

City of Salem Board of Appeals
Draft Meeting Minutes
Wednesday, May 20, 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), James Tsitsinos, Peter A. Copelas, Tom Watkins, 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 seeking a Special Permit per Sec 3.0 Table of Principal and Accessory Use Regulations of the Salem Zoning Ordinance, in order to allow a tasting room to an adjacent space to an existing brewery, distillery or winery with a tasting room.
Applicant	FAR FROM THE TREE CIDER
Location	102-108 JACKSON STREET (Map 25 Lot 390) (B4 Zoning District)

Documents and Exhibitions

- Application dated March 24, 2015 and supporting documentation

Denise Snape, Far From the Tree Cider, presents the petition. Ms. Snape states that Far From the Tree Cider would like to open a smaller winery with a tasting room in an adjacent space to their own existing winery located at 102 Jackson Street.

Curran: States that the Zoning Board of Appeals recently approved a Special Permit for a brewery, distillery, winery with a tasting room at 209 Essex Street and asks the applicant whether the business will also be operating in this location.

Ms. Snape- states that the opportunity at 209 Essex Street fell through as the current owner is selling the property.

Curran: Asks the applicant for clarification and information to define a tasting room and describe what activities are proposed to take place at this location.

Ms. Snape- states that this proposal is the same as the proposal from 209 Essex Street. The proposed new location would include 66% of the total building square footage to be dedicated to operations of a winery and 33% to a tasting room.

Curran: Asks the applicant whether the proposed location physically connected to the adjacent existing winery, brewery, distillery.

Ms. Snape- states that the proposed location for this winery, brewery, distillery with a tasting room is for a building that is adjacent to, but not attached to the current winery. The applicant states that ideally the business would like to have the proposed function of this adjacent space only serve as a tasting room as the adjacent winery has enough space for manufacturing in the other space at 102 Jackson. Possibly in the future the buildings could be physically connected to allow for this proposed space to serve as winery and be 33% of the entire winery, distillery, brewery located at 102 Jackson Street. For now, the business proposes to have a separate winery, distillery, brewery with a tasting room in an adjacent space to an existing brewery, distillery, winery.

Curran: Asks the applicant for clarification on the proposed hours of operation.

Ms. Snape- states that the proposed brewery, distillery, winery would operate from 12pm to 12am seven (7) days a week. The applicant states that the hours of operation may not be what is requested, but would like to have flexibility in the hours of operation.

Curran: For people who were not present at the public hearing for 209 Essex Street, Ms. Curran asks the applicant to define a tasting room.

Ms. Snape- the cider that is made at the facility would be sampled by the public. Ms. Snape states that the company plans to go before the Licensing Board to request a full pouring license. A tasting room is not a restaurant or bar as there will not be a kitchen and a bar serves other company's products. The products made under the company's Farmer Winery License would be the products offered for sampling to the public at the proposed tasting room.

Curran: What are the limits to the number of samples and amount sampled?

Ms. Snape- states that with a Farmer Winery License, the winery is limited to serving five (5) one ounce (1 oz) pours per customer. The Farmer Winery License is the first step and then the company intends to apply to the Licensing Board to allow the company to serve a full pour. The products that the winery is making would be the products served to the public.

Ms. Curran- Clarifies that the special permit for winery, brewery, distillery with a tasting room can be permitted by the Zoning Board of Appeals. The Farmer Winery License allows the winery to serve samples. The Licensing Board may allow the company to serve a full pour.

Ms. Curran- asks the applicant whether there will be any changes to the exterior of the building?

Ms. Snape- there will be no exterior changes to the building except painting the exterior.

Ms. Curran- opens discussion to Board members before opening the meeting to the public.

Mr. Copelas- Ask the applicant for clarification on the proposed activities that will occur in the proposed building.

Ms. Snape- states that there will be production and a tasting room. The applicant proposes to have 66% of the square footage of the building dedicated to production and 33% dedicated to a tasting room. The production would be dedicated to fermenting, aging and bottling a portion of cider in this location in fifty-two (52) gallon barrels. No large kegs or tanks will be located in this building.

Mr. Copelas- clarifies that there will be processing in the proposed location as opposed to exclusively being used for a tasting room.

Ms. Snape- yes.

Ms. Curran- states that as proposed, this is consistent with the definition of a tasting room.

Mr. Copelas- asks the Zoning Enforcement Officer, Tom St. Pierre, whether this petition as proposed with 66% production and 33% of the square footage dedicated to a tasting room is consistent with the definition of a brewery, distillery, winery with a tasting room and as proposed negates the legal opinion.

Mr. St. Pierre- Sounds like there was communication that I was not aware.

Mr. Watkins- is the location of the proposed tasting room adjacent to the current, but separate building where the currently operating winery is located?

Ms. Snape- yes.

