

**City of Salem Board of Appeals  
Draft Meeting Minutes  
Wednesday, September 17th, 2014**

A meeting of the Salem Board of Appeals (“Salem BOA”) was held on Wednesday, September 17th, 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. Ms. Curran states that there are only 4 Board members present out of 5 and because of this, a number of applicants asked for a continuance to the next meeting. Ms. Curran states that the Board will first consider projects that have requested a continuance.**

**ROLL CALL**

Those present were: Rebecca Curran (Chair), James Tsitsinos (Alternate), Peter A. Copelas (Alternate) and Richard Dionne. Also in attendance - Thomas St. Pierre, Building Commissioner, and Erin Schaeffer, 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:

- Application date-stamped April 22nd, 2014 and accompanying materials
- Letter from the applicant dated September 18<sup>th</sup>, 2014, requesting a continuance to the next regularly scheduled meeting on October 15<sup>th</sup>, 2014.

The applicant has requested a continuance to the next scheduled meeting on October 15<sup>th</sup>, 2014.

**Motion and Vote: Mr. Dionne makes a motion to approve the applicant’s request to continue to the October 15th, 2014 Board of Appeals regularly scheduled meeting. The motion is seconded by Mr. Copelas. The vote was unanimous with four (4) in favor (Ms. Curran, Mr. Dionne, Mr. Copelas and Mr. Tsitsinos) and none (0) opposed.**

Project: Petition seeking a Special Permit per Sec. 3.3.2 *Nonconforming Uses* of the Salem Zoning Ordinance, in order to allow an existing nonconforming use of a barbershop to be changed to another nonconforming use of a dog grooming business.  
Applicant: **JOSEPH C. FABIANO**  
Location: **198 LORING AVE (R1 Zoning District)**

Documents & Exhibitions:

- Application date-stamped August 20<sup>th</sup>, 2014 and accompanying materials
- Letter from applicant dated Wednesday, September 17<sup>th</sup>, 2014, requesting to withdraw without prejudice.

Ms. Curran read a letter for the record stating that the petitioner requested to withdraw the application without prejudice.

**Motion and Vote: Mr. Copelas makes a motion to approve the applicant's request to withdraw without prejudice. The motion is seconded by Mr. Dionne. The vote was unanimous with four (4) in favor (Ms. Curran, Mr. Dionne, Mr. Copelas and Mr. Tsitsinos) and none (0) opposed.**

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Project: Petition seeking a Special Permit per Sec. 9.4.1 *Special Permit Granting Authority* and Sec. 3.0 *Use Regulations* of the Salem Zoning Ordinance, in order to allow a bed and breakfast use and a Variance per Sec. 5.0 *Table of Required Parking Spaces* to allow 2 off-street parking spaces instead of 4 off-street parking spaces required.  
Applicant: **MICHAEL SELBST and BRADLEY WILLIAMS**  
Location: **329 ESSEX STREET (R2 Zoning District)**

Documents & Exhibitions:

- Application date-stamped August 20<sup>th</sup>, 2014 and accompanying materials
- Letter from the applicant dated September 17<sup>th</sup>, 2014, requesting to a continuance to the next regularly scheduled meeting on October 15<sup>th</sup>, 2014.

The applicant has requested a continuance to the next scheduled meeting on October 15<sup>th</sup>, 2014.

**Motion and Vote: Mr. Copelas makes a motion to approve the applicant's request to continue to the October 15<sup>th</sup>, 2014 Board of Appeals regularly scheduled meeting. The motion is seconded by Mr. Dionne. The vote was unanimous with four (4) in favor (Ms. Curran, Mr. Dionne, Mr. Copelas and Mr. Tsitsinos) and none (0) opposed.**

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Project: Petition seeking a Special Permit per Sec. 3.3.2 *Nonconforming Uses* and Sec. 3.3.3 *Nonconforming Structures* of the Salem Zoning Ordinance to allow reconstruction and expansion of an existing storage building and an addition to a second existing storage building.  
Applicant: **FREDERICK J. ATKINS (FRED J. DION YACHT YARD)**  
Location: **23 GLENDALE STREET (R1 Zoning District)**

Documents & Exhibitions:

- Application date-stamped August 26<sup>th</sup>, 2014 and accompanying materials
- Letter from the applicant dated September 18<sup>th</sup>, 2014, requesting to a continuance to the Board's regular meeting on November 19<sup>th</sup>, 2014.

The applicant has requested a continuance to the Board's regular meeting on Wednesday, November 19<sup>th</sup>, 2014.

