

**City of Salem Board of Appeals
Revised Draft Meeting Minutes
Wednesday, August 27, 2014**

A meeting of the Salem Board of Appeals ("Salem BOA") was held on Wednesday, August 27, 2014 in the third floor conference room at 120 Washington Street, Salem, Massachusetts at 6:30 p.m.

Ms. Curran calls the meeting to order at 6:30 p.m.

ROLL CALL

Those present were: Rebecca Curran (Chair), Mike Duffy, Tom Watkins, James Tsitsinos (Alternate) and Peter A. Copelas (Alternate). Also in attendance - Thomas St. Pierre, Building Commissioner, and Dana Menon, Staff Planner

REGULAR AGENDA

Project: Continuation of the petition requesting a Special Permit per Sec. 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance to construct an addition at the rear of the existing nonconforming structure.

Applicant: **RAYNALDO DOMINGUEZ**

Location: **38 CABOT STREET (R2 Zoning District)**

Documents & Exhibitions:

- Letter from the applicant dated August 1, 2014, requesting to continue the hearing to the next board hearing on September 17, 2014.

The Board discussed requesting that the applicant either file complete drawings and be prepared to present at the September 17th meeting, or withdraw the application without prejudice.

Motion and Vote: Mr. Watkins makes a motion to approve the applicant's request to continue to the September 17, 2014 Board of Appeals regularly scheduled meeting, noting that if the applicant is not prepared to present at the September 17th meeting, the Board will request that the applicant withdraw without prejudice. The motion is seconded by Mr. Duffy. The vote was unanimous with five (5) in favor (Mr. Watkins, Mr. Duffy, Ms. Curran, Mr. Tsitsinos and Mr. Copelas) and none (0) opposed.

Project: Continuation of the petition seeking Variances from the provisions of Section 4.0 *Dimensional Requirements* of the Salem Zoning Ordinance, to allow less than the required 100-foot minimum lot frontage and less than the required 100-foot minimum lot width for two proposed lots. The proposed lots will take their frontage from a shared driveway off of Marlborough Road.

Applicant: **ANTHONY JERMYN & RICHARD JERMYN**

Location: **148 MARLBOROUGH RD (R1 Zoning District)**

Documents & Exhibitions:

- Application date-stamped May 28, 2014 and accompanying materials
- Plans C-1A, C-2, and C-1 dated August 27, 2014

Atty. Correnti presents the petition, and reviews the petition as presented at the previous meeting (July 16th). This has been a “porkchop lot” and was last modified in 1961. Since 1961, the configuration of this lot has not changed. They are seeking relief from the required minimum lot frontage and lot width. Atty. Correnti reviews the Board’s request from the previous meeting to look at other alternatives for configuring the lots. Atty. Correnti introduces Bill Ross, Engineer, who has looked at alternatives for dividing and developing the lot.

Bill Ross, New England Civil Engineering, illustrates with submitted plans C-1, C-1A and C-2 that the southern third of the parcel is not useable due to the wetland resource area, and the existing ledges on the site. These constraints, combined with the setbacks required by zoning, established the proposed locations of the two new houses and lots.

Mr. Ross references plan C-1A, showing the various options for reconfiguration of the three lots (the two proposed lots and a reconfiguration of the existing Lot 250B). Mr. Ross references plan C-2, which shows the creation of the two lots while expanding Lot 250B to the largest extent practicable for retaining the ability to create two new lots. This would result in an undesirable layout of the two proposed lots and houses, as the houses would be back-to-front, rather than side-by-side, and the driveway condition would not be substantially improved.

Jefferey W. Bacon, 1 Outlook Avenue/Outlook Avenue West, Salem. Reads a letter (submitted to the Board) objecting to the proposal, stating that the minimum lot width and frontages are not adequate, concerns regarding emergency access to the two proposed homes, and also limiting access to their property. Also, that the two additional houses would increase traffic, and would loom on top of the existing ledges in the back of Mr. Bacon’s property. Mr. Bacon also references photos submitted to the board. Mr. Bacon states that they have concerns about the erosion of the embankment in the concerned parcel, abutting their property, concerns about existing flooding being exacerbated, and visibility issues of the proposed gravel drive. Mr. Bacon states that there are other reasonable uses for the property, and personal profit does not justify these variances. Notes that a letter of support submitted earlier for the project was submitted by a relative of the petitioners.

Ms. Curran asks about the proposed driveway surface. Atty. Correnti clarifies that the beginning of the driveway, off Marlborough Road, is paved in concrete pavers (hatched area on submitted C-1 plan).

Atty. Correnti states that all of the drainage improvements have been done on the petitioners’ property. The “buffer area” at the south of the property will be untouched.

Mr. Ross explains the drainage concern, which Mr. Ross assisted the City with addressing previously. He explains that there was a metal drainage pipe that had failed, resulting in ponding on the property in question. A new pipe was installed between Lot 250C and Lot 250B in a drainage easement, which has fixed the drainage issue. The driveway at the north side of the property has been shifted away from the north abutter as much as possible to create a buffer zone. The existing green area at the south of the property will remain untouched. There is an existing in-ground swimming pool (abandoned) in that area that will be removed and infilled with green space.

Atty. Correnti and Mr. Ross highlight that the distance between the south property line and the proposed house is approximately 150 feet. The required setback in this zoning district is 10 feet.