Mr. Watkins- the proposed tasting room is within the allowable square footage of the total building.

Mr. Watkins- will employees be TIPS certified?

Ms. Snape- yes.

Ms. Curran: states that it seems that customers will be visiting by car.

Ms. Snape- states that this location is a ten (10) minute walk from downtown and can visit by car.

Ms. Curran- opens discussion to the public.

Councillor Todd Siegel, Ward 3 - Expresses concern about the possible impact of the hours of operation on nearby residential neighbors. Councillor Siegel asks for clarification on the location and number of parking spaces available for the proposed brewery, distillery, winery with a tasting room. Councillor Siegel expresses concern that there may not be enough parking for employees and customers.

Ms. Snape- states that employees are all residents of Salem and may park in the residential zone directly across the street from the proposed brewery, distillery, winery with a tasting room and there are five (5) on-site parking spaces on the Jefferson Street side.

Councilor Siegel- states that the resident parking stickers may be distinguished by zone and are meant to provide parking spaces for residents of the neighborhood.

Ms. Curran closes the public portion of the hearing.

Ms. Curran- expresses concern about the proposed hours of operation. The proposed hours of operation are until 11pm on weekdays and 12pm on weekends.

Ms. Snape- states that it is possible that the business will not be open seven (7) days a week. However, it would be advantageous to be open from 12pm to 11pm on the weekends. During the week, the proposed hours closing at 9pm may be sufficient.

Ms. Curran- opens discussion to Board.

Mr. Watkins- expresses concern about the proposed hours of operation. In particular, the late evening hours of operation are of concern particularly because there are residential homes directly across the street from this proposed location.

Ms. Snape- states that the surrounding area is industrial with few people in the area after 4pm.

Mr. St. Pierre and Mr. Watkins- discuss the location of residences on Jackson Street across the street to the proposed brewery, distillery, and winery with a tasting room.

Mr. Copelas- Asks the applicant whether she would be opposed to modification of the hours of operation to be Sunday through Thursday 12pm to 9pm and Friday through Saturday 2pm-11pm.

Ms. Snape- agrees to the proposed hours of operation.

Mr. Watkins- states that the hours of operation particularly during weekends may still be too late.

Ms. Curran- Asks the applicant whether there are plans for walk-in events.

Ms. Snape- States that the benefit to not being located in the downtown area is that there may be more flexibility with hosting events. The company is interested in having the space serve as a community space and include art gatherings and acoustic guitar performances.

Mr. St. Pierre- states that the Board may condition the proposed hours of operation to be a trial period if need be.

Ms. Curran- concurs.

Ms. Curran- states that the Board received a memo from the City Solicitor. In particular, the City's Zoning Ordinance permits a brewery, distillery, or winery with a tasting room only by special permit from the Zoning Board of Appeal. A brewery, distillery or winery with a tasting room is defined as "A business located in a building where the primary use is for the production and distribution of malt, spirituous, or vinous beverages with a tasting room as defined in Section 10.0..." A tasting room is defined as "A room attached to either a brewery, distillery or winery that allows patrons to sample or consume, wine, beer and other alcoholic beverages that are produced on-site in accordance with M.G.L. c. 138. A tasting room may not be greater than thirty-three (33) percent of the main building's gross square footage." Ms. Curran asks the applicant whether these requirements are anticipated to be met in that the applicant has proposed to the Board that the primary use of the space is for production and distribution. The proposed tasting room will be no greater than thirty-three (33) percent of the main building's gross square footage.

Ms. Snape- concurs that the proposed brewery, distillery or winery with a tasting room will be primarily used for a production and distribution and the proposed tasting room will be no greater than thirty-three (33) percent of the main building's gross square footage.

Mr. St. Pierre-concurs that as proposed at the public meeting, the proposal is consistent with the Zoning Ordinance requirements.

Ms. Curran for 6 months to continue if there are no complaints. 12pm-11 Monday through Sunday to confirm hours going forward.

Motion and Vote: Mr. Watkins makes a motion to approve the petition requesting a Special Permit from the provisions of Section 3.0 *Table of Principal and Accessory Use Regulations* of the Salem Zoning Ordinance, in order to allow a brewery, distillery or winery with a tasting room at the property located at 102-108 Jackson Street subject to nine (9) standard conditions and one (1) special condition that the hours of operation shall be limited to Sunday-Thursday 12pm-9pm and Friday to Saturday 12pm-11pm to be adhered. After six (6) months the petitioner may request an expansion of hours of operation from the Zoning Board of Appeals. The motion is seconded by Mr. Copelas. The vote was unanimous with five (5) (Rebecca Curran (Chair), Peter A. Copelas, Mike Duffy, Tom Watkins, James Hacker.



