

City of Salem Board of Appeals
Meeting Minutes
Wednesday, February 18, 2015

A meeting of the Salem Board of Appeals (“Salem BOA”) was held on Wednesday, February 18, 2015 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 6:50 p.m. In the interest of starting the meeting, 98 Boston Street was taken out of order and opened, with permission from the applicant, to be considered with four (4) Board members present.

ROLL CALL

Those present were: Rebecca Curran (Chair), Peter A. Copelas, Tom Watkins, and Jimmy Tsitsinos. Mike Duffy arrived late, but was present. Also in attendance –Thomas St. Pierre, Building Commissioner, and Erin Schaeffer, Staff Planner

REGULAR AGENDA

Project: A public hearing for a petition seeking Special Permit per Sec. 3.3.2 Nonconforming Uses of the Salem Zoning Ordinance, in order to allow an existing nonconforming use of a commercial storefront to be converted to a non-conforming one bedroom apartment at the property located at 98 BOSTON STREET (Map 16, Lot 145) (B2 Zoning District).

Applicant: **DUARTE MACHADO**

Location **98 Boston Street (B2 Zoning District)**

Documents and Exhibitions

- Application dated January 29, 2015 and supporting documentation

Mr. Duarte Machado, the applicant, presents the petition.

Ms. Curran confirms that the applicant proposes to convert an existing commercial space into a one (1) bedroom apartment.

Mr. Machado states that the proposed one (1) bedroom apartment would be for his daughter.

Ms. Curran asks for clarification on the existing use of the commercial storefront.

Mr. Machado states that it is a storefront.

Ms. Curran asks the applicant if there are any changes to the building front.

Mr. Machado states that the storefront will stay the same.

Ms. Curran confirms that there will be no changes to the existing storefront windows.

Ms. Curran restates that the applicant is seeking a special permit for a change of use and states that there are no social, economic impacts, there will be less traffic, no impacts on the environment, conforms to the neighborhood character.

Ms. Curran asks the applicant if there is parking on-site.

Mr. Machado confirms that there is parking on-site that meet City parking requirements.

Ms. Curran asks the applicant for more information on the current number of units in the building.

Mr. Machado states that the building has three (3) units.

Ms. Curran confirms that the building has a total of three (3) units, a salon, an apartment and commercial storefront space.

Ms. Curran states that there is no change in the configuration of the driveway proposed.

Ms. Curran asks the applicant whether the proposed one (1) unit apartment will be located in the entire first floor.

Ms. Machado states that the proposed apartment would be located in a portion of the first floor. The current commercial storefront will be split. Where one side will be converted to a residence and the other side will remain a commercial storefront.

Mr. Watkins asks the applicant to clarify the location and number of current parking spaces. There are a total of nine (9) parking spaces.

Ms. Curran opens comment to the public.

No members of the public spoke in opposition to or favor of the petition.

Ms. Curran states that there are two (2) commercial spaces on the first floor and one (1) large apartment on the second floor. The proposal is to convert one (1) of the commercial spaces on the first floor into a one (1) bedroom apartment. The building will consist of two (2) residential spaces and one (1) first floor commercial space.

Ms. Curran asks the applicant for the total square footage of the proposed apartment.

Mr. Machado states that the apartment will be approximately 650 square feet.

Ms. Curran states that the proposal has less of an impact than a commercial use.

Mr. Watkins asks what the past commercial use was in the building.

Ms. Machado states that it was a plumbing company.

Motion and Vote: Mr. Watkins makes a motion to approve the petition for 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 commercial storefront to be converted to a non-conforming one (1) bedroom apartment at the property located at 98 BOSTON STREET, subject to eight (8) standard conditions. The motion is seconded by Mr. Tsitsinos. The vote was with unanimous with four (4) (Rebecca Curran, Peter A. Copelas, Tom Watkins and Jimmy Tsitsinos) in favor and none (0) opposed.

***ZBA member Mike Duffy is present.**

Project	A public hearing for a petition seeking Special Permits from the provisions of Sec. 3.3.3 Nonconforming Structures, to allow a change from an existing non-conforming two family structure to a multi-family structure and to construct a rear addition. The proposal is for the property located at 103 BRIDGE STREET (Map 36, Lot 378) (B1 Zoning District).
Applicant	JUNIPER POINT 103 BRIDGE STREET LLC
Location	103 BRIDGE STREET (B1 Zoning District)

Documentation & Exhibition

- Application date stamped January 29, 2015 and supporting documentation
- NATIVEtec Engineering report date stamped February 18, 2015

Ms. Curran states that this is a continuation of a hearing that was opened at the last regularly scheduled meeting on January 21, 2015. The Board requested additional information on drainage and petitioner had agreed to meet with the neighbors to address issues including drainage, fencing, and screening.

Attorney Correnti, 63 Federal Street- presented the petition. The petitioner hired an engineer to look at the drainage on 103 Bridge Street. Attorney Correnti presents the engineering report and plan written by NATIVEtec Engineering firm. A portion of the site will be regarded to help pitch the property so that water will run into the drains. The engineer recommended three different locations for a Stormtech system that is an underground containment system for a slow infiltration release to avoid sheet runoff from the site. There are stormceptors proposed for the back right rear, left, and front of the property along Bridge Street. The grade on the property will also be slightly re-pitched to direct stormwater into the Stormtech containment systems. The engineer used EPA standards to guide the design of this system. The applicant would like to implement this system to mitigate the currently poor drainage conditions of the site.