Ms. Curran asks about the option to reconfigure the existing lot 250B and the two proposed lots to create conforming lots. Is there a “by-right” scenario where you could create three lots by-right? Atty. Correnti states that the issue is house placement. The topography shown on the newly submitted plans, and the wetland resource area shown, illustrate the constraints on the site. Ms. Curran asks why there can’t be a road at the north side of the lot, serving three houses, if the existing house was demolished/relocated. Mr. Ross states that it would result in a closer placement of the houses to the resource area. Atty. Correnti states that they went through 30-40 different scenarios over the past year, but buildable area is very limited. Demolishing the existing front house changes the economics of everything. Ms. Curran states that she thought that the applicant would present a study looking at a scenario for creating 3 lots and 3 house lots in a by-right configuration.

Margaret Leonard, 1 Outlook Avenue, states that she thought that the applicant was asked to get a letter from the Fire Department stating that access was acceptable. Atty. Correnti states that they are happy to do that, but the driveway as proposed meets the ordinance. Ms. Leonard states that the driveway would be serving more than one house. Mr. Ross estimates that the length of the proposed driveway is 200 feet. Ms. Leonard states that she believes that the fire department requires that the driveway be less than 150 feet long. Ms. Curran asks Mr. St. Pierre if he knows about that. Mr. St. Pierre states that he has not spoken to the Fire Department about this, but his understanding is that if the driveway is too long, they require the installation of a hydrant part way down. Ms. Curran clarifies with Atty. Correnti that they do not have a letter from the Fire Department.

Ms. Curran closes the public comment.

Ms. Curran says that she believes that at the last meeting, the Board indicated that they could put in a condition requiring approval of the Fire Department. Ms. Curran states that they clearly have the area to put in a roadway, but she’s not sure the geometry works. If they could have feasibly done a road, that would be one thing, but the driveway approach is still less impactful on the land and the neighbors than a full roadway would be. Ms. Curran states that the submitted plans show that if the existing lot were to be made more conforming, it would be at the detriment of the proposed two lots.

Atty. Correnti states that a vote in support of this is not creating a porkchop lot – this has been a porkchop lot for 53 years. It just hasn't had houses on it. We're just asking to split this into 2, and to put two homes on it. We could have asked for 3 lots, but it doesn't work with the topography. The hardship is that the lot is uniquely shaped, unlike anything else around it. Without relief, they can't build a single-family home on this lot. This is R-1, maybe the only other possible use for this lot would be agricultural. We think this is a minimalist plan, the least intrusive. The front house is over 60 years old, and we don't want to knock it down.

Mr. Watkins states that he'd be in favor of the proposal as-is. With respect to the neighbor with concerns, the proposed houses are quite far back from the property line. There's quite a buffer there, and the recent drainage improvements have been made.

Motion and Vote: Mr. Watkins makes a motion to approve the applicant's request for Variances from the provisions of Section 4.0 *Dimensional Requirements* of the Salem Zoning Ordinance, to allow less than the required 100-foot minimum lot frontage and less than the required 100-foot minimum lot width for two proposed lots, with the conditions that the project would have to be approved by the Fire Chief in regards to the width. Length, and surface materials of the driveway, and that the approval is subject to the filing of a Notice of Intent with the Conservation Commission, and their issuing of an Order of Conditions. The motion is seconded by Mr. Tsitsinos. The vote was unanimous with five (5) in favor (Mr. Watkins, Mr. Duffy, Ms. Curran, Mr. Tsitsinos and Mr. Copelas) and none (0) opposed.

Board Discussion: Ms. Curran clarifies that the hardship is as stated by the applicant in the submitted petition.

Project:	Petition seeking a Variance from the minimum lot area requirement of Sec. 4.1.1 <i>Table of Dimensional Requirements</i> of the Salem Zoning Ordinance, to allow a reduction in size of the existing nonconforming lot by approximately 379 square feet. The Petitioner proposes to realign the rear lot line in order to square it off with an abutting property.
Applicant:	4 MILK STREET TRUST
Location:	4 MILK STREET (R2 Zoning District)

Documents & Exhibitions:

- Application date-stamped June 30, 2014 and accompanying materials

Atty. Correnti, 63 Federal Street, presents the petition. There are two lots in play here, and 4 Milk Street is the lot being requested. Atty. Correnti distributes to the Board a copy of the submitted plan with the lot lines highlighted. Att. Correnti demonstrates the proposed changes – to transfer a triangle of land to transfer approximately 379 square feet of land from 4 Milk Street to the adjacent Pickman Street lot. This proposal would make the 4 Milk Street lot more nonconforming, as it is already undersized, and would further reduce the lot size by 379 feet.

Ms. Curran opens the hearing for public comment.

Lloyd Ternes, 16 Pickman Street & 2 Milk Street. States that at one point 4 Milk Street was part of 16 Pickman Street. Mr. Ternes wants to purchase 4 Milk Street, to combine it with 16 Pickman/2 Milk Street.

Jay Levy, 145 Cabot Street, Beverly, MA. Owns 1 Brooks Court. This is a very minimal variance request, and he supports the petition.

William L'Heureux, applicant submits letters in support of the petition – from Martha Jarnis of 8 Milk Street, Elinor Ryan of 18 Pickman St, and Daniel Pierce of 22 Andrew Street.

Ms. Curran states that this doesn't seem to have a negative impact, and this is an improvement. It is obviously a special circumstance, with a unique situation with the lot line coming right up to the building. The relief could be granted without any detriment to the public good. Literal enforcement of the ordinance would involve substantial hardship – the lot is a peculiar shape.

Mr. Watkins states his support for the petition, particularly given the overall support from the abutters.