Project	A public hearing for seeking a Variance requesting relief from Sec. 4.1.1 <i>Table of Dimensional Requirements</i> from minimum lot area per dwelling unit to convert an existing garage into a dwelling unit. The petitioner is also seeking a Special Permit per Sec. 3.3.3 <i>Nonconforming Structures</i> of the Salem Zoning Ordinance, to alter the use of an existing nonconforming structure.
Applicant	MARZA LLC
Location	114 MARGIN STREET (Map 25 Lot 500)(R2 Zoning District)

Documents and Exhibitions

- Application dated April 22, 2015 and supporting documentation

Emily Stuart and Paula Pierce of Marza LLC present the petition.

The petitioners proposed to convert an existing 1,300 square foot attached garage into a dwelling unit. The petitioners state that they are seeking a Variance from minimum lot are per dwelling unit to convert an existing garage into a dwelling unit and a Special permit to alter the use of an existing nonconforming structure. The petitioners proposed to convert the existing single family home with an attached garage to a two (2) family dwelling unit.

Ms. Curran: States that the petitioner did not present any architectural plans.

Ms. Stuart- states that there are no proposed structural changes to the existing footprint of the building. There will be structural changes inside and will have two- bedrooms and one bathroom.

Ms. Curran- asks the applicant whether all three garage doors will remain the same or if there are any additional external changes to the building proposed.

Ms. Pierce- states that the three garage doors will be replaced with walls and windows that will be similar to the look of the current façade, but will not function as garage doors. The windows will also be replaced as the garage doors and windows are not currently insulated.

Ms. Curran- states that the applicant is asking for a variance and requests that the applicant state a hardship, which is one of the requirements for a variance.

Ms. Stuart- the garage is 1,300 square feet and the hardship is that the garage is large and can be used for another use instead of serving as a two-car garage.

Ms. Curran asks the applicant whether the entire current garage space would be converted into residential. Ms. Curran also asks about the number and location of parking spaces available as proposed.

Ms. Stuart states that the dwelling unit proposed would take up the entire garage. There is enough space for four (4) on-site parking spaces outside.

Ms. Curran asks the applicant whether there will be any expansion of the current building.

Ms. Stuart states that the footprint of the building will not change, however three (3) sides of the brick building are proposed to be covered with insulated stucco. The brick is deteriorating and is not insulated.

Ms. Curran opens discussion to Board members.

Mr. Watkins asks the applicant to clarify the current use of the garage. Plans of this size and nature typically have architectural plans. Mr. Watkins suggests a motion to continue pending further architectural plan submission.

Ms. Stuart states that there are no exterior architectural changes.

Mr. Watkins states that there are exterior changes including the replacement of the garage doors, upper windows and stucco over the brick façade.

Ms. Pierce the garage doors are not insulated and need to be replaced. The windows also do not provide very much light inside of the garage. The windows will be replaced with something that keeps the character of the old garage doors, but is insulated and provides light into the proposed unit. Visually, the replacement garage doors and windows will look the similar to the existing garage doors and windows.

Ms. Curran: Asks about the proposed location for the front door.

Ms. Pierce states that one of the garage bays will serve as a front entrance. There is also a side entrance for a second egress into the proposed unit.

Ms. Curran states that the Zoning Board of Appeals requires architectural elevation plans when there are changes to the outside of a building. Also, the applicant must meet the criteria for a hardship as considered under M.G.L. Chapter 40A for the Zoning Board to grant a variance. Ms. Curran states concern that the hardship stated for the variance meets the threshold of Chapter 40A.

Ms. Curran- opens public comment.

Todd Siegel, Ward 3 Councilor- expresses support for the project. In particular, the petitioners have done good work in the area. In support as long as the applicant meets the requirements of the Zoning Board of Appeals.

William LeGault, City Councilor At Large- expresses support for the project.

Ms. Curran- reads letter of support from Robert Femino, 120-124 Margin Street. A petition of support was also submitted by the applicant with signatures from 90 Summer Street and 112 Margin Street.

Mr. Copelas- in addition to requesting more information on architectural detail, more information regarding the hardship is needed for consideration. There are three specific requirements that must be met. Specifically, more information regarding the hardship is needed. There is no hardship in continuing the non-conformity in its present use as a single-family dwelling unit.

Ms. Curran- more detail on what is being proposed to the exterior of the building is needed.

Ms. Curran asks the petitioners if they would like to continue to the next meeting and to submit architectural information and a revised statement of hardship.

Motion and Vote: Mr. Copelas makes a motion to continue the hearing seeking a Variance requesting relief from Sec. 4.1.1 *Table of Dimensional Requirements* from minimum lot area per dwelling unit to convert an existing garage into a dwelling unit. The petitioner is also seeking a Special Permit per Sec. 3.3.3 *Nonconforming Structures* of the Salem Zoning Ordinance, to alter the use of an existing nonconforming structure the next regularly scheduled meeting on June 17, 2015 at 6:30pm. The motion is seconded by Mr. Copelas. The vote was unanimous with five (5) (Rebecca Curran (Chair), Peter A. Copelas, Jimmy Tsitsinos, Tom Watkins, James Hacker.

