Quinn suggests the updated plans address the concerns, but that an abutter nonetheless filed comments against the proposal. With respect to drainage, Mr. Quinn contends a system will be designed if plans are approved, and that the petitioner is happy to have a special condition requiring sufficient engineering plans for a drainage system that assures neighboring properties are not impacted. Mr. Quinn maintains that the addition of two units will not have a large impact on traffic volume. Mr. Quinn lists the variances being requested, and notes the petitioner seeks a special permit to go from one nonconforming use to another. Mr. Quinn indicates the topography of Bryant Street, which goes up approximately nine feet and creates issues for site development, as well as the drainage system, and soil conditions create hardships. He also states the proposal has been drastically reduced in size to address neighbors concerns, and that the project will create jobs, new housing units, and provide the City with tax revenue.

Dan Ricciarelli introduces himself as the project architect and discusses the reduction in massing between the original and current proposal, noting that the existing three units in the existing building will remain. The building will be renovated and refurbished. He describes the plans in more detail, noting parking underneath and on site, as well as fencing for screening.

Mr. Copelas states the petition has simply gone from the addition of three units to the addition of two, and that the hardship has not be adequately addressed. Mr. Copelas says it is unclear how any hardship exists. Mr. Copelas complements the visuals and plans, but suggests the fact remains that the building sold in December of 2019 for \$560,000, and then 18 months later for \$610,000 to the current owner. Mr. Copelas states it was a three family home in B minus or C condition, and the price paid was a market rate. Mr. Copelas expresses concerns regarding parking, questioning whether the eight spaces are 100 percent legal and whether the turning dimensions allow for cars to exist without having to back out onto the road. Mr. Copelas assert the owners knew what they were purchasing and paid an appropriate price, and that he does not see a hardship.

Mr. Ricciarelli responds that the project has an engineer to make sure the parking is safe and has functional access, but that a full parking plan is a large investment to undertake prior to project approval. He note the site is tight, but that there is a small amount of green space. Mr. Ricciarelli presents renderings and discusses the need to replace street trees, and discusses the designs in more detail.

Mr. Copelas states he is still not persuaded a hardship exists for the variance request, noting that if this were to be accepted as a hardship almost anything could be considered one going forward when someone buys a property for a market rate, as it should be obvious that any work on a property will cost money.

Mr. Quinn indicates the Board has spent a lot of time over the last few years wrestling with this issue of what a hardship is or is not. Mr. Quinn suggests the balance should be a consideration of whether the project is good for the neighborhood and City, whether it meets a need like safe new housing, and further suggests that the relief in this case is merely dimensional. Mr. Quinn argues the proposal results in no change to the character of use, but provides a product that is needed in the community in a great walking neighborhood. Mr. Quinn asks if the Board must apply the strictest interpretation of a variance for something that is good for the community, and suggests this would be an upgrade to the property and neighborhood.

Chair Duffy opens the floor to public comment.

Dan Finn of 19 Bryant Street introduces himself and explains he submitted a letter in opposition of the proposal. Mr. Finn states he could not agree with Mr. Copelas more, noting that the owners purchased the property at the market rate and knew what they were purchasing. Mr. Finn argues there is no chance that the statements put forth tonight meet any hardship requirement. He also suggests the parking will not work as planned, and ultimately the tenants will likely end up parking on the street if getting in and out is difficult. Mr. Finn states the proposal constitutes a misuse of the term hardship, and that the neighbors should not have to spend their hard earned money to fight a variance granted by this Board that does not meet the basic requirements. Mr. Finn states that having a new plan that is “better” than a plan submitted 90 days prior is not an appropriate standard by which to judge the proposal.

Jamie Mitchell of 55 Buffum Street introduces himself and voices support for the project. He states he was also supportive of the larger initial project, as the property is in need of upkeep and he believes this would be a good way to do it. Mr. Mitchell also suggests adding two more units of housing in the City would be beneficial.

Mr. Copelas notes for the record for transparency that Mr. Mitchell sold the property in question to the current owners.