Motion and Vote: Mr. Watkins makes a motion to approve the applicant's request for a Variance from the minimum lot area requirement of Sec. 4.1.1 *Table of Dimensional Requirements* of the Salem Zoning Ordinance, to allow a reduction in size of the existing nonconforming lot by approximately 379 square feet. The motion is seconded by Mr. Copelas. The vote was unanimous with five (5) in favor (Mr. Watkins, Mr. Duffy, Ms. Curran, Mr. Tsitsinos and Mr. Copelas) and none (0) opposed.

Project: Petition seeking a Variance to allow the construction of a roof deck over an existing 2nd floor roof, which would exceed the 2.5-story maximum allowed height of buildings as set forth in Section 4.1.1 *Table of Dimensional Requirements* of the Salem Zoning Ordinance.
Applicant: **MARC BERUBE & KEN KAYSER**
Location: **14 FORRESTER STREET UNIT 2 (R2 Zoning District)**

Documents & Exhibitions:

- Application date-stamped July 23, 2014 and accompanying materials
- Plans Exhibit A, Exhibit B, Elevation of Current Conditions, Elevation of Proposed Conditions Dated July 17th, 2014
- Packet of photos "14 Forrester St. #2 Photos of Proposed Deck Location Taken 7/20/2014"
- Letters of support 10 Forrester Street, 12 Forrester Street, 14 Forrester Street, 16 Forrester Street, 17 Forrester Street, 18 Forrester Street,

Mr. Berube and Mr. Kayser, petitioners, present the application. The petitioners propose to construct a deck over on existing 2nd floor roof that would exceed the 2.5-story maximum allowed height of the building. The petitioners state that no changes to the footprint of the building are proposed. The deck is proposed on top of an existing second story flat roof with an existing sliding glass door for roof access.

Ms. Curran clarifies the proposed location of the deck on top of an existing flat roof and clarified that there is an existing sliding glass door for rooftop access.

The petitioner clarifies that in 1986, the previous owners installed a sliding glass door for rooftop access.

Ms. Curran clarifies that the proposal consists of decking and a railing. The Chair also clarifies that the size of the proposed deck is 12' x 18' feet and is confirmed by the petitioner.

Ms. Curran clarifies with Mr. St. Pierre that a 42" rail is required for a three-unit structure.

Mr. Watkins asks if any drainage/gutters are going to be affected. The petitioner indicates on the plan where the drain and gutter are, and that they would not be impacted. Board members examine an image "View from 14 Forrester St. Third Floor" to examine the location of the gutters in relation to the proposed deck. The petitioner states that the proposed deck will be one (1) foot from either side of the roof edges.

Mr. St. Pierre clarifies whether the building is a two-unit or three-unit structure. The petitioner clarifies that the building is a two-unit structure. Mr. St. Pierre clarifies that the building requirements for a railing are 36" for a two-unit structure rather than the previously stated 42" railing requirement for a three-unit building.

Petitioner notes the letters of support submitted with the application. Ms. Curran opens the hearing for public comment.

Ann Czarnecki 12 Forrester St. She states that she has no problem with the petitioners constructing the proposed deck. She states that the proposed deck would overlook their property. A letter of support was submitted.

Marie Resch, 48 Essex St. She states that the proposed deck would violate the privacy of people in the area particularly of a directly abutting neighbor located at 10 Forrester Street.

The petitioner asks for permission from the Chair to address the privacy concern that Ms. Resch stated. The applicant states that the owner of the condo unit closest to 14 Forrester, 10 Forrester, submitted a statement of support.

Ms. Curran reads the abutters who submitted the letters of support.

Petitioner states that the letters submitted are from the property owners completely surrounding their property.

Mr. Copelas asks for a more clear statement of the hardship involved. Applicant states that the existing sliding door to the roof poses a safety issue and would negatively impact the ability to re-sell the property with these existing conditions.

Ms. Curran clarifies that what the Board has to consider is special conditions or circumstances that affect the land, building or structure not affecting other lands, buildings or structures. Ms. Curran states that it is certainly peculiar to have a door to the roof. It is clear that the desirable relief may be granted without substantial detriment to the public good. Ms. Curran states that statement of hardship is in question.

Applicant states that the hardship is privacy due to the distance between 14 Forrester and the abutting property. Ms. Curran states that issue doesn't really meet the requirements of Ch40A Zoning Law for a hardship. The Chair agrees that this circumstance of existing rooftop access to a place with no railing is unique to the property and a dangerous situation.

The Chair states that it is difficult to articulate what the hardship is for this proposal.

Mr. Watkins agrees with Ms. Curran – agrees with the proposal, but is considering the hardship question.

Mr. Duffy states that the hardship is that a small lot with minimal outdoor space in addition to the existing sliding door onto the roof with no railing. These are conditions affecting the land and building that are unique to this property that do not affect other land and buildings in the area. The proposed deck does not increase the 3rd floor space dramatically. Based on the amount of existing usable outdoor space, it is a technicality that the increase in useable space requires a variance to go from 2.5 stories to 3 stories.

Motion and Vote: Mr. Duffy makes a motion to approve the applicant's request for a Variance from the maximum allowed height requirements of 2.5 stories as set forth in Section 4.1.1 Table of Dimensional Requirements of the Salem Zoning Ordinance to allow the construction of a roof deck on an existing 2nd floor roof. The motion is seconded by Mr. Watkins. The vote was unanimous with five (5) in favor (Mr. Watkins, Mr. Duffy, Ms. Curran, Mr. Tsitsinos and Mr. Copelas) and none (0) opposed.