Mr. Copelas asks for clarification on the number of proposed Stormtech system locations.

Attorney Correnti states that in accordance with the Drainage Study plan submitted as part of the NATIVEtec report, there are 3 (three) proposed Stormtech systems.

Attorney Correnti states that the petitioner is seeking a special permit to add to an existing non-conforming structure. The proposed addition meets dimensional requirements and parking requirements of the Salem Zoning Ordinance.

Marc Tranos, 103 Bayview Ave, petitioner presents a portion of the petition. Mr. Tranos states that last Wednesday he held a meeting for residents and placed notifications on mailboxes to speak to the neighbors about resolutions to concerns including drainage, parking, green areas, and headlights from cars. A central concern from the neighbors was that there was a lot of house proposed for the lot. The proposal shows that that the addition will be below the maximum lot coverage dimensional requirements.

Mr. Tranos presents the Board with an analysis of existing lot coverage percentage in the neighborhood. The six (6) properties in the analysis show that the existing average lot coverage is approximately 43%. The petitioner states that the proposal for 103 Bridge Street proposed lot coverage of 39%. Mr. Tranos also states that there are three (3) buildings in the vicinity of proposed location with six (6) units. Two (2) existing multi-family units have no parking. The petitioner states that the proposal is consistent with the existing conditions of the neighborhood.

Mr. Watkins asks if the six (6) properties presented in the analysis are direct abutters.

Mr. Tranos states that the six (6) properties are surrounding properties. Some are direct abutters and some are behind the proposal location. The petitioner states that Attorney Correnti presented information about drainage mitigation and parking concerns were addressed.

Mr. Tranos states that the petitioner originally planned to have a total of five (5) units and sixteen (16) bedrooms. In response to concerns about density, the petitioner has reduced the proposed number of bedrooms to a total of ten (10) bedrooms within five (5) units. Another concern was a lack of green areas on the property. There is a proposed green area in the front of the property. It is not a lot, but Bridge Street generally does not have a lot of green space. Lastly, with headlight concerns, the petitioner proposes to construct a six (6) foot high solid fence to mitigate potential impacts on neighbors from headlights of cars parking on the property.

Mr. Tranos presents four (4) letters of support from neighbors and acknowledges a letter of opposition that was also filed.

Ms. Curran reads the written public comment into the record.

A petition dated February 18, 2015, signed by nine (9) abutters, was read into the record in opposition to the project. Concerns stated include drainage, density, snow removal, green space, trash placement and the preservation of a historic structure.

A petition dated February 18, 2015, signed by four (4) residents spoke in favor of the petition.

Ms. Curran opens comments to the public.

Robert Liani- 96 Bridge Street of Coffeetime- states that he served on a committee to work on the Bridge Street Neck revitalization plan with the Cecil Group and served on the Mayor's committee ad hoc committee for zoning and unfortunately nothing has changed. Because of this experience, Mr.

Liani goes on to describe the neighborhood vision. Mr. Liani states his approval of the possibility of homeownership. Currently, the neighborhood is about 50% renters and 50% owners and it is important to keep this ratio. States concerns about density and a lack of green/recreation space that may attract families that are wanted in the neighborhood. There are concerns that the proposed units will become investment properties rather than have present owners. Five (5) units are too many. If there were three (3) units proposed, the density would fit. The parking meets the 1.5 parking space requirements. The existing houses in the neighborhood lack parking due to the historic nature of the homes. At the neighborhood meeting, hosted by the petitioner, Mr. Liani was taken aback by the petitioner's statement that should the Board not approve the proposal, the petitioner by-right can build a box in the middle of the lot, with an in-driveway on one side and out-driveway on the other side with no green space legally. This construction will show the character of the petitioner and maybe this project will spur the City to reform the zoning to be what the neighborhood wants.

Flora Tonthat, 30 Northey Street- Works with the Salem Chamber and Bridge Street Neck Plan Task Force interested in working toward the goals of the Bridge Street Neck Cecil Group plan and update to zoning in this area. Ms. Tonthat states concerns about the possibility of an absentee landlord, potential disinvestment in the neighborhood and property.

Victor Capozzi, 2 & 4 Sonders Street- states that abutters were not well notified by the petitioner about the neighborhood meeting. Approximately four (4) abutters out of about twenty (20) were present at the meeting. Mr. Capozzi states concerns about the quality and validity of the drainage report presented and states concerns about the location of onsite snow storage.

Mr. Tranos, petitioner, states through the Chair, that at the meeting, only one (1) tenant potential tenant would need to move their car for on-site snow removal.

Kathleen Madeiros, 3 Lemon Street Court – concerns about parking and density. Over the last few years the City has done a nice job with Bridge Street and a project like this is going in the wrong direction. There is too much on a small space.

Tom Doucette, Beverly, MA- present on behalf of his mother, who was the previous owner of the property. Concerns include drainage, snow removal and the conservation of the current historic structure.

Mike Becker, real estate agent of petitioner, states that it is not economically viable to restore the 1800's house and new construction meets current zoning guidelines. The petitioner would like to keep the historic home. The grading is not set. The final grading for the site is unknown and the current draining is irrelevant to how the site is going to be re-graded after it is completed.