**Motion and Vote: Mr. Dionne makes a motion to approve the applicant's request to continue to the November 19<sup>th</sup>, 2014 Board of Appeals regularly scheduled meeting. The motion is seconded by Mr. Copelas. The vote was unanimous with four (4) in favor (Ms. Curran, Mr. Dionne, Mr. Copelas and Mr. Tsitsinos) and none (0) opposed.**

Project: Petition seeking a six (6) month extension for exercise of the rights granted by the September 28<sup>th</sup>, 2009 Board Decision that approved Variances from minimum lot area per dwelling unit, and Special Permits to change one nonconforming use to another and to increase existing side yard setback nonconformity, to accommodate conversion of an office building to eight (8) residential units.

Applicant: RENEWAL VENTURES, LLC, Assignee of rights granted to WILLIAM WHARFF

Location: **162 FEDERAL STREET (R2 Zoning District)**

Documents & Exhibitions:

- Application date-stamped September 3<sup>rd</sup>, 2014 and accompanying materials

Attorney Atkins III 59 Federal Street representing Renewal Ventures, LLC, presents the petition. A Decision from the Zoning Board of Appeals, made in September 28<sup>th</sup>, 2009, that was appealed in the Superior Court with a amended decision made September 5<sup>th</sup>, 2012 has fallen within the timeframe to qualify under the Massachusetts Permit Extension Act as amended and was automatically extended to September 28<sup>th</sup>, 2014.

Since the issuance of the amended decision, the original petitioner of this project, William Wharff, has sold the rights to deal with the current owner of the property to Renewal Ventures LLC. There is also a piece of property that is owned by the Archdiocese of Boston that requires a Planning Board Approval Not Required plan to “put the pieces together” and both companies are involved with environmental mitigation that is close to completion. A letter was presented to the Board from Attorney Carr from the Decision appeal approving the substitution of Renewal Ventures LLC in place of William Wharff to complete this project.

The petitioner is seeking a six (6) month extension for exercise of the rights granted by the September 28<sup>th</sup>, 2014 Board Decision that approved Variances from minimum lot area per dwelling unit, and Special Permits to change one nonconforming use to another and to increase existing side yard setback nonconformity, to accommodate conversion of an office building to eight (8) residential units.

Curran confirms with the applicant that by March the environmental mitigation and ANR plan will be complete to complete the transaction between William Wharff and Renewal Ventures LLC.

Curran states that there is no problem granting with a six (6) month extension and opens the issue to the Board for comments. No comment from the Board.

Issue is not open to the public for a hearing.

**Motion and Vote: Mr. Dionne makes a motion to approve the applicant’s request for a six (6) month extension of a Decision granted on September 28<sup>th</sup>, 2009 to William Wharff. The motion is seconded by Mr. Copelas. The vote was unanimous with four (4) in favor (Ms. Curran, Mr. Dionne, Mr. Copelas and Mr. Tsitsinos) and none (0) opposed.**

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Project: Continuation of a 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 STREET (R2 Zoning District)**

Documents & Exhibitions:

- Application date-stamped August 6<sup>th</sup>, 2014 and accompanying materials
- Amended elevation plans date-stamped September 12<sup>th</sup>, 2014

Attorney Lovely 10 Federal Street representing John Kalantzis, trustee. Attorney Lovely presents the petition and as presented by Mr. Patrick Chasse, contractor, on August 27<sup>th</sup>, 2014. Mr. Lovely presented amended architectural drawings of the Front Elevation façade. Additions to the façade include the addition of shutters and a central oval window on the third story façade.

Curran states that one of the issues was that the building façade did not fit in with the character of the existing neighborhood and the Board asked for the architect to explore the possibility of the construction of a door on the front elevation rather than the side of the building.

Attorney Lovely speaks about the exploration of having a door on the front elevation of the building. There is a side courtyard where the doors are currently proposed. The door closest to School Street on the side elevation will contain a stairway and the second door will have a stairway for the front units. Mr. Lovely states that he suggested to the architect that a false door could be placed on the front façade, but is unsure that this would make the appearance acceptable or better to the neighbors who are concerned about the aesthetics of the front façade.

Curran opens discussion for Board comment. No comment before public discussion.

Curran opens the discussion for public comment and views revised architectural plans. Michele Sweeney 5 School Street- States that she has some questions and concerns regarding the aesthetics of the propose building. Ms. Sweeney asks whether the footprint of the building will be placed up to the existing sidewalk. Mr. Lovely speaks through the Chair to address this question and states that by-right the proposed building can be built within the previously existing building footprint. Mr. Lovely also states that the Variance requested was to square-off the rear of the building from its previously odd-shaped footprint to bring the proposed staircases up to code.

Ms. Curran clarifies the location of the proposed expansion of the building corners is on the front and side rear of the proposed building.

Ms. Sweeney asks for clarification on what part of the proposed building can be built-by right and extended by Special Permit. Ms. Curran clarifies that if a building is damaged by fire that a building can be rebuilt within the existing footprint within two (2) years by-right. Ms. Curran clarifies that the applicant is asking for a footprint extension of 11 x10 and another smaller part to square-off the previously existing footprint of an odd shaped building.