Project: Petition seeking a Variance to allow the creation of a 11-foot by 13-foot off-street parking stall, when the minimum allowed off-street parking stall dimensions are 9-feet by 19-feet, per Section 5.1 *Off-Street Parking* of the Salem Zoning Ordinance.
Applicant: **JOSEPH DIPIETRO**
Location: **44 CHESTNUT ST (R2 Zoning District)**

Documents & Exhibitions:

- Application date-stamped July 24, 2014 and accompanying materials

Ms. Curran introduces the petition, and asks if anyone is in attendance to present the petition. No one comes forward. Ms. Curran reads into the record a letter submitted by the new property owner of 44 Chestnut Street, stating that the petition was submitted by the previous owner of 44 Chestnut Street and the current owners were not aware of the particulars of the petition until after they had purchased the property. The letter stated that constructing the proposed driveway would require removal of a public shade tree and a historic iron fence, and the proposal is unappealing to the current property owners at this time. Mr. St. Pierre and Ms. Curran discuss the options for Board actions given the situation.

Motion and Vote: Mr. Duffy makes a motion to approve the applicant's request for a Variance from the minimum allowed off-street parking stall dimensions that are 9-foot by 19-foot, per Section 5.1 *Off-Street Parking* of the Salem Zoning Ordinance to allow the creation of a 11-foot by 13-foot off-street parking stall. The motion is seconded by Mr. Tsitsinos. The vote was unanimous with none (0) in favor and five (5) opposed (Mr. Watkins, Mr. Duffy, Ms. Curran, Mr. Tsitsinos and Mr. Copelas).

Project: Petition requesting a Variance to allow the addition of two 14-foot dormers onto the third floor of the existing building, which exceeds the maximum allowed building height of 2.5 stories, as set forth in Section 4.1.1 *Table of Dimensional Requirements* of the Salem Zoning Ordinance.
Applicant: **ERIC EASLEY**
Location: **19 NICHOLS ST (R1 Zoning District)**

Documents & Exhibitions:

- Application date-stamped July 24th, 2014 and accompanying materials

Eric Easley, 30 Winding Oaks Way, Boxford MA, petitioner, presents the application. The petitioner states that 19 Nichols was a foreclosure when he purchased the property. The petitioner states that the third floor existing unit does not have the headroom and light required for this unit. Therefore, the proposed dormers would alleviate this situation. The proposed dormers would not raise the overall building height. The petitioner also presented the proposed floor plan configuration (Plan A3).

Ms. Curran clarifies that the existing building is a conforming 3-unit residential building. Mr. St. Pierre clarifies that the building was previously illegally in use as a four-unit residence. Mr. Easley is attempting to improve the condition of the third floor unit in order to conform to building codes and improve interior conditions.

Mr. Copelas asks if the dormers will improve the egress. Mr. Easley states that the dormers do not improve egress, but will bring the unit up to code in other ways. The entire house is being renovated and being brought up to code.

Ms. Curran asks about the headroom and the doorway as existing, Mr. Easley clarifies that the headroom at the door is not up to code. Mr. St. Pierre states that this proposal is to improve third floor conditions in the existing unit and clarifies that the building is undergoing a complete renovation to bring it up to code.

Ms. Curran opens the hearing for public comment.

Mr. Jeff Silverman, 22 Nichols St. Expresses concerns about this petition. There are already parking issues on the street. Most of the houses have driveways that are too small for number of existing units. Mr. Easley has space for 4 cars. According to the zoning code, you are supposed to have 1.5 spaces per dwelling unit, so there is not enough parking. Mr. Silverman states that he objects to the way that the petition has happened as Mr. Easley, the petitioner, has constructed the dormers 1-2 months prior to seeking a Variance.

Mr. Silverman also states his concerns about the occupancy of this building as Mr. Easley owns another house, 32 Hampton, adjacent to Mr. Silverman's property. According to Mr. Silverman, this property became a temporary shelter for battered women. Mr. Silverman states that he was not notified that the house adjacent to Mr. Silverman's property would be used this way. Additionally, Mr. Silverman stated concerns about parking at 32 Hampton and presented images to the Board to show there are 8-10 cars parked in front of that property. A ZBA Board member asks if Mr. Silverman's concerns are about 19 Nichols Street. Mr. Silverman clarifies that he is speaking about an adjacent property owned by Mr. Easley, 32 Hampton, and not 19 Nichols. Mr. Silverman states that he is speaking about this property as an example and to express concern about the occupancy and what Mr. Easley has done with other properties in the area.

Ms. Curran clarifies that the house is a three-unit and was an existing illegal four-unit house. The Chair also states that the number of bedrooms is not the issue and that the number of units is not increasing. Ms. Curran clarifies that the petitioner is seeking a variance to construct dormers. Mr. Easley is seeking to make this a legal three-unit house

Ms. Curran asks about the installation of the dormers. Mr. St. Pierre clarifies that it was a misunderstanding, and that when the situation was realized, Mr. Easley applied to the Board.

Mr. Easley states that they have removed an existing shed in the driveway to allow space for 6 cars in the driveway and presents a current picture of the driveway to the Board with the shed removed.

Mr. St. Pierre clarifies that as the petitioner asking for a variance to allow the addition of two dormers and is not asking for relief from parking.

Martin Maillet, 24 Nichols Street. Mr. Maillet states that he is in favor of the proposed dormers, but is concerned about parking. Mr. Maillet states that there is not a lot of room for cars and that the problem is that the previous occupants from 19 Nichols Street have parked on the sidewalk in front of his house, blocking his gate.