Attorney Correnti- regarding the engineer drainage, it is well done. The plan specifically delineates existing and proposed contours for re-grading the site and shows locations stormwater catchment systems as proposed in the report and on the plan. Drainage issues for this site have been taken into consideration. In regard to parking, the applicant meets parking requirements and dimensional requirements.

Ms. Curran- Glad to see the engineering report and plan that it was done by a professional engineer. The plan looks like a viable plan. There is a contoured plan and seems like it would be an improvement. The proposal meets the parking requirements in accordance with the City's zoning. The applicant was proposing to have 5 (five) units with three (3) bedrooms each. The unit mixed has

been reduced so that there are 5 (five) units that are all 2 (two) bedroom units. There is not a lot of open space yet, the petitioner is not asking for relief on maximum lot coverage. The proposal meets the current dimensional requirements of the zoning ordinance. The benefit to this building is that it proposed to be saved and there were members of the Historic Commission spoke at the previous meeting about the importance of this structure. The Historic Commission also asked that the applicant consider that the 1970's era bay window on the façade be replace to reflect the original character and mirror the window type on the other side of the front façade. This is an important structure and it would be a shame to lose it only to build. It is a reality that this exact building could be built as a matter of right on this lot in a different configuration. The concerns about drainage on this site and concerns that the neighbors had including the impact from car headlights in bedroom windows have been addressed. The petitioner will be building a six (6) foot high solid fence around the perimeter. In regard to snow storage, the proposed units will be condos and will have an association that documents something about snow removal requirements.

Ms. Curran asks the applicant to clarify the plan for snow removal. There are enough parking spaces for the proposed number of units, but with snow, what is the plan?

Attorney Correnti- Snow storage areas will be on top of the Stormtech System locations as proposed. If there is a foot or more of snow, the association will have to do what everyone else is doing and clear snow and have it removed from the site so the 8 (eight) parking spaces will have to be available.

Attorney Correnti- To address the potential mix of buyers, this area of Bridge Street is walking distance from the train and the improvements on Bridge Street including the lighting and sidewalk improvements done by the City is great. The petitioner believes that these units will be sold to commuters, professionals, or someone who would like to live and walk to downtown would be interested. This is an exciting prospect for the neighborhood. The petitioner understands that homeownership is important to the neighborhood.

Ms. Curran asks the applicant to clarify the location of where the trash will be stored.

Attorney Correnti- we do not have the detail yet about whether trash will be contained inside or outside. We understand that this is a real question. The building will not have a dumpster, but it is unknown whether trash will be stored inside or outside in barrels. Trash will not be placed along fences or on the property line.

Ms. Curran states that there may not be enough space outside.

Mr. Tranos and Attorney Correnti state that it may be possible to place barrels along the rear of the proposed building and that it is unknown at this time. It is possible to state that trash barrels will not be placed along fences or along the property line. Attorney Correnti states that the units will have trash compactors.

Ms. Curran states that there is concern from an aesthetic perspective that trash barrels will not be located in the front of the building, along the fence line, or property line.

Ms. Curran opens comment for Board discussion or questions.

Mr. Watkins asks for clarification that the proposed fence will be a six (6) foot high solid fence.

Ms. Curran opens for public comment.

Councillor Famico, Ward 2- Note that hopefully there will be less trash and more recycling. The City has noticed that with the increase in compost and more recycling that each household is producing less than a bag of trash per household per week. In addition to the recycling bins it would be great to also provide space for composting bins at this location.

Councillor Famico states that with the number of parking spaces as proposed, this is valid for the number of units proposed. There may be some people who may have two (2) cars for a single unit, but the target market for this housing will be to commuters and possibly individuals with only one (1) car. Please continue to work the neighbors on making this space look nice, including the landscaping. In general, whether these units are owner occupied or rented, it is necessary to have parking spaces available for occupants. Hopefully, there will be people interested in these units who will be getting rid of their cars, but it is important to have these spaces available.

Ms. Curran opens discussion to Board members.

Ms. Curran special conditions for this petition include the removal of the bay window and replacing the window with period windows that match the existing windows; a solid six (6) fence shall be installed along the perimeter; the drainage plan as presented shall be adhered to; no trash shall be located on the property line, along the fence line, or in front of the property; snow removal shall be incorporated into the homeowner/condo association documents.

Mr. Copelas suggests to the Chair that the total number of bedrooms shall be limited to ten (10) bedrooms.

Ms. Curran states that the project as proposed is not inconsistent with the neighborhood character it meets the zoning requirements and conforms to the parking requirements.

Mr. Watkins states that the project is overall good project. Especially with the streetscape improvements over the years, we would like to see developers rehabilitate some of the historic/older homes on this street. From a personal perspective, having young professionals who could potentially walk to the commuter train and downtown is good. The applicant is in conformance with the parking requirements.

Mr. Duffy states that the proposal the significant benefit of preserving a historic house. The proposal is seeking to improve the drainage on the property. With this expectation, the concerns about drainage from the neighborhood residents have been addressed. There is adequate parking and the propose addition complies with dimensional requirements. This is not a basis for a decision here, but there is potential for building something of similar size and density without incurring any of these neighborhood benefits.