Mr. St. Pierre clarifies that the applicant can build to the same bulk, height and along the previously existing footprint.

Ms. Sweeney 5 School Street- clarifies that the Board asked the applicant to continue from the August 17<sup>th</sup>, 2014 meeting to the September 17<sup>th</sup> meeting to amend architectural plans that better reflect the aesthetics and character of the surrounding neighborhood. Ms. Sweeney asks the Board for comments on the amended architectural plans.

Ms. Curran replies that what the Board was looking at last time looked like the side of a building that did not contribute to the streetscape. Ms. Curran states that her preference is to locate a door on the front façade facing the street, but does not like the idea of a faux door and it could potentially be dangerous. Ms. Curran states that there have been improvements to the façade of the building and it better reflects the character of the streetscape.

Ms. Sweeney 5 School Street- asks for clarification that the applicant is proposing to construct a 3-unit building. What is the allowance for parking?

Mr. St. Pierre addresses Ms. Sweeney's question about parking requirements. Mr. St. Pierre clarifies that the Salem Zoning Ordinance requires 1.5 parking spaces per *unit* rather than by number of bedrooms. The previously existing structure had three units and the proposed structure has three units. The applicant has 6-7 parking spaces available, which is above the number of parking spaces required. Mr. St. Pierre also clarifies that the applicant is not asking for a Variance from parking requirements.

Raquel Rodriguez 5 School Street- Asks to clarify the location of the side back parking lot. Ms. Curran and Mr. St. Pierre confirm the location of the side back parking lot. Ms. Rodriguez states that another concern is the location of the front of the house sitting so close to the sidewalk. There is a house on Mason Street with a similar façade that has a little brick sidewalk about 2 feet wide and has plantings with mulch and flowers between the façade of the house and street. Ms. Rodriguez suggests that this addition would make the house not really feel like it is sitting right on the sidewalk and help the proposed structure fit within the surrounding neighborhood character.

Attorney Lovely responds that the builder would be willing to put plantings in and would accept this as a condition. Mr. Lovely states that the builder may have already intended to have plantings between the building front and sidewalk.

Ms. Curran opens comment from the Board members. Mr. Tsitsinos states that it will be good to see the building rebuilt and that it would add to the neighborhood. Ms. Curran states that the Board will go through the criteria for a special permit and a variance.

Mr. St. Pierre clarifies that the petitioner has asked for a Variance from the maximum allowable building height of 2.5-stories, to allow 3 stories. The previously existing structure demolished by fire was a combination of 2.5 and 3 stories because of dormers on the right side of the building. To make sure that everything is covered the Building Department suggested that the petitioner seek a Variance.

Michele Sweeney 5 School Street- states that the aesthetics proposed will not help the neighborhood.

Ms. Curran states findings: As a matter of right the applicant is allowed to build on the previously existing footprint, the structural infill proposed to square-off the building is minimal and has little impact. The amended architectural design proposed is an improvement to the original design. Ms. Curran states that she liked the character of the previously existing building, but it may be cost prohibitive to reconstruct a replica. Traffic flow is not changing. The adequacy of the utilities and other public services is not changing. The neighborhood character, although it can be argued that the proposed construction is not as nice looking as the previously existing building in some eyes, the building was a three-family and will remain a three-family and is consistent with the neighboring building in terms of size. The potential fiscal impact is that this building will be back on the City's tax base.

For the Variance, the special conditions and circumstances that especially affect the land, building or structure involved, and generally not affecting other lands, buildings, and structures of the same district, is that the building burned down. In addition, the existing building was a unique size and peculiar shape of particular to the previously existing building with a combination of 2.5-stories and 3-stories. The hardship for the variance is that, if the previous building were to be replicated, the variation of 2.5- stories and 3-stories would not allow for the construction of internal stairways that would be in compliance with current building codes.

Mr. Copelas: Does a fire qualify as a hardship? Mr. St. Pierre states that petitioner is seeking a Variance because the previously existing structure with a combination of 2.5-stories and 3-stories, which is legally allowed, would not allow the staircases to legally meet building code standards.

The Board states eight (8) standard conditions and one (1) special condition to construct, mulch, and plant a 2-3 foot wide flower bed from the foundation of the structure to the sidewalk edge across the entire length of the front façade by May 1<sup>st</sup>, 2015 or within 5 days of construction completion of the front façade.