Ms. Curran speaks to Mr. Maillet and states that this petition is not asking to increase the number of units or parking. Mr. Maillet states that debris left in the street during the partial construction of the proposed dormers is an issue.

Ms. Curran states that the petitioner is not seeking to increase the number of units or proposing to change the use of the building in any way. The petitioner is seeking a variance to construct dormers that would bring an existing structure up to code. The hardship is having a legal unit that is not up to building code. Mr. Watkins states that parking will be a little better than it was as the number of parking spaces was increased from 4 to 6 spaces, and the number of units is decreasing from 4 to 3 units.

Motion and Vote: Mr. Copelas makes a motion to approve the applicant's request for a Variance from the maximum allowed building height of 2.5 stories, as set forth in Section 4.1.1 Table of Dimensional Requirements of the Salem Zoning Ordinance to allow the addition of two 14-foot dormers onto the third floor of the existing building. The motion is seconded by Mr. Tsitsinos. The vote was unanimous with five (5) in favor (Mr. Watkins, Mr. Duffy, Ms. Curran, Mr. Tsitsinos and Mr. Copelas) and none (0) opposed.

Project: Petition seeking to reconstruct and extend a three-story nonconforming structure that was damaged by fire. The Petitioner is requesting a Variance from the maximum allowed height of buildings in stories as set forth in Section 4.1.1 *Table of Dimensional Requirements* of the Salem Zoning Ordinance, to allow expansion of livable space on the third floor, as well as a Special Permit under Section 3.3.3 *Nonconforming Structures* of the Salem Zoning Ordinance to allow the expansion of a nonconforming structure, in order to expand the previously existing nonconforming building.

Applicant: **JOHN KALANTZIS, TRUSTEE**
Location: **12 SCHOOL ST (R2 Zoning District)**

Documents & Exhibitions:

- Application date-stamped August 6th, 2014 and accompanying materials
- Revised Elevation Plans Stamped September 12th, 2014

Patrick Chasse, 14 Cleveland St, Salem, MA – contractor - presents the petition. The building was destroyed by fire on March 31, 2014. Mr. Chasse stated that they are asking for a variance to allow the expansion of a nonconforming structure in order to square off the previously existing nonconforming building to increase the width of the interior stairs, which were only three (3) feet wide. The height of the building is the same, but the configuration will be simplified to be a four-pitch roofline. The previous building had porches and dormers. The porch area would be replaced with enclosed structure.

Ms. Curran and Mr. Chasse clarify the previous conditions and the proposed building. Ms. Curran and Mr. Chasse also clarify that the existing structure was three-2 bedroom units with a large living room and will be three 3-bedroom units. Ms. Curran asks for clarification of the number of parking spaces. Mr. Chasse states that there are 7 parking spaces. Ms. Curran states that there is plenty of parking and the petitioner meets the zoning requirements.

Mr. St. Pierre reminds the Board that MGL Ch40A allows replacement of the structure in the same footprint and same bulk and height. The petitioner is seeking relief to extend along an existing lot-line to square off the building. Ms. Curran clarifies with Mr. St. Pierre that the petitioner is also seeking relief from the 2.5-story maximum height requirement in order to construct a third floor. Mr. St. Pierre restates that the petitioner by-right can reconstruct the same footprint and same bulk and building height.

Ms. Curran and Mr. St. Pierre clarify that the previous building was 2.5 stories and the petitioner proposes to construct 3 stories with a shallow pitch.

Michele Sweeney, 5 School Street- Concerned that the structure is going to be higher than the homes on either side of 12 School Street. Ms. Curran and Mr. St. Pierre clarify that the existing structure was 2.5 stories and the applicant proposes to construct a building that would be three (3) stories. Ms. Sweeney states that there is a smaller home on one side of 12 School Street and a taller home on the other side. She states that she is concerned that the petitioner for 12 School Street is proposing to construct a building that would be taller than the tall home on the right-hand side of the 12 School Street property.

Ms. Curran and Mr. St. Pierre discuss the orientation of the proposed building for 12 School Street with Ms. Sweeney.

Mr. St. Pierre states that the exterior elevations are legally binding and that the proposed plans if approved would be what can be built. Mr. Chasse clarifies that the proposed height of the new building would be approximately 37 feet.

Ms. Curran asks for a clarification of Ms. Sweeney's concern. Ms. Sweeney's concern is the aesthetic of the building in relation to neighborhood character.

Ms. Curran clarifies that it was a three-family, it will remain a three-family. The aesthetic is changing. Mr. St. Pierre states that it will be slightly higher, and the mass of

the building will be closer to the street front. Ms. Sweeney is concerned about the aesthetics of the proposal, and that it would be out of character of the neighborhood.

Ms. Curran and the petitioner discuss the materials and finishes. Mr. Chasse states that the proposed building material is vinyl siding. The previously existing house material was wood clapboard siding. The houses on either side are vinyl siding. There will be shutters.

Ms. Sweeney asks if the side of the house will be fronting on School Street, rather than a front entry. Ms. Curran and Mr. Chasse state that is correct. Ms. Curran clarifies that the orientation of the proposed building is different from the existing building.

Ms. Sweeney asks the Chair for clarification about the orientation of the house and front door location.

Ms. Curran states that it looks like a wholesale change in character and looks different from the previously existing building. It looks more like an apartment building in the proposal - it loses its neighborhood character. Ms. Curran also states that the Zoning Board of Appeals is not the Design Review Board. The proposed use is the same, but the petitioner is proposing to expand the structure by approximately 500 to 600 square feet (200 sf on each floor).