Motion and Vote: Mr. Watkins makes a motion to approve the petition for a Special Permit from the provisions of Sec. 3.3.3 Nonconforming Structures, to allow a change from an existing non-conforming two family structure to a multi-family structure and to construct a rear addition for the property located at 103 Bridge Street, subject to eight (8) standard conditions and six (6) special conditions including the following: 1) the petitioner shall remove the 1970's era bay window on the façade of the historic building and replace the windows with two windows that match the existing windows of the front façade; 2) a solid 6

(six) foot high fence shall be installed along the perimeter of the property; 3) the drainage plan written by NATIVEtec, dated February 17, 2015, as presented shall be adhered to; 4) no trash shall be located on the property line, along the fence line, or in front of the property; 5) snow removal shall be incorporated into the homeowner/condo association documents 6) the total number of bedrooms shall be limited to ten (10) bedrooms. The motion is seconded by Mr. Duffy. The vote was with unanimous with five (5) (Rebecca Curran, Peter A. Copelas, Tom Watkins, Mike Duffy and Jimmy Tsitsinos) in favor and none (0) opposed.

Project	A public hearing for a petition seeking Variances requesting relief from Sec. 4.1.1 Table of Dimensional Requirements of the Salem Zoning Ordinance and a Special Permit per Section 3.3.3 Nonconforming Structures to allow an increase in the number of stories from 2.5 stories to 3 stories. The proposal is for the property located at 410 LORING AVE (Map 30 Lot 60) (R1 Zoning District).
Applicant	DIKRAN YAKUBIAN
Location	410 LORING AVE (R1 Zoning District)

Documentation & Exhibition

- Application date stamped January 29, 2015 and supporting documentation

Attorney Keilty- 40 Lowell Street, Peabody, MA, presents the petition. The applicant is seeking a variance requesting relief from Sec. 4.1.1 Table of Dimensional Requirements and a Special Permit per Section 3.3.3 Nonconforming Structures to allow an increase in the number of stories from 2.5 stories to 3 stories on a non-conforming two-family structure.

Ms. Curran asks for clarification on whether the existing roof ridgeline will remain the same height at thirty-three (33) feet.

Mr. Yakubian, the petitioner, presented the proposal and elevation drawings to the Board to show that the existing roof ridgeline will remain the same height and the proposal is for the addition of two dormers on both sides and a twenty-eight (28) foot shed roof.

Ms. Curran asks the petitioner to clarify the additional square footage created through the proposed roof changes.

Mr. Yakubian states that there will be an additional 448 square feet. The existing space is not useable as the height does not meet building code. There are stairways that lead to the third floor space, without the ability to use the space. The petitioner states that for the convenience, the petitioner proposes to install a bar sink in this space.

Ms. Curran states that the petitioner is requesting a Special Permit for enlarging the non-conforming structure and the Variance is for the dimensional requirements to expand the number of stories from 2.5 stories to 3 stories.

Ms. Curran opens comment to the Board.

Mr. Copelas- is there a statement of grounds?

Ms. Curran states that there is a statement of grounds.

Mr. Copelas asks the applicant to elaborate on the hardship argument for the statement of grounds.

Attorney Keilty- One of the reasons to speak directly to land, topography etc. is difficult when speaking about the structure of the building and the third floor. We are talking about something that is up in the air. Attorney Keilty states that the Variance will provide a safe means of egress and access to the third floor.

Mr. Watkins states that the statement of hardship is not clear and asks the applicant to elaborate more on the hardship argument.

Mr. Copelas states that the existing building is a two (2) - family house with an apartment on the first floor and an apartment on the second floor. Understand the requirement for what relief is needed with the proposal. Where does the hardship play into this?

Attorney Keilty states that the applicant is not asking for a Variance to exceed the height requirement. The petitioner is seeking a variance from the number of stories requirement. The roofline will remain at thirty-three (33) feet. The petitioner is not asking for a Variance to build up in excess of 35 feet, and the applicant is not able to build out left or right. Therefore, the applicant is somewhat bound by the shape and configuration of the existing lot. The applicant will not exceed the maximum height requirement, but is asking for a Variance from the number of stories from 2.5 to 3 stories.

Ms. Curran states that its owing to the conditions that exist there. You have this house there.

Attorney Keilty- the existing condition to respect with this house, existing conditions and the way it was designed.

Mr. Yakubian states that the stairways exist without dormers and it is not possible to use the space.

Mr. Copelas- struggling with the literal enforcement of the zoning ordinance and states that this is not a technicality.

Attorney Keilty states that petitioner does not substantially derogate from the intent and purpose of the zoning and the literal enforcement of the zoning ordinance would impact the petitioner in that the third floor would not be able to be used.

Ms. Curran opens discussion for public comment.

No members of the public spoke in favor or opposition to the proposal.

Mr. Watkins asks the applicant to clarify the previously stated hardship argument.

Mr. Keilty- states that the hardship is the inability to access the third floor.

Mr. Copelas states that this is not an inherently bad idea as proposed, but there is no hardship that is required for a variance.

Mr. Watkins asks the Chair for clarification on the requirements in granting a Variance.

Ms. Curran states that all three requirements must be met to grant a variance.

Attorney Keilty- special conditions that especially affect the land, building and structure include that the building is where it is and that there are special conditions that relate to the existence of this building having been constructed prior to this zoning. Effort to access the third floor space creates a situation in which literal enforcement of the zoning creates a hardship on the applicant. This does not impact other lands, buildings or structures in the same zoning district.