*Board member Mike Duffy is present.

Project	A public hearing for a petition seeking a Variance requesting relief from Section 4.1.1 <i>Table of Dimensional Requirements</i> from a side-yard setback to construct a rear deck.
Applicant	M. PERRY MCINTOSH and RICHARD LUECKE
Location	2 RIVER STREET (Map 26 Lot 617)(R2 Zoning District)

Documents and Exhibitions

- Application dated April 28, 2015 and supporting documentation

Perry McIntosh and Richard Luecke, petitioners present the petition. The petitioners are seeking a Variance from the Table of Dimensional Requirements from a side-yard setback to construct a rear deck. The existing house, built in 1799, is built across the full width of the lot. The petitioners propose to build a 67.5 square foot deck and stairway to the backyard to serve as a secondary egress to the property.

Ms. Curran states that the applicant does not have an option to provide rear access to the structure without the possibility of existing on the zero (0') lot line.

Mr. Copelas states that the petitioner proposes to build an expanded stairway with a large landing. It is clear that there is no access out of the back of the house from the living space. The hardship is clear that the topography, slope and grade down to Bridge Street. The proposal is modest and reasonable.

Ms. Curran opens discussion for public comment.

Ms. Curran reads a written comment of support from 4 River Street.

Richard Griffin- 14 Beckford Street- speaks in support of the petition.

Ms. Curran- States the following findings:

1. Special conditions and circumstances that especially affect the land, building or structure generally not affecting other lands, buildings or structures in the same district include the steep slope and grade of the property and lack of a rear egress from the living quarters of the structure.
2. The literal enforcement of the provisions of the Ordinance would involve substantial hardship to the applicant as the existing structure is on the zero (0') lot line and there is no other option to provide rear access to the structure.
3. Desirable relief may be granted without substantial detriment to the public good, and without nullifying or substantially derogating from the intent of the district or the purpose of the ordinance.

Motion and Vote: Mr. Watkins makes a motion to approve the petition seeking a Variance requesting relief from Section 4.1.1 *Table of Dimensional Requirements* from a side-yard setback to construct a rear deck subject to six (6) standard conditions. The motion is seconded by Mr. Duffy. The vote was unanimous with five (5) (Rebecca Curran (Chair), Jimmy Tsitsinos, Peter A. Copelas, Mike Duffy, Tom Watkins).

Petitions for 46 School Street and 48 School Street heard together

Project	A public hearing for a petition seeking a Variance requesting relief from Section 4.1.1 <i>Table of Dimensional Requirements</i> of the Salem Zoning Ordinance, to allow a reduction in minimum lot area, minimum lot size per dwelling unit, and minimum lot frontage required to create a rear lot.
Applicant	JOYCE DUPRIS
Location	46 SCHOOL STREET (Map 27, Lot 7) (R2 Zoning District)

Petitions for 46 School Street and 48 School Street heard together

Project	A public hearing for a petition seeking a Variance requesting relief from Section 4.1.1 <i>Table of Dimensional Requirements</i> of the Salem Zoning Ordinance, to allow a reduction in minimum lot area and minimum lot size per dwelling unit, to create a rear lot when merged with 46 School Street.
Applicant	MICHAEL BECKER
Location	48 SCHOOL STREET (Map 27, Lot 5) (R2 Zoning District)

Documents and Exhibitions

- Applications dated April 28, 2015 and supporting documentation

Attorney Correnti presents the petition for both 46 SCHOOL STREET and 48 SCHOOL STREET together to understand the purpose of these applications. These petitions are to take two (2) non-conforming lots and reduce them in size to be more dimensionally non-conforming.

The requested relief for 46 SCHOOL STREET is to allow a reduction in minimum lot area, minimum lot size per dwelling unit, and minimum lot frontage.

46 SCHOOL STREET lot is unique in lot size, shape and topography as the lots are narrow and sometimes referred to as “bowling alley lots.” The usable land on this lot is where the current house is located. Ledge outcroppings in the rear yard prevent the homeowner from using the property to a fuller extent. The majority of the rear lot is unusable due to the topography of the ledge in the back of the lot. 46 School Street has a driveway that is a right-of-way with access on School Street to the house, while frontage on School Street Court provides frontage and vehicular access to the house located at 46 School Street.

The existing lot size is 12,628 and a dimensionally non-conforming lot. The petitioner proposes to reduce the size of the existing lot from 12,628 square feet to 5, 010 square feet and in doing so, requests relief from the lot size per dwelling unit dimensional requirement of the Salem Zoning Ordinance. The petitioner also proposes to reduce the existing frontage on School Street Court from 116.16 feet to 16.15 feet.