Rosemary O'Connor, 111 Mason Street- Asks about the location of the parking area. Mr. St. Pierre states that the parking for 12 School Street is a driveway to the left of the home looking from the street to the rear of the property.

Barbara Lewis, Tremont Street- states that right now there is a certain level of accessibility when homes have a doorway on the street. She expresses concern that when the building is oriented to the side that there will be a blank wall facing the street. Ms. Lewis asks about the orientation of the door. Mr. Chasse states that the door will be placed on the side of the house close to the driveway and side-yard.

Ms. Sweeney states that she is still not happy with the proposal and states that she thinks that the orientation and design of the house is tacky. Ms. Sweeney states that it was nicer to have a house that faces the street. There is a house on the corner of School Street and Buffham Street with a doorway that faces Buffham, but Ms. Sweeney states that this orientation is understandable as the front of the house faces the other street. She states that there are nice homes on Buffham and it is important to keep the neighborhood character and keep School Street looking nice.

Ms. Curran states that it changes the neighborhood character to orient the doorway on the side of the building rather than have a street entrance. She also states that she is unsure about the proposed building height.

Mr. Copelas states that the Board needs to consider the effect on neighborhood character in order to grant a special permit. He states that he agrees with neighbors that not having

a front door on the front of the building takes away from the existing neighborhood character. Ms. Curran agrees.

Ms. Curran states that the massing is different and that it changes the neighborhood. She states that she recognizes that the petitioner is not proposing to change the number of units, but suggests that it could remain oriented toward Schools Street that it would be better for the neighborhood character. She has no problem with the other elements of the petition.

Mr. St. Pierre recommends that the petitioner work on revising the drawings, and come back to present them at the September 17th meeting.

Mr. Chasse requests to continue the hearing to September 17th regular meeting of the Zoning Board of Appeals.

Motion to Continue: Mr. Duffy makes a motion to continue the petition to September 17th. The motion is seconded by Mr. Copelas. The vote was unanimous with five (5) in favor (Mr. Watkins, Mr. Duffy, Ms. Curran, Mr. Tsitsinos and Mr. Copelas) and none (0) opposed.

Project:	Petition requesting a Variance from the requirements of Section 8.4.9 <i>Parking Requirements</i> of the Salem Zoning Ordinance to allow fewer than the required 2 parking spaces per dwelling unit, and an Amendment to allow less of an encroachment on the 50 foot buffer required for construction activity abutting residential property than the previously issued decision allowed.
Applicant:	RIVERVIEW PLACE LLC
Location:	72 FLINT ST, 67-69 MASON ST, AND 71 MASON ST (NRCC Zoning District)

Documents & Exhibitions:

- Application date-stamped September 10th and accompanying materials
- Unit Size Comparison Chart Submitted to Board August 27th

Attorney Scott Grover presents the petition. Mr. Grover gives a brief overview of the mixed-use development location and describes the site plan called “Riverview Place Parking Level Plan” and also distributes an update to the plans with summary of changes from the time that it was first approved by the board. Mr. Grover provides a “Unit Size Comparison” chart to the Board about changes made in the project as a result of the Ch. 91 process and new FEMA regulations. Mr. Grover states that in March of 2014, the Board approved changes to the previously issued Board of Appeals decisions to accommodate the changes required by M.G.L. Ch. 91 and FEMA requirements. As a result, the proposed buildings were reduced and relocated to create a required 100-foot offset from the North River. There was a reduction in building footprint of a total of 27,000 square feet of which 17,000 square feet was residential. In March 2014, the

petitioner came before the Zoning Board of Appeals to ask for a reduction in commercial parking spaces. Originally, when the project was approved in 2007, there were 37 spaces allocated by the zoning ordinance and the Board approved a reduction in commercial parking to 10 spaces.

Since March of 2014, the petitioner brought back the amended plan to the Planning Board for approval of design and site plan modification. The Planning Board referred the petitioner to the Design Review Board. The feedback received from neighbors and the Design Review Board was to look into reducing the required parking.

Mr. Grover states that the petition is requesting a variance from the minimum required parking from two (2) spaces per unit to 1.5 spaces per unit particularly given the proximity of this development by the commuter train station. The reduction in parking would allow the applicant to eliminate the previously proposed parking garage and just use surface parking.

Mr. Grover states that the hardship in this case is accommodating the requirements of M.G.L. Ch. 91, and the changed FEMA flood areas, which has reduced the useable space on the site. The ability to eliminate some of the parking spaces makes important design improvements to the property – specifically removing the parking garage. Mr. Grover states that the Design Review Board recommended that the petitioner seek a reduction in parking. The new parking proposal in “Riverview Place Parking Level Plan” is now an at-grade parking area instead of a parking structure. Additionally, the reduction in parking spaces would allow the southwest parking area to be pulled further back from the residential neighbors – this lot was previously proposed (and approved) to be only 7 feet from the property line.

Steve Feinstein, Symes Associates speaks about how parking is managed at several apartment buildings owned by Symes Associates. Mr. Feinstein states that parking demand would potentially be controlled by parking leases to ensure that they have enough parking for the associated development. He states that managing parking on the property through leases does not necessarily prevent people from parking on the street, but 1.5 spaces in an area close to a commuter transit option is more than adequate. It is in the best interest of the development to ensure that there is adequate parking for our residents as well, rather than requiring them to park farther away. In this proposed development, units are smaller than typical units owned/operated by Symes Associates. Mr. Feinstein believes that 1.5 parking spaces per unit will certainly be adequate given the unit sizes.