**Motion and Vote: Mr. Copelas makes a motion to approve the applicant's request for 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. The motion is seconded by Mr. Dionne. The vote was unanimous with four (4) in favor (Ms. Curran, Mr. Dionne, Mr. Copelas and Mr. Tsitsinos) and none (0) opposed.**

Project: Petition requesting a Special Permit per Sec. 3.0 *Table of Principal and Accessory Use Regulations* of the Salem Zoning Ordinance, in order to allow the addition of a tasting room to an existing brewery, distillery or winery located at 102 JACKSON STREET (B-4 Zoning District).  
Applicant: DENISE SNAPE  
Location: **102 JACKSON STREET (B-4 Zoning District)**

Documents & Exhibitions:

- Application date-stamped August 25th, 2014 and accompanying materials

Denise and Al Snape, co-owners of Far from the Tree Cider, present the petition. The applicant states that the proposed tasting room is an important addition to an existing brewery, distillery, winery as a means to market product. Ms. Snape clarifies that the proposed tasting room is not a bar, but rather a place for people to sample a small amount product and have the public tour the facilities to see the hard cider production process. The proposed tasting room hours are Thursdays- Saturdays after 5pm and would have minimal impact on the surrounding businesses and their operation.

Ms. Curran asks for clarification that a brewery, distillery, winery with a tasting room is now an allowed use that has been codified in the City of Salem Zoning Ordinance. Mr. St. Pierre confirms that this zoning amendment was proposed by the applicant and has been consider through City's procedural process and passed.

Ms. Curran asks the applicants whether they hold a Commonwealth of Massachusetts issued Farmer Series License and that the proposed tasting room does not exceed 33% of the main building's gross square footage.

Ms. Snape confirms that the company holds a Farmer Series License and that the proposed tasting room does not exceed the 33% of the main building's gross square footage.

Ms. Curran asks for clarification of existing use now of the facilities.

Mr. Snape states that the current facility is used for the production and bottling of hard cider. With the addition of the tasting room it would allow the opportunity for the general public to access the facility to sample product of five (5) one (1) ounce pours, give tours of the facilities particularly of the barrels, purchase merchandise and bottles of cider to be consumed off-premise.

Mr. St. Pierre states to the applicant that a tasting room, because it is open to the public, must be handicapped accessible with an entrance and bathroom.

Mr. Snape states that the company leases the space, but the building owner is amenable to making the space open to the public and accessible.

Mr. Copelas asks for clarification from the applicant about the current use of the facility.

Mr. Snape clarifies that the apples are from Central Massachusetts, pressed in Stow, MA and brought to the warehouse to store and age/ferment the juice overtime. The company also hand bottles the product on the premise.

Ms. Curran opens public comment.

Phil Pelatier, owner of the building, states his support for the proposed tasting room and recognizes that renovations need to be done and will work with the building department to bring the structure up to code for public accessibility.

Ms. Curran closes public comment and opens comment for the Board.

Mr. St. Pierre applauds the applicants for teaming up with a few other applicants to propose that the City consider zoning amendments to include this particular use. Mr. St. Pierre clarifies that when the applicants did not fit zoning, when advised, worked through City procedures for the City and public to consider. This is an example of the City working toward change the way it should.

Ms. Curran states this is certainly an emerging business type.

**Motion and Vote: Mr. Copelas makes a motion to approve the applicant's request for a Special Permit per Sec. 3.0 *Table of Principal and Accessory Use Regulations* of the Salem Zoning Ordinance, in order to allow the addition of a tasting room to an existing brewery, distillery or winery. The motion is seconded by Mr. Dionne. The vote was unanimous with four (4) in favor (Ms. Curran, Mr. Dionne, Mr. Copelas and Mr. Tsitsinos) and none (0) opposed.**

## **APPROVAL OF MEETING MINUTES**

August 27<sup>th</sup>, 2014 Draft Meeting Minutes to be approved October 15<sup>th</sup>, 2014

## OLD/NEW BUSINESS

Mr. Copelas was appointed by Mr. Dionne to the position of Planning Board of Appeals Vice Chair.

**Motion and Vote:** Mr. Dionne makes a motion to approve the appointment of a new Zoning Board of Appeals Vice Chair. The motion is seconded by Mr. Tsitsinos. The vote was unanimous with three (3) in favor (Ms. Curran, Mr. Dionne, and Mr. Tsitsinos) and none (0) opposed. Ms. Curran abstained from voting as Chair and reminded the Board that a simple majority is needed with three votes.

## ADJOURNMENT

Ms. Curran motioned for adjournment of the September 17th, 2014 regular meeting of the Salem Board of Appeals at 7:30 pm.

**Motion and Vote:** Ms. Curran made a motion to adjourn the September 17th, 2014 regular meeting of the Salem Board of Appeals, seconded by Mr. Dionne, and the vote is unanimous with four (4) in favor (Ms. Curran, Mr. Dionne, Mr. Copelas and Mr. Tsitsinos) 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/](http://saalem.com/Pages/SalemMA_ZoningAppealsMin/)*

Respectfully submitted,  
Erin Schaeffer, Staff Planner

**DRAFT Minutes**