The requested relief for 48 SCHOOL STREET is to allow a reduction in minimum lot area and minimum lot size per dwelling unit.

48 SCHOOL STREET lot is unique in lot size, shape and topography as the lots are narrow and sometimes referred to as “bowling alley lots.” The usable land on this lot is where the current house is located. Ledge outcroppings in the rear yard prevent the homeowner from using the property to a fuller extent. The majority of the rear lot is unusable due to the topography of the ledge in the back of the lot.

The existing lot size is 15,399 square feet. Although the lot is conforming in lot area, the property is dimensionally non-conforming in lot width, lot frontage and front and side setbacks. The petitioner proposes to reduce the size of the existing lot from 15,399 square feet to 6,973 square feet while not changing the lot width or existing front and side setbacks. The petitioner also is requesting relief from the lot size per dwelling unit dimensional requirement of the Salem Zoning Ordinance.

Attorney Correnti demonstrates that the resulting lots will be similar in size and shape to other lots in the district.

The intention is to merge a portion of 46 School Street and 48 School Street to create a new 15,000 square foot lot that conforms to the Salem Zoning Ordinance requirements.

Attorney Correnti submits twelve (12) letters of support for the petitions of 46 and 48 School Street from real estate professionals in the area in support of the project.

Ms. Curran states that the petitioner came to the Board in September 2014 with a proposal and asks the petitioner to clarify whether the current petitions is the same as the one presented in March.

Attorney Correnti states that the petitions are very similar and the petitioners withdrew the applications without prejudice for 46 and 48 School Street in March. The owner in the joint petition for 46 School Street was not prepared to go forward with the proposed project at the time.

Ms. Curran opens discussion to the Board.

Mr. Copelas- Asks the applicant whether 46 and 48 School Street are currently single-family homes.

Attorney Correnti- states that 46 and 48 School Street are currently both two-family in an R2 Zoning District.

Ms. Curran states that 46 School Street is almost conforming in lot area and 48 School Street is conforming in lot area. The petitioner proposes to reduce the size of the existing lot from 12,628 square feet to 5,010 square feet. The petitioner proposes to reduce the size of the existing lot from 15,399 square feet to 6,973 square feet. The petitioner proposes to decrease the lot areas of both lots and increase the density of units from an existing four (4) dwelling units to six (6) dwelling units.

Attorney Correnti confirms that the density is proposed to increase from the existing four (4) dwelling units to either five (5) or six (6) dwelling units. In keeping with the zoning district, the petitioner may construct a duplex.

Ms. Curran asks the petitioner to make the case for a hardship.

Attorney Correnti states that the lots are a peculiar shape, the topography is unique and the petitioner would like to demonstrate that the request is not more detrimental to the neighborhood and are in keeping with the neighborhood and district.

Ms. Curran asks the applicant to clarify the location of the existing frontage for 46 School Street.

Attorney Correnti states that there is 116 feet on School Street Court.

Ms. Curran- Opens public comment and acknowledges twelve (12) letters and a petition in support of the proposals.

Cheryl Louis Halstead- 1 School Street Court- Strongly opposed to the petitions. Expresses concerns about emergency access and parking

Eric Deffer- 6 Chandler Street- in support of the petition.

Beth Gerard, Ward 6 Councilor- expresses support for the petition.

William LeGault, Councilor At Large- expresses support for the petition.

Ms. Halstead- continues to express concern about illegal parking on School Street Court and emergency access.

Joyce Dupris, 46 School Street- states that her son-in-law was a firefighter and has driven a fire truck on School Street Court with no problem.

Ms. Curran asks Attorney Correnti whether the applicant has spoken to Fire Prevention to discuss emergency access.

Attorney Correnti stated that School Street Court is narrow much like other historic streets in the neighborhood and the developer has committed to Fire Department that the proposed new structure will have sprinklers installed. The developer will take a condition that states that the developer will comply with all of the regulations and recommendations of the Salem Fire Department.

Ms. Curran asks the Board whether there are any comments.

Ms. Curran asks the petitioner whether the depiction of a new building is a depiction or a plan and asks a clarification on whether the dashed line on the plan represents the building envelope.

Attorney Correnti states that the proposed plan shows a depiction of a new building to show that it can fit on the new lot created without any relief. The dashed line represents the building envelope.

Ms. Curran issues with this is the same issue as last time in that the petitioner is asking to take two lots, one that is dimensionally conforming and one that is almost conforming, to greatly reduce these exiting lots to make them significantly non-conforming to create a new conforming lot. In doing so, the petitioner is proposing to increase the density on this land from an existing four (4) dwelling units to six (6) dwelling units on what would by lot area be allow only four (4) dwelling units. There is no hardship as a long lot that is too large is not a hardship.