Thomas McDonald of 11-13 Bryant Street introduces himself as an abutter across the street. Mr. McDonald states he does not wish to be un-neighborly and that he wishes the owners the best, but that he is not supportive of the proposal. Mr. McDonald states the home is already nonconforming as a three-family in an R2 zone, and that further relief to make it a five-family dwelling is unwarranted. Mr. McDonald notes the list of relief being sought is extensive, and questions what will happen in the winter with snow removal. He argues this would set bad precedent for the City, and states he does not support it.

Brian Macdonald of 61 Buffum Street introduces himself and suggests the proposal does not fit in with the neighborhood. He also suggests the plans are exaggerated, and the trees will not fit as shown in the designs. Mr. Macdonald states he is opposed to the project.

Jim Fleming of 47 Buffum Street introduces himself as a resident of this street for 79 years, and that he knows several generations of people on the street, and resided in Salem for the terms of two mayors. Mr. Fleming states this is a family neighborhood, and that there has never been a four or five-family dwelling approved on Buffum Street. Mr. Fleming suggests this proposal with negatively impact his quality of life and those of neighbors. Mr. Fleming questions the arguments put forth regarding hardship, and states that people purchased homes here in an R2 zone specifically because it is limited to single and two-family dwellings.

Mr. Quinn states he is sympathetic to the neighbors' concerns, but argues the City needs housing and decisions need to be made about where it fits and where it does not. Mr. Quinn maintains that the developer runs a professional property management company, and that snow will be removed from the site if it cannot fit with the parking and that should not be an issue.

Chair Duffy summarizes the request and relief sought.

Motion and Vote: Ms. Ordaz motions to approve the petition of LH CAPITAL DEVELOPMENT, LLC at 57 BUFFUM STREET (Map 27, Lot 28) (R2 Zoning District), for a variance per Section 4.1.1 *Dimensional Requirements* of the Salem Zoning Ordinance for lot area per dwelling, maximum lot coverage, and for maximum height to construct a 2.5 story addition at the rear of the existing structure to add two new residential units and to provide garage and surface parking on site for eight motor vehicles, subject to the following standard conditions:

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

6. A Certificate of Inspection is to be obtained.
7. STREET NUMBERING
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.

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

Motion and Vote: Ms. Ordaz motions to approve the petition of LH CAPITAL DEVELOPMENT, LLC at 57 BUFFUM STREET (Map 27, Lot 28) (R2 Zoning District), for a special permit per Section 3.3.2 *Nonconforming Uses* to change an existing three-family dwelling to a five-family 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. A Certificate of Occupancy is to be obtained.
6. A Certificate of Inspection is to be obtained.
7. STREET NUMBERING
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.

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

MEETING MINUTES

March 16, 2022

Mr. Viccica suggests an edit to page 16, where there is an error in the vote.

Motion and Vote: Mr. Viccica motions to approve the March 16, 2022 Zoning Board of Appeal meeting minutes as amended. Ms. McClain seconds the motion. **The vote is five (5) in favor, and none (0) opposed. The motion passes.**

OLD/NEW BUSINESS

16, 18, 20R Franklin Street Extension Request

Attorney Koelick introduces herself on behalf of Juniper Point, LLC seeking an extension of variances and special permits for the project site, which was the former Ferris Junkyard. She explains that permitting is still underway but moving along, and that the petitioner is hopeful an end is in sight. As of now, Ms. Koelick explains they are waiting for a Chapter 91 license to issue, and as such are seeking an extension for an additional six months through December 3, 2022.

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Duffy says good cause

Motion and Vote: Viccica to approve petition of JP LLC to extend the June 3 expiring to Dec 3 for 6 months. Copolas seconds. All in Favor, motion passes.

Motion and Vote: Mr. Viccia motions to approve the petition of Juniper Point, LLC to extend the granted variances and special permit expiring June 3, 2022, for a six month period to December 3, 2022. Mr. Copelas seconds the motion. **The vote is five (5) in favor, and none (0) opposed. The motion passes**

ADJOURNMENT

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

The meeting ends at 11:41 PM on April 27, 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 Laroec, Staff Planner