Ms. Curran states in the past the Board has granted a Variance for dimensional requirements on the number of stories where the building has not expanded outside of the existing envelope of the building. The literal enforcement of the zoning ordinance would not allow the homeowner to expand into the third floor.

Mr. Copelas states that this would be the status quo, that it would have to remain as it has been.

Ms. Curran states the opinion that the proposal meets the special conditions and circumstances affecting the land...

Attorney Keilty- The purpose and intent of the zoning ordinance is to not keep the petitioner from accessing the existing third floor.

Ms. Curran states that in order to get to the third floor there are building code issues.

Mr. St. Pierre states that the Board has granted this type of Variance many times before.

Ms. Curran states that the improvement to the code requirement has been used in the past as an argument for hardship. There was a project on Buffham Street recently.

Mr. Duffy states the uniqueness of this house is that it is a pre-existing nonconforming two (2) family structure rather than a conforming single (1) family structure. The nonconforming quality of the structure may be a unique condition affecting this building that does not generally affect other buildings, structures and land. The literal enforcement of the zoning ordinance would mean that there would not be safe access to the third floor. The height of the building will not change. The roofline orientation will change to allow for the third floor of the building to be compliant with building code. There is no substantial detriment to the public good and will not nullify or substantially derogate from the intent of the district or the purpose of the ordinance. As proposed, the structure will not be an extremely tall building and is in keeping with the neighborhood character.

Mr. St. Pierre states that the property is located along wetlands and there are no abutters on one side of the building that would be affected by the proposal.

Mr. Copelas clarifies that the shed roof will be on both sides of the building.

Ms. Curran states that a possible special condition may be that the area cannot be a separate dwelling unit or contain a kitchen.

Mr. Duffy states that the applicant offered and stated that there is no intent to create a third (3) unit.

Mr. Copelas states that there is not a need to convince other members of the Board, as a personal opinion, to be able to access a portion of the attic and convert it to a living space is not a hardship.

Motion and Vote: Mr. Duffy makes a motion to approve the petition requesting a Variance per Sec. 4.1.1 Table of Dimensional Requirements and a Special Permit per Sec. 3.3.3 Nonconforming Uses of the Salem Zoning Ordinance, in order to allow an increase in the number of stories from 2.5 stories to 3 stories, subject to seven (7) standard conditions and two (2) standard conditions that the building shall remain a two (2) family structure and no kitchen shall be installed on the third floor. The motion is seconded by Mr. Tsitsinos. The vote was with four (4) (Rebecca Curran, Mike Duffy, Tom Watkins and Jimmy Tsitsinos) in favor and one (1) (Peter Copelas) opposed.

Project	A public hearing for a petition seeking Variances requesting relief from Sec. 4.1.1 Table of Dimensional Requirements of the Salem Zoning Ordinance, from the minimum lot frontage requirements, lot area requirements, and lot coverage maximum requirements to realign lot lines for parcels held in common ownership and to allow an increase in lot coverage maximum for an existing residence. The proposal is for the property located at 23 JACKSON STREET and 17 VALE STREET (Map 25 Lot 661 and Map 25 Lot 660) (R2 Zoning District).
Applicant	MARIA and WAYNE MALIONEK
Location	23 JACKSON and 17 VALE STREET (R2 Zoning District)

Documentation & Exhibition

- Application date stamped January 8, 2015 and supporting documentation

Attorney Quinn presents the petition on behalf of the applicants. When the property was purchased, the current property owners purchased two (2) lots. There is currently one (1) single family home on one of the lots held in common ownership. The petitioner would like to realign lot lines for parcels held in common ownership and to allow an increase in lot coverage maximum for an existing residence.

Attorney Quinn states that the lot area requirements need to be relieved for both lots because even though there is 16,000 square feet, enough for a single 2 (two) family home. The new configured lot would be about 9,500 square feet. The proposed lot area is not undersized compared to the existing neighborhood character of the surrounding historic development in the area. It is unusual to see a house crowded to the front of the property and the sharp grade in the backyard makes a portion of the property unusable and un-accessible. The shape of the lot is triangular and unusual because it has a point on Broad Street with no frontage and touches Jackson Street no frontage, and the 31 feet of frontage on Vale Street is not accessible due to topography. The hardship is that the unusual shape of the existing and steep topography on the second parcel does not allow the lot to be useable. There are four (4) proposed parking spaces that are conforming. There is an existing driveway that is proposed to be extended to serve as frontage and access to both properties. The petitioner will need to go before the Planning Board for a Waiver of Frontage for additional approval.

Ms. Curran asks the applicant whether the existing lot is one (1) or two (2) lots.

Attorney Quinn: From a legal and historical perspective this parcel is one merged lot.

Ms. Curran states that if the applicant were to deconstruct the house that is currently there and build a two family structure, the result would be a density of two (2) units. The petitioner is seeking a Variance to construct a second unit in the form of a single family house. Therefore, the density would not change. However, the petitioner would not be able to construct a two- family dwelling in addition to the existing single family home.

Ms. Curran asks the applicant why the applicant did not change the lot line to have frontage on Jackson Street.

Ms. Malionek- the triangular lot is a land court lot and registered land.

Attorney Quinn: re-configuration of registered land would require special approval with the state and land court engineers.

Mr. Copelas: Asks for clarification that the second lot will have a Vale Street address and for all intent and purposes the access to the properties as proposed will have a Jackson Street address.