Attorney Correnti states that for 46 School Street the petitioner is asking for a Variance from lot area, lot size per dwelling unit, and lot frontage. The lot width and side setbacks are not changing. What is changing, but does not need relief are lot coverage and rear yard setbacks. There are five (5) dimensional requirements that do not need relief under the proposed plan. For 48 School Street, relief is not needed from many of the setbacks, but do need relief from minimum lot area and minimum lot size per dwelling unit. This project fits in the neighborhood in a number of ways and is one, not all of the criteria that are needed for the requested relief.

Robert 4 ½ Cushing Street- expresses support for petition.

38 Grove Street, Lynn MA- expresses support for the petition.

Marco Tranos 39 Buffham Street- expresses support for the petition.

Mr. Becker, petitioner- presents the petition. Mr. Becker states that he proposes that the back half of 46 and 48 School Street both be cut off to create a square lot at 2 School Street Court. 46 and 48 School Street are adjacent lots and are a unique situation in that combined they could create a conforming lot that would have the required street frontage. In addition these lots are unique in topography as there is a cliff in the back and steep terrain. The new lot would allow for a home to be built on the embankment, a flat lot in the front and a flat usable terrace backyard resulting in an embankment colonial. The current hardships are that it physically and financially difficult to maintain the rear yard because of the cliff and topography. Although the back yards of 46 and 48 School Street are fenced, they are an attractive nuisance with teenagers skiing in the back yard. The petitioner states that this creates a liability for him. There is also graffiti on the rocks because people look at the rear yard as a vacant lot and is an eyesore. Mr. Becker presents pictures of the rear yard and existing topography.

Stephanie Lynn 52 Beckett Street- daughter of petitioner Joyce Dupris of 46 School Street states that it has been difficult to maintain the rear yard. The side door to the home is used as the main entrance from the right-of-way on School Street rather than the front door on School Street Court. The upkeep on School Street Court has always been a problem. She expresses support for the proposed project.

Mr. Becker states that it is a physical hardship for Ms. Dupris to take care of the rear yard and is also a financial hardship to maintain the backyard much more so than it is for him to maintain his own backyard.

The Board closes the public hearing.

Ms. Curran opens discussion to the Board.

Mr. Watkins asks for clarification on the statement of hardship proposed and states that he is not seeing the hardship.

Ms. Curran states that the proposed statement of hardship is that the backyard is too large and overgrown.

Mr. Copelas states that of the three (3) hardship conditions the Board has accepted topography as a special condition and circumstance in the past. As for the third condition, the overwhelming sentiment of the public is that this proposal would be in the best interest of the neighborhood. There needs to be more information on how the literal enforcement of the Zoning Ordinance would provide a substantial hardship to the applicant.

Ms. Curran states that having a large lot is not a substantial hardship and in addition the proposal is to make a lot significantly more non-conforming. This may not be a good application of a Variance for the City in general and these lots in particular even though this looks like a nice project with public support.

Attorney Correnti clarifies that the conforming lot 48 School Street is proposed to be reduced in half rather than one third.

Mr. St. Pierre asks the Chair whether the Board will hold two (2) separate votes even though the two (2) petitions for both 46 and 48 School Street were presented together.

Ms. Curran states that there are two (2) separate petitions and need two (2) separate votes.

48 School Street

Motion and Vote: Mr. Copelas makes a motion to approve the petition seeking Variances requesting relief from Section 4.1.1 *Table of Dimensional Requirements* of the Salem Zoning Ordinance, to allow a reduction in minimum lot area and minimum lot size per dwelling unit, to create a rear lot when merged with 46 School Street subject to eight (8) standard conditions. The motion is seconded by Mr. Watkins. The vote was four (4) in favor (Jimmy Tsitsinos, Peter A. Copelas, Mike Duffy, Tom Watkins) and one (1) Rebecca Curran (Chair), opposed.

46 School Street

Motion and Vote: Mr. Watkins makes a motion to approve the petition seeking Variances requesting relief from Section 4.1.1 *Table of Dimensional Requirements* of the Salem Zoning Ordinance, to allow a reduction in minimum lot area, minimum lot size per dwelling unit, and minimum lot frontage required to create a rear lot subject to eight (8) standard conditions. Mr. Watkins states that the special conditions and circumstances especially affecting the land, building or structure generally not affecting other lands, buildings or structure in the same district include the lot area, steep slope and grade of the property. The literal enforcement of the provisions of the Ordinance would involve substantial hardship to the applicant. The hardship is that it is a physical and financial hardship to maintain the physical property for the petitioner. Desirable relief may be granted without substantial detriment to the public good, and without nullifying or substantially derogating from the intent of the district or the purpose of the ordinance, as the resulting lot will be similar in size and shape to the other lots in the district. The motion is seconded by Mr. Copelas. The vote was four (4) in favor (Jimmy Tsitsinos, Peter A. Copelas, Mike Duffy, Tom Watkins) and one (1) Rebecca Curran (Chair), opposed.

