

City of Salem Board of Appeals
Meeting Minutes
Wednesday, April 15, 2015

A meeting of the Salem Board of Appeals (“Salem BOA”) was held on Wednesday, April 15, 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 6:30 p.m.

ROLL CALL

Those present were: Rebecca Curran (Chair), Peter A. Copelas, Mike Duffy, Tom Watkins, Richard Dionne, Jim Hacker (alternate). Also in attendance –Thomas St. Pierre, Building Commissioner, and Erin Schaeffer, Staff Planner

REGULAR AGENDA

Project A public hearing for a petition requesting a Special Permit from the provisions of Sec. 3.3.3 Nonconforming Structures to allow the extension of a non-conforming structure to allow a 4,928 square foot addition, without narrowing the side yard.

Applicant NORTHEAST ANIMAL SHELTER, INC.

Location **347 HIGHLAND AVENUE (Map 7 Lot 44)(BPD Zoning District)**

Documents and Exhibitions

- Application dated March 24, 2015 and supporting documentation

John Seger, Seger Architects presents the petition seeking a special permit from the provisions of Sec. 3.3.3 Nonconforming Structures to allow an extension of a non-conforming structure to allow a 4,928 square foot single story addition. Also present are: Jared Eigerman, attorney for Northeast Animal shelter and Betty Ozolins, representative for Don Shapiro, owner of Northeast Animal Shelter.

The existing site is a little over 2-acres. In 2006, the site was approved for a special permit from a non-conforming use of a car dealership to another non-conforming use for the animal shelter. Improvements made including the structural changes to re-use the existing building were the addition of front curb cuts, lawn, sidewalk, fencing and entrance way. Other improvements included was the outdoor dog play areas that are currently astro-turf and used for supervised short play periods and a place for adopters to meet and greet dogs for potential adoption. Propane tanks were also added to the facility outside as there is no natural gas hook-up through Highland Avenue. The remaining car dealership site was left as is with an extensive parking area in the back and pavement.

The proposed addition 4,800 square foot 1-story addition and the addition will maintain the existing non-conforming setback. The property is located within the Business Park District, with a dimensional requirement of a 30-foot setback. Therefore, this proposal acknowledges the existing non-conformity and proposes to continue to maintain the exiting 8.8 feet. A

portion of this property is also within the Entrance Corridor District, but the property is located more than 150 feet from the centerline and does not affect the proposed addition. The exterior of the proposed building will match the existing materials. Water from the roof currently drains through internal roof drains and is proposed to be kept to re-charge onsite. Stormwater management may include a new drywell, but it may be possible to use the existing system to be determined. The proposal also includes the relocation of the existing outdoor dog play areas to be in two (2) locations including one behind the existing building and a second small outdoor play area for smaller dogs in front of the building. There is a connecting path with pavers to bring dogs out to meet and greet potential adopters.

Betty Ozolins- Dogs are never left in play areas unattended and are not left in the area for an extended period of time.

Mr. Seger- states that a portion of pavement will be removed and replaced with a permeable gravel base and artificial permeable turf. The petitioner would also like to construct the possibility sunshades that can be removed during the winter months over the outdoor play areas. Mr. Seger presents cut sheets of the proposed canopy. There are proposed lights that have sharp cut-off dark sky down-light fixtures and wall sconces. No light will be cast into the sky or off the property.

Parking there will be 25-26 parking spaces to be reduced to make space for proposed outdoor play areas. However, a total of 86 parking spaces will remain. Based on retail numbers for parking requirements, there is more than enough parking that will remain. Traffic flow and patterns will remain the same. Utilities will remain the same.

The program for the building addition will include the public areas, animal intake, the proposed addition will have a surgical room and other veterinary services and isolation/quarantine space. There is a substantial need for space for medical services.

Attorney Eigerman- The previous Zoning Board of Appeal approval from 2006 states special conditions including the following: 9. No animal shall be left unattended outside; 10. Runs must be maintained indoors and 12. If there is any expansion of the use of the premises, Petitioner shall come back to the Board of Appeals for another Special Permit. Over the last nine (9) years, the shelter has created outdoor play areas. Through this Special Permit that applicant would like to be forthright and as the Board for approval. The adjacent property could have been residential, but it is known that the adjacent property may become a family entertainment center. The track record for Northeast Animal shelter has been good and there have not been any objections to the operations.

Ms. Curran- Are there currently outdoor runs?

Ms. Ozolins- States that there are outdoor play areas, but have not been viewed as a "run". Other shelters who have outdoor runs, typically leave animals outside for hours at a time unattended. The fenced in areas outside that exist are play areas that are meant for short-term play periods and animals are never left unattended or housed outside.

Ms. Curran states that a special condition of the 2006 ZBA approval states that “runs must be maintained indoors” and states that the intention of this condition may have been that there would be no outdoor runs.

Ms. Ozolins- states that there are plenty of runs that are maintained indoors.

Ms. Curran- asks the applicant whether the animals are left outside unattended.

Ms. Ozolins- states that animals are never left outside unattended.

Ms. Curran- opens discussion up to Board member comment.

Mr. Watkins asks the petitioner to clarify whether the proposed addition would be identical and seamlessly fit with the existing structure.