Mr. Feinstein states that Symes Associates is willing to look at various ways of restricting people, if needed. However, it is challenging to restrict parking on public streets when the City of Salem allows public off-street parking on abutting properties. We heard from the Design Review Board that they believe that we have too much parking here. The reduction in parking spaces would also reduce the traffic to and from the site and minimize neighborhood impact. If you have more parking, people will use it, and there will be more traffic. Right down the street, Jefferson at Salem Station – they have larger

units, and have about 1.5 spaces per unit there, and the management there has stated that they do not have any overflow issues there. It's a commuter area, as it will be at Riverview Place.

Attorney Grover adds that there is no problem at Jefferson with overflow beyond the 1.5 spaces per unit provided there. Salem Oil & Grease was approved under a PUD by the Planning Board, and was approved with only 1.4 spaces per dwelling unit. That site is further from the train station than Riverview Place. Atty. Grover noted that the original task force and planning department recommendation for the parking requirement in the NRCC district was for 1.5 spaces, and the City Council changed it to 2 spaces.

Ms. Curran states that the Board sat through many meetings in 2007 about this project. Ms. Curran requested that the Board needs quantitative data to show parking needs and that more evidence is needed than what was presented.

Mr. Watkins agrees quantitative data would be useful to consider granting a variance from the parking requirements. He stated that while the 1.5 spaces might work for the residents, it does not mean that it will be adequate for guests. Mr. Watkins asks for Attorney Grover to clarify the number in the reduction of parking spaces. Attorney Grover stated that the original proposal was for two (2) spaces per unit amounting to 206 spaces for the residential units to 195 spaces and a total of 10 spaces for commercial space that may be available for residents during after business hours. Additionally, there are 12 proposed parking spaces for the neighborhood for Flint Street.

Ms. Curran reads (4) submitted letters into the record:

- Federal Street Neighborhood Association, Jane Arlander – states that the Association is in opposition to the parking amendments to the proposed project, in opposition to the assertion made by the petitioner that a reduction in residential unit size would reduce parking demand, and questions the stated hardship as legitimate under M.G.L Ch.40A
- Barbara Cleary – in opposition. Ms. Cleary expressed concern that the variance granted previously for this project with respect to the number of units was not consistent with the NRCC Zoning Ordinance and is also concerned that new proposed changes to the design should be considered. Ms. Cleary requested more time for public input on the matter.
- James Treadwell – requested additional information and assessments to serve as a basis for the requested relief. A thorough independent analysis should be done.
- Email from James Treadwell to Lynn Duncan, Director DPCD, requesting documentation and that an independent traffic analysis should be conducted.

Atty. Grover requests that Ms. Curran read the memorandum from the Design Review Board into the record. The memorandum was distributed to the Board members with their Board Memorandum in advance of the meeting. Ms. Curran reads the memorandum.

Ms. Curran opens the hearing for public comments.

Barbara Lewis, 81 Tremont Street. Asks about the statement made regarding leasing parking spaces. Mr. Feinstein states that the number of cars would be limited, not the number of spaces. Depending on the specific unit, some units would not get any parking spaces. This is typical for Symes apartment complexes – some units come with a parking space, some do not because not everyone has a car. Mr. Watkins clarifies that parking needs would be reviewed on a unit-by-unit basis that is controlled through leases to ensure that there is enough residential parking for residents. Mr. Feinstein states that not all of the parking spaces on the site will be used at the same time. The commercial spaces would be available for residential parking in the evening particularly for visitors. Ms. Lewis asks for clarification and states that for those units without parking spaces associated with them, occupants of those units will be looking for parking outside of the site. Mr. Feinstein states that is a valid point. Anecdotally, the experience at other Symes properties and other developments including Jefferson Station (269 assigned spaces for 266 units total and 111 visitor spaces) has parking to meet residential needs. Mr. Feinstein goes on to state that Jefferson Station provides each unit owner with a visitor tag. If you have two cars, you would use your visitor tag for your second car. At our complex, the anecdotal experience of Symes is that not every resident or visitor uses parking at the same time. It is also stated that it is a possibility that multiple visitors would not necessarily have access to on-site parking at peak parking demand. In this case, visitors would probably utilize off-street parking alternative modes of transportation. Mr. Feinstein states that with smaller units there will be less parking demand particularly in a Transit Oriented Development located in proximity to the Salem Commuter station. Symes will also provide more accommodations for bicycles. There are now 209 beds proposed (the petitioner eliminated the two three-bedroom units they are now 2-bedroom units). Mr. Treadwell's point about the number of bedrooms is a good point to consider parking needs based on the number of proposed bedrooms rather than a per-unit basis.

Ken Wallace, 172 Federal Street, FSMA. Mr. Wallace expressed concern about the demand on parking. He stated that with smaller units that there would be two adults, with two cars and two jobs. With a larger unit, there might be higher parking demand particularly with caretakers for children. Also concerned with the threat that if there is too much parking that the petitioner will rent parking spaces.

Councilor Beth Gerard, 49 Larchmont Street. How many visitor spaces are you anticipating including in this plan? How can the parking be guaranteed to be restricted on-site and in the neighborhood? Ms. Gerard expressed that with business on Mason Street that residents are not able to have off-street parking during the day. With this proposal there is concern that off-street parking would be a big issue if not enough parking is provided to visitors for Riverview Place.

Jim Treadwell, AICP, I was on the committee that prepared the plan that Council adopted for the NRCC. From the beginning, there was pressure to keep the number of parking spaces down. Mr. Treadwell does not know whether he would support 2 spaces or 1.5

spaces per unit – he wants to see some data. He would also ask that the developer come to one of their neighbor association meetings to discuss the project.