Project	A public hearing for a petition seeking Variances requesting relief from <i>Sec. 4.1.1 Table of Dimensional Requirements</i> from minimum front yard setback and maximum lot coverage to construct a 15,600 square foot building.
Applicant	SHETLAND PARK
Location	29 CONGRESS STREET(Map 34 Lot 448) (I Zoning District)

Zoning Board of Appeal alternate member Jim Hacker discloses for the record that his grandson is a current student at the Academy and will be transferring to another school next year. Therefore the outcome of this project will not benefit him and there is no conflict of interest. Mr. Hacker asks the petitioner whether they would like Mr. Hacker to recuse himself.

Attorney Quinn states that there is no problem with Mr. Hacker voting on the matter. There are many people in the city who have some relationship to the school. Attorney Quinn thanks the Board member for his disclosure.

Attorney Quinn presents the petition. Shetland Park is a huge facility with over 1.5 million square feet of industrial and commercial space. The land was originally developed as a linen mill and associated industry in the 1800-1900's and the facilities burned to the ground in the Salem Fire of 1914. The linen company built the current facilities soon after the Salem Fire. All of the buildings locations are exactly as they were rebuilt after the Salem Fire and were built covering more than fifty-percent (50%) of the lot coverage. Any new development on the site will always have to come before the Zoning Board of Appeal to ask for dimensional relief for the lot coverage.

The buildings are uniquely solid construction because they were built to withstand another fire and were built to serve the function of manufacturing facilities. The buildings are difficult and expensive to maintain and renovate because the walls are made of thick structural steel and concrete.

Salem Academy Charter School is a tenant that Shetland Park Trust has had successfully for approximately ten (10) years. It is a public charter school supported by the City of Salem and is free to its students and provides a free breakfast for students. The school serves many minority students with a growing and award winning program. Shetland Park Trust would like to keep the school in this location not only for income, but the school is an asset to the community, neighborhood and the City of Salem. The school occupies approximately 11,000 square feet of space and need more space to offer athletic and add to the art programs. A deal has been struck between the Salem Academy Charter School and Shetland Park Trust to extend the existing lease another fifteen (15) years at least if there is a possibility that Shetland Park can expand to accommodate the needs of the school.

The parking garage on Pingree Street that was built about ten (10) years ago holds at least 500 cars for all tenants. Industrial users work from 7am-4pm and the garage is empty next to the proposed athletic and arts center. The proposed structure is a single –structure with a height of twenty-one (21) feet with basketball courts, classrooms and music room facilities. The front of the building is oriented toward Pingree Street.

The size of the proposed building is 15,600 square feet with a proposed setback of 15 feet. There is really not another location on this property where a building of this size can be located. Before the parking lot was built, the Zoning Board of Appeal granted a variance to allow the parking garage to be built with a 15 foot setback. Currently, the applicant is requesting a variance to allow the minimum front yard setback to allow the proposed new building to be built in alignment with the existing parking garage. The lot has historically been covered by buildings that exceed the minimum lot coverage requirements of 45%. The current lot coverage is 50% and is anticipated to increase to 51.2% with the addition of the proposed athletic and arts center. Therefore the petitioner is also seeking a Variance from maximum lot coverage requirements.

Attorney Quinn states that the property is unique in that three sides of the property are bounded by ocean and the fourth side is bounded by Pingree Street, Lynch Street and Congress Street. The property is a contiguous parcel of 29-acres of industrial property on the waterfront. The existing buildings are expensive to maintain and renovate and cover a large amount of the lot that does not allow for the applicant to provide the space required for the tenant. The proposal will not substantially impact the existing neighborhood.

Shawn O'Neil, Executive Director of the Charter School- expresses support for the petition and presents information regarding the demographics and number of students that are served by the school. Mr. O'Neil also discusses programmatic programs and future needs of the school including the need for the space for additional enrollment and expanding visual arts and athletic programs. One of the key needs is that a new building needs to be located in close proximity to the existing school building to ensure safety and adequate supervision as students travel from building to building. There are no other sites that are as easily accessible and a rare opportunity to suit the current and future needs of the school.

Ms. Curran asks the applicant for an aerial view of the site and clarification questions to understand the proposed placement of the building and available parking.

Attorney Quinn presents a plan showing the location of the proposed building.

Ms. Curran asks the petitioner to confirm that the users of the space will be the school.

Attorney Quinn states that the space will be exclusively used by the school at least for the next fifteen (15) years.