Ms. Malionek states that the second lot may not need a Vale Street address.

Mr. St. Pierre- When the occupancy permit is issued, the permit is also forwarded to the Fire and Police Departments to establish a 911 address.

Ms. Curran asks Mr. St. Pierre whether the frontage on Vale Street counts as frontage even though the frontage does not provide access to the site.

Mr. St. Pierre states that the frontage on Vale Street counts as frontage.

Ms. Curran states that this lot is in an R2 district, but the existing and proposed home are both single family units. A special condition is suggested that the petitioner shall have two (2) single family homes for a net total of two (2) units.

Ms. Curran opens comment to the public.

Marshall Sargent- Vale Street- speaks in favor of the petition.

Ms. Curran asks the applicant to restate the hardship for a variance.

Attorney Quinn- states that that although the parcel is merged from a legal point of view, based on the odd shape of the lot, and topography creates inaccessible frontage on Vale Street are hardships that limit the ability of the petitioner to use the property.

Ms. Curran states that the net result will be two (2) single family homes. The project is proposed as if there are two (2) separate lots; however, the existing lots are actually merged into a single (1) parcel. There are no new nonconformities being created in the proposed structure.

Mr. Watkins hardship requirements are difficult.

Mr. St. Pierre states that the proposal meets the requirements of a hardship in that the lot is unique in its shape and topography.

Mr. Watkins desirable relief may be granted without substantial detriment to the public good or without nullifying or substantially derogating from the intent of the district or the purpose of the ordinance. The proposed structure will be placed next to the existing structure and held in common ownership.

Mr. Copelas the hardship is clear that the frontage on Vale Street is not accessible due to the topography.

Mr. Duffy states that this is an odd shaped lot and challenging topography that poses a substantial and unique hardship to the applicant. In order to have a legal two (2) family, the existing home would have to be demolished with the same net result as proposed.

Ms. Curran restates the suggestion for a special condition that each building remain as two (2) single family homes.

Mr. Malioneck- the hill on the back of the property poses a significant problem to access Vale Street. The trees and hill are proposed to remain. The proposed structure will be down in the middle of parcel as shown on the plot plan.

Motion and Vote: Mr. Copelas makes a motion to approve the petition seeking Variances requesting relief from Sec. 4.1.1 Table of Dimensional Requirements of the Salem Zoning Ordinance, from the minimum lot frontage requirements, lot area requirements, and lot coverage maximum requirements to realign lot lines for parcels held in common ownership and to allow an increase in lot coverage maximum for an existing residence subject to nine (9) standard conditions and the following one (1) special condition: 1) The proposed dwelling will be limited to a single family home. The motion is seconded by Mr. Watkins. The vote was with unanimous with five (5) (Rebecca Curran, Peter A. Copelas, Mike Duffy, Tom Watkins and Jimmy Tsitsinos) in favor and none (0) opposed.

Project	A public hearing for a petition seeking Variances requesting relief from Sec. 4.1.1 Table of Dimensional Requirements from minimum lot area, minimum lot frontage, maximum lot coverage, minimum side setbacks, minimum rear setbacks and maximum number of stories to allow the division of property into six (6) lots for the construction of five (5) single family homes and one (1) three-story duplex. The petitioner is also seeking a Variance requesting relief from Sec. 5.1.8 Table of Required Parking Spaces to allow tandem parking at each of the proposed single family homes. The proposal is for the property located at 43 BRIDGE STREET (Map 36 Lot 238) (R2 Zoning District).
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Applicant **JOSEPH SKOMURSKI**
Location **43 BRIDGE STREET (R2 Zoning District)**

Documentation & Exhibition

- Application date stamped January 29, 2015 and supporting documentation

Attorney Lovely 10 Federal Street- presents the petition on behalf of the applicant. The lot is long and narrow with an old abandon building that is expensive to tear down. Salem Plumbing used to own the building. The applicant has met with the neighbors and met with the Planning Board for a joint public hearing with City Council on October 20, 2014 in regard to a zoning change. As shown at City Council, the petitioner showed six (6) single family homes for this parcel. Members of the Planning Board commented on the proposal and requested that a façade of the proposed single family on the corner of Planters Street and Bridge Street be located on Bridge Street. The neighbors asked for a more substantial building on Bridge Street that would better fit the character of the neighborhood and other buildings along Bridge Street. Ward Councilors were active in neighborhood meetings, there were large turn outs at the resident meetings, the City has expressed interested that this project is positive and may spur other positive development in the area.

Ms. Curran states that zoning was changed, but the proposal does not conform to any aspect of the zoning.

Attorney Lovely states that although the project does not conform to the zoning, development on the opposite side of Planters Street, there are seven (7) small lots. Although these proposed buildings are not to size, the scale of the proposed lots fits with the existing neighborhood character.

Ms. Curran states whether the petitioner could possibly build two (2) single family homes.

Attorney Lovely states that any lots would require a dimensional variance for this property as the lots are only fifty (50) feet deep.

Ms. Curran states that the narrowness of the lot would not allow for conformance to the zoning dimensional requirements. One of the issues is that there is proposed tandem parking and it may be possible to reconfigure the lots to meet the parking requirements.

Ms. Curran states concern about the density. If the argument for a hardship is related to the expense of demolition of a building, the Board usually asks to see a pro forma. Is this a 21E site?