Maureen Scanlon, 77 Mason Street, owns a unit at Mack Park condominiums. Ms. Scanlon is opposed to the requested variance because she opposes the elimination of the parking garage. The garage would have contained the noise from the parking. Ms. Scanlon also states that this project cannot be compared to Jefferson Place because the proposed location for Riverview Place is close to small residential homes that would negatively impact the existing neighborhood character. Abutters to the property would be looking at more surface parking. The developers are trying to build a development that is too big on a piece of land that is too small.

Jane Arlander, 93 Federal Street. States concerns about the hardship listed for this request. The petitioner uses M.G.L Ch40A and Chapter 91 license requirements as a hardship. Ms. Arlander has heard from environmental reviewers from the State that it seems illogical that projects in Salem get local approvals before they get environmental approval. Ms. Curran responds that with the number of permits required, there are often conflicting elements that require going back and forth between the different permitting authorities, regardless of which permitting authority the project goes to first. Just because someone comes in with a variance request, does not mean that the Board will grant it. Ms. Arlander states that she does not believe that there is a hardship for this parking variance request. This project has already received three variances, a change of use, a special permit, a reduction in the number of parking spaces allocated for the commercial space.

Morris Shaw, 1 Cambridge Street. Expresses concern that the new proposal has a reduction of 17,000 square feet of residential space with about the same number of units previously proposed. Mr. Shaw expresses concern over the interpretation of Design Review Board comments be the petitioners to reduce parking rather than increasing the amount of on-site common amenities. Mr. Shaw expressed that the Design Review Board may have been thinking about having a lot of common amenities rather than parking, not just a reduction in parking. He also stated that this is not the same project that was previously approved.

Arthur Sargent, Councilor at Large, 8 Maple Ave. Mr. Sargent, expressed concern that this development was supposed to remove cars from the neighborhood. There has just been a proposal before City Council to remove on-street parking from this neighborhood, as the streets are very tight.

Ms. Curran asks for hard data and more information on guest parking demands. Mr. Feinstein replies that the 1.5 spaces/unit required elsewhere in the city includes a consideration that there will be visitors.

Mr. Treadwell – a few years ago, there was a question of how many residents of Jefferson Place used the train, and it was something like 4 or 6%. Mr. Treadwell stated that MEPA

review has not formally started and that parking is not a MEPA concern. Instead, MEPA only said to consider the issue, they did not require the reduction in parking spaces.

Mr. Feinstein – stated that the MEPA review process had not started for this project because the project design is still unclear until feedback from all local boards to approve a plan for MEPA review. Mr. Feinstein states that the petitioner is on a tight timeline to try to start the MEPA and Chapter 91 process. Mr. Feinstein also states that there is not enough time to obtain additional information requested for the Board to consider this issue.

Ms. Curran – states that the board requests additional information and data which was deemed necessary in order to understand the effects of reducing on-site parking and that the application did not clearly articulate a hardship as required by M.G.L Chapter 40A.

Tim Jenkins, 18 Broad Street stated that this proposed development is not closer to the train station and parking is a realistic need here. Looking at number of bedrooms is more pertinent than the number of units to consider parking need. Mr. Jenkins favored the idea of more parking spaces with less paving by building a parking garage. He continues to say that there should be proper common amenities. There should be green space. The proposed parking layout does not have any trees around it. Mr. Feinstein replies that there is more open space with the proposed design than there was previously. The design of having more open space is a benefit to everyone.

Rosemary O'Connor, 111 Mason Street says consider the neighbors.

Ms. Curran asks the applicant regarding a request to continue or have the Board vote. The applicant requested that the Board vote as the applicant chose not to continue to the next meeting due to the applicant's project timeline.

Motion and Vote: Mr. Duffy makes a motion to approve the applicant's request for a Variance from the requirements of Section 8.4.9 *Parking Requirements* of the Salem Zoning Ordinance to allow fewer than the required 2 parking spaces per dwelling unit, and an Amendment to allow less of an encroachment on the 50 foot buffer required for construction activity abutting residential property than the previously issued decision allowed. **The motion is seconded by Mr. Tsitsinos. The vote was unanimous with none (0) in favor and five (5) opposed (Mr. Watkins, Mr. Duffy, Ms. Curran, Mr. Tsitsinos and Mr. Copelas).**

APPROVAL OF MEETING MINUTES

July 16, 2014 Draft Meeting Minutes

Motion and Vote: Mr. Watkins moves to approve the minutes as written, seconded by Mr. Duffy. The vote was unanimous with five (5) in favor (Ms. Curran, Mr. Watkins, Mr. Duffy, Mr. Tsitsinos, and Mr. Copelas) and none (0) opposed.

ADJOURNMENT

Mr. Duffy motioned for adjournment of the August 27, 2014 regular meeting of the Salem Board of Appeals at 10:00 pm.

Motion and Vote: Mr. Duffy made a motion to adjourn the August 27, 2014 regular meeting of the Salem Board of Appeals, seconded by Mr. Watkins, and the vote is unanimous with five (5) in favor (Ms. Curran, Mr. Watkins, Mr. Duffy, Mr. Tsitsinos, and Mr. Copelas) and none (0) opposed.

For actions where the decisions have not been fully written into these minutes, copies of the decisions have been posted separately by address or project at:

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

Respectfully submitted,

Erin Schaeffer, Staff Planner

Comment [DM1]: Erin Schaeffer