Mr. Seger- states that a number of doorways will need to be introduced inside. From a design perspective, it makes sense to construct the proposed addition and use the same materials and architectural style of the existing structure.

Mr. Copelas- How do the previous special conditions of the previously issued permit affect the current legal notice? In the 2006 decision, it is documented that neighbors were concerned about animals being kept outside and that there would be no outdoor runs. From a legal perspective is there a problem that the current use is in contradiction of what was approved in 2006.

Ms. Ozolins- states that what may need to be defined is a ‘run’. The existing outdoor play areas are not considered as a run.

Mr. Copelas- states that looking at the testimony in the 2006 decision it was clearly the intent to not have outdoor runs.

Attorney Eigerman- states that the petitioner’s intent is to receive a new and different special permit. The previous Board of 2006 cannot bind a further Board’s decision. Not sure about the level of detail required for the legal notification for the Special Permit.

Mr. St. Pierre- the Special Permit was advertised that a hearing would be held this evening for some changes at the site and puts people on notice. Yes, there should not be major substitutions for large items, but the petitioner is not requesting to construct dog runs as part of the newly requested permit and the applicant is maintaining dog runs inside, which full-fills this technical requirement of the 2006 Special Permit. In nine (9) years that the animal shelter has been at this location, there have been no complaints received. Mr. St. Pierre was present during the 2006 hearing and what the neighbors were thinking of when the Northeast Animal shelter first proposed opening, there was an existing animal shelter across the street where animals were housed outside and making noise all day and all night long. The neighbors were concerned that Northeast Animal shelter would leave animals outside.

Mr. Copelas states that the Northeast Animal shelter is a clean and well-run enterprise. Just wanted to make sure that the animal shelter is meeting the technical requirements.

Mr. St. Pierre- from the 2006 decision, the petitioner has legally met the conditions and to the petitioner the outdoor spaces are play areas and not dog runs. No animals are left unattended or outside for prolonged periods of time. There are no members of the public in attendance or public comment received for this special permit request.

Mr. Duffy- states that a condition of the present special permit request shall include a special condition that states that no animals shall be left unattended outside.

Ms. Curran states that all existing special conditions from the 2006 Decision shall remain.

Mr. St. Pierre- states that outdoor play areas shall be maintained.

Ms. Curran- states that from the 2006 Decision, one of the special conditions is that indoor play areas must be maintained. From an enforcement perspective, the applicants have maintained and continue to maintain play areas.

Mr. St. Pierre- states that the new plans show a relocation of existing outdoor play areas. There have not been any issues with the outdoor play areas in the past and it is not anticipated that there will be any issues in the future.

Ms. Curran opens the public portion of the meeting.

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

Ms. Curran opens discussion to Board members for final comments.

Mr. St. Pierre asks the applicant for an expected timetable.

Ms. Ozolins states that the animal shelter would like to move forward with plans as soon as possible.

Mr. Seger- states that it is anticipated to break ground in the fall.

Mr. St. Pierre- asks the applicant if there will be any blasting involved.

Mr. Seger- states that there is bad soil on site and it is unknown at this time. A geotechnical engineer is needed to evaluate the soils and site conditions.

Motion and Vote: Mr. Duffy makes a motion to approve the petition requesting a Special Permit from the provisions of Sec. 3.3.3 Nonconforming Structures to allow the extension of a non-conforming structure to allow a 4,928 square foot addition, without narrowing the side yard at the property located at 347 Highland Ave. The approval also includes the relocation of an existing play area, subject to the existing standard and special conditions that were approved in the Zoning Board of Appeal Decision dated April 11, 2006. The motion is seconded by Mr. Dionne. The vote was with unanimous with five (5) (Rebecca Curran

(Chair), Peter A. Copelas, Mike Duffy, Tom Watkins, Richard Dionne) in favor and none (0) opposed.

APPROVAL OF MEETING MINUTES

March 18, 2015 meeting minutes were approved with a correction to a clerical error.

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

OLD/NEW BUSINESS

Brewer Hawthorne Cove Marina- Chapter 91 Notification- Marina Dredge Project

Mr. Watkins asks about why the dredging is needed.

Mr. St. Pierre stated that the dredging is needed to maintain the marina.

Mr. Copelas asks whether the applicant plans to expand the number of boat slips in this location.

Mr. St. Pierre states that the applicant does not have plans to expand, but rather needs to maintain what is already there. The basin fills in with silt and needs to be periodically maintained to maintain an existing navigational depth.

220 Highland Zoning Board of Appeal Decision Amendment

The Board voted five (5) in favor (Ms. Curran (Chair), Mr. Duffy, Mr. Watkins, Mr. Copelas, Mr. Dionne) in favor and none opposed, to strike Findings for Special Permit #1 in the Zoning Board of Appeal decision stamped April 1, 2015, as extraneous and irrelevant and to correct the record.

ADJOURNMENT

Mr. Watkins motioned for adjournment of the March 18, 2015 regular meeting of the Salem Board of Appeals at 7:15pm.

Motion and Vote: Mr. Wakins made a motion to adjourn the March 18, 2015 regular meeting of the Salem Board of Appeals, seconded by Ms. Curran, and the vote is unanimous with five (5) in favor (Ms. Curran (Chair), Mr. Duffy, Mr. Watkins, Mr. Copelas, Mr. Dionne) 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