Ms. Curran states that usually if some is stating that a hardship is the expense of site clean-up or demolition to remove that building, the Board asks to see a pro forma.

Attorney Lovely states that site is not a 21E site. The site is clean.

Ms. Curran states that if the hardship is the expense of removing the existing building then the Board asks to see a pro forma.

Attorney Lovely states that the hardship that the scope of the land, the long narrow piece of the land is a hardship. There is also an additional hardship with the cost associated with the demolition of the building.

Ms. Curran states that it seems the applicant can reduce the amount of relief the applicant is asking for by reconfiguring the lots. In particular, the tandem parking, it seems that the lots could be reconfigured make the lots a little bit bigger to allow for two parking spaces instead of tandem parking. It looks like the lots can be reconfigured easily to get rid of the parking non-conformity.

Attorney Lovely asks the Board how so?

Mr. Copelas states that the original proposal was six (6) living units and now the proposal is for seven (7) units. If the applicant kept the newly proposed duplex and reduced the number of single family homes by one (1)-unit, the proposal would still have a total of six (6) units. If the applicant proposed 6 (units) as previously proposed by keeping the duplex and eliminating one (1) lot, the net result would still be 6 (units). It was originally stated that the plan worked with six (6) units. It may also be possible that by eliminating one lot, that there may be additional space that can be allocated to the remaining single family lots to eliminate the tandem parking.

Attorney Lovely states that the tandem parking would be the same in both scenarios.

Mr. Copelas, states an understanding that tandem parking was proposed in both scenarios. In terms of the way that the project was designed, when the Planning Board asked to do something different on Bridge Street, the proposal currently includes a duplex located on the lot rather than a single family home. However, the total number of proposed units is now seven (7) rather than the six (6) units originally proposed.

Attorney Lovely states that in order to justify construction the substantial building to fit with the character of the neighborhood on Bridge Street, this was suggested to the applicant. To build a substantial single-family home on this lot would be expensive.

Mr. Copelas this is a mis-interpretation. Mr. Copelas restates that if the applicant keeps the duplex and stayed with a total of six (6) units as originally proposed, by removing one of the proposed lots, rather than a total of seven (7) units divided among a duplex and five (5) single family homes, the six (6) units originally made sense for the applicant.

Ms. Curran agrees with the scenario proposed by Mr. Copelas and states that this lot configuration would also possibly allow for additional square footage to allow for the elimination of tandem parking.

Attorney Lovely- the duplex... to build a single family home is not as expensive as constructing a duplex and rate of return on a single family home is much more palatable to make this project work. The applicant paid a substantial amount of money for the property.

Ms. Curran states that the applicant could have over paid for the property and this is not the Board's issue to allow an increase in density.

Ms. Curran restates that if the hardship to the applicant is financial, the Board needs to see a pro forma that shoes the cost of the demolition of the existing structure, square foot costs for construction of the proposed structures, the purchase price of the property... this is what we do to consider a financial hardship.

Attorney Lovely states that the hardship incurred is the unique narrow shape of the lot. Additionally there is also a hardship due to the cost of the demolition of the current structure and construction of the proposed duplex.

Ms. Curran states support for Variances regarding side and rear setbacks for the lots as there would not be any other possibility. In regard to the relief sought for parking, there may be a possibility that with one less lot, there would be enough space for required parking and side-yard setbacks to be confirming. In addition, the proposed lots could be increased. The proposed lots are very small and the amount of relief being sought a lot. The proposed lots could at least be increased to 3,000 square feet. The applicant is asking for a Variance from every dimensional requirement. Overall there is an understanding of the concept.

Mr. Copelas if the finances worked at six (6) units, I would need to see that it does not work to accept the proposal for seven (7) units. If the pro forma worked with six (6) units divided among six (6) single family homes, it would not be that different financially to have a total of four (4) single family homes and a duplex for a total of six (6) units.

Attorney Lovely- In a meeting with the Planning Department there did not seem to be an issue with tandem parking and like the idea of this proposal. Attorney Lovely stated recognition that it is not the decision of the Planning Department to make. Residents were in favor of the project, particularly because the small lots mirrored the lots on the opposite side of the street.

Ms. Curran states with one less lot, the character of the development will not be that different. Tandem parking is not a problem generally, but with new construction and a blank slate it is possible to create parking that conforms to the zoning requirements, which may be possible by eliminating a lot. If the applicant would want to show the Board a revised plan with one less lot to see if it is possible to redesign the project to create conforming parking this may be possible, if the applicant would like to show a pro forma that this project does not work it is up to the applicant to show the Board the pro forma.

Attorney Lovely- there are no sidewalks, curbing, all of these expenses. If we were to work with the Planning Department and come back with exactly what the costs are... rather surprised because there has been so much support for this project. Not prepared for this reaction.

Ms. Curran states that working with the Planning Department is fine, but it cannot say what the Board will say. This project asks for Variances from every dimensional requirement. Ms. Curran requests that the applicant continues to the next meeting and bring a plot plan that shows one (1) less lot or if the applicant would like to present a pro forma, this would be fine too.

Attorney Lovely- maybe we should have had more of the neighbors come to the meeting

Ms. Curran- residents coming with support are fine, but asking for these Variances is precedent setting. The petitioner is requesting Variances from every dimensional requirement of the zoning ordinance.