Ms. Curran asks the petition to confirm that there is adequate parking available.

Attorney Quinn states that the parking garage will provide a significant number of parking spaces particularly for evening events. Offices and other industry at Shetland Park close at 4pm therefore there are hundreds of parking spaces available for evening games and performances. There will be a few additional employees for the facility, but it is anticipated that the parking garage will have adequate parking needed.

Mr. Duffy asks the application where the school is currently located.

Attorney Quinn and Mr. O'Neil specify where the school is currently located.

Ms. Curran asks the Board if there are any more questions.

Ms. Curran opens public comment and reads letters of support. Letters of support include North Shore CDC, Board Members of the Salem Academy Charter School, residents of 38 Dearborn Street.

William LeGault, City Councilor at Large- expresses support for the petition. Concerned about the affects the neighborhood and would like to make sure that the neighbors are fully aware of what is going on. Maybe there is a chance for the school to work with the neighborhood kids over the summer time and allow them to use the facility.

Attorney Quinn states that the applicant has reached out to the community and will continue to do so throughout the process.

Drew Betts, Athletic Director- expresses support for the petition. There are over 200 students that participate in sports without on campus facilities. The building will allow the school to grow with more opportunities for students.

Mark Meche, Volunteer at the school- part of the early drawings looking at the planning of the facility for a long time. The school has looked all over for about 5-years to find space to locate a building of this size. It is sized the way that it is mostly to house a gymnasium and three classrooms. The proposed building is more of an extension of existing programs rather than an expansion of the student body. During initial stages of the architectural feasibility study, the architecture team discovered that it was not physically possible to renovate the existing infrastructure let alone financing the possibility of a renovation. In response, the alternative was to create a new building and locate it on-site in the currently proposed location. The location aligning with the parking garage is an improvement to the neighborhood to create a better barrier of the edge of what is a nice consistent façade, to a parking lot, to an industrial zone. The proposed building will create a little more of a streetscape and be a better book end to the exiting features along Pingree Street.

Susan St. Pierre- Salem Academy Facilities Committee – in support of the petition.

Ms. Curran states that the specific Variances that the petitioner is requesting are from minimum front yard setback and maximum lot coverage to construct a 15,600 square foot building. This is a 29-acre industrial lot with 1.5 million square feet of commercial and industrial space. The petitioner proposes to have a 15 foot setback. Why can the proposed building not be setback to conform to the 30 feet setback requirements?

Attorney Quinn states that there are already commercial users that need the space behind the proposed building for traffic flow. If the proposed building conformed to the 30 foot setback requirements, then it would block the flow of traffic.

Ms. Curran opens discussion again to the Board.

Mr. Duffy states that the relief being requested, setback and lot coverage, is minimal as there is already a parking structure that received relief for the same distance off of Pingree Street. The proposed building would be right in line with the existing building. There is evidence to suggest that it would generate some potential benefit to the streetscape and visual impact of the buildings by having some consistency along the street edge. The increase of lot coverage is already over the allowable ratio, but this is a relatively minimal increase for what sounds to be a large benefit in the interest of the school and community members.

Mr. Watkins concurs with Mr. Duffy.

Ms. Curran asks whether the proposed structure is one-story.

Attorney Quinn confirms.

Motion and Vote: Mr. Duffy makes a motion to approve the petition seeking Variances requesting relief from Section 4.1.1 *Table of Dimensional Requirements* of the Salem Zoning Ordinance, to allow a reduction in minimum lot frontage and maximum lot coverage to construct a 15,600 square foot building, subject to eight (8) standard conditions. The motion is seconded by Mr. Watkins. The vote was five (5) in favor (Rebecca Curran (Chair), Jimmy Tsitsinos, Mike Duffy, Tom Watkins, James Hacker) and none (0) opposed.

APPROVAL OF MEETING MINUTES

April 15, 2015 meeting minutes were approved.

Motion and Vote: Mr. Duffy makes a motion to approve the minutes as corrected, seconded by Mr. Watkins. The vote was with four (4) (Rebecca Curran (Chair), Jimmy Tsitsinos, Mike Duffy, Tom Watkins) in favor and none (0) opposed.

OLD/NEW BUSINESS

None

ADJOURNMENT

Ms. Curran motioned for adjournment of the May 20, 2015 regular meeting of the Salem Board of Appeals at 9:00 pm.

Motion and Vote: Ms. Curran made a motion to adjourn the May 20, 2015 regular meeting of the Salem Board of Appeals, seconded by Mr. Watkins, and the vote is unanimous with four (4) in favor (Ms. Curran (Chair), Mr. Duffy, Mr. Watkins, 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://salem.com/Pages/SalemMA_ZoningAppealsMin/

Respectfully submitted,
Erin Schaeffer, Staff Planner