Attorney Lovely- states an understanding of precedent setting and that it may be the hope of the Planning Department that people would be coming in and go to City Council regarding zoning changes on Bridge Street or other people would come and do projects similar to this.

Ms. Curran states that if the zoning changed that would be a different circumstance. We are looking at this project in accordance to the zoning district that this parcel is located. This zoning district is not unique to Bridge Street, it is all over town. Even though the Board looks at every project differently there is the ability to set precedent with a decision like this. The other times that Variances were given, there were parcels that were 21E's with real significant costs associated to the projects.

Attorney Lovely- states that he will speak with his client.

Robert Liani-96 Bridge Street of Coffeetime- The Salem Plumbing building has been an eyesore in the neighborhood for a number of years and the neighbors have been hoping that something would be developed there. A concern regarding the duplex is that there are only three (3) parking spaces. The parking proposed meets the zoning requirements. Overall, this is the kind of project that the neighbors want. The neighbors want to promote homeownership. Postage sized lots that people can get into as a first home is what this neighborhood is about. This is a working class neighborhood where people can own it. Expresses support for the project and concept. The neighbors do not want to see this project stopped.

Flora Tonthat, 30 Northey Street- expresses surprise for Board approval for 103 Bridge Street in juxtaposition to this project and expresses support for 43 Bridge Street.

Ms. Curran states that 103 Bridge Street meets the zoning requirements whereas the proposal for 43 Bridge Street does not.

Councilor Famico- in favor of neighborhood development, and it is important to have a return on key investment. Councilor Famico asks the Board for clarification on next steps for the applicants. As proposed, the applicant shows six (6) lots, if the applicant changes the proposal to five (5) lots, does the applicant come back to the Board of Appeals for approval.

Ms. Curran – yes, the applicant is asking for relief from all dimensional requirements. There are no elements of this project that can occur as a matter of right in accordance with the zoning ordinance.

Councilor Famico asks whether the actual lot cards are created by the Board.

Mr. St. Pierre states that these lots are proposed.

Councilor Famico asks if the new proposed lots would come to the Board as well.

Ms. Curran states that a proposal with five (5) lots would also come to the Board of Appeals.

Mr. Copelas states that if the applicant choses to come to the Zoning Board of Appeals will an amended proposal showing five (5) lots rather than six (6) lots, the number of Variances requested would be fewer because some of the proposed exceptions would no longer be exceptions and conform to zoning. There would still be Variances requested, but not as many.

Ms. Curran states that with one (1) less lot, the sideyard setbacks would be conforming. No matter what the design for development on this parcel, the rear yard setback requirement would not be met and would require Variances.

Mr. Copelas states that the maximum lot coverage requirement may also be met with one (1) less lot.

Ms. Curran states that this idea is appropriate for the neighborhood, but there is so much relief being asked for here, that there is concern that this project would set precedent throughout the City in this zoning district. Either look at taking one (1) lot away or provide a pro forma to show that there would be a substantial hardship. The Board has looked at a pro forma before on Highland Avenue to show that the purchase price and the square footage were not overblown. The pro forma showed that the density asked for was okay. It is up to the applicant to present the Board with a pro forma or explore looking at one (1) less lot. Ms. Curran states that she is one member of the Board.

Ms. Curran opens discussion to Board members.

Mr. Watkins agrees with the Chair and suggests to the Board that it ask the applicant to continue to the next regularly scheduled meeting with additional information including either a pro forma or alternative site plans to include one less lot than proposed.

Ms. Curran states that if the applicant agrees to a continuance and decides to provide a pro forma, that it be submitted to the Board prior to the meeting.

Mr. Watkins asks the applicant for approval to continue.

Attorney Lovely agrees to continue.

Mr. Curran states for the record her approval for this type of project proposed, but disapproval for the amount of requested relief as proposed.

Mr. Duffy states that Board is proposing to make a motion to continue the project to the next regularly scheduled meeting.

Ms. Curran asks the applicant whether this is agreeable.

Attorney Lovely agrees.

Motion and Vote: Mr. Duffy makes a motion to continue the hearing of the petition to the next regularly scheduled meeting on March 18, 2015. The motion is seconded by Mr. Watkins. The vote was with unanimous with five (5) (Rebecca Curran, Peter A. Copelas, Mike Duffy, Tom Watkins and Jimmy Tsitsinos) in favor and none (0) opposed.

APPROVAL OF MEETING MINUTES

February 18, 2015 meeting minutes were approved as printed.

Motion and Vote: Mr. Watkins makes a motion to approve the minutes as written, seconded by Mr. Copelas. The vote was with five (5) (Rebecca Curran, Peter A. Copelas, Tom Watkins, Mike Duffy and Jimmy Tsitsinos) in favor and none (0) opposed.

OLD/NEW BUSINESS

None

ADJOURNMENT

Mr. Watkins motioned for adjournment of the February 18, 2015 regular meeting of the Salem Board of Appeals at 9:15pm.

Motion and Vote: Mr. Watkins made a motion to adjourn the February 18, 2015 regular meeting of the Salem Board of Appeals, seconded by Mr. Tsitsinos, and the vote is unanimous with five (5) in favor (Rebecca Curran, Peter A. Copelas, Mike Duffy, Tom Watkins and Jimmy 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://salem.com/Pages/SalemMA_ZoningAppealsMin/

Respectfully submitted,
Erin Schaeffer, Staff Planner