

**City of Salem Zoning Board of Appeals**  
**Meeting Minutes**  
February 14, 2024

A meeting of the Salem Zoning Board of Appeals (“Salem ZBA”) was held on Wednesday, February 14, 2024, at 6:30 pm via remote participation in accordance with Chapter 2 of the Act of 2023 and a Special Act extending remote participation meetings.

**Chair Nina Vyedin calls the meeting to order at 6:30 pm.**

Chair Vyedin explains how individuals can participate in the meeting remotely via Zoom, and that instructions to participate remotely can also be found on the Salem website. Ms. Vyedin also explains the rules regarding public comment.

**ROLL CALL**

Those present were: Nina Vyedin, Ellen Simpson, Paul Viccica, and Hannah Osthoff. Also in attendance were Daniel Laroe – Staff Planner, and Jonathan Pinto – Recording Clerk. Those absent were: Carly McClain, and Voula Orfanos.

**CONTINUANCES**

Location: **152-156 Derby Street (Map 35, Lot 348) (B1 Zoning District)**

Applicant: **Demetra Karlis (a/Kounsalieh)**

Project: A continuation of a public hearing for all persons interested in the petition of public hearing for all persons interested in the petition of DEMETRA KARLIS (A/KOUNSALIEH), TRUSTEE at 152-156 DERBY STREET (Map 35, Lot 348) (B1 Zoning District) for a Special Permit per Section 3.3.2 Nonconforming Uses to delete condition #8 from the Board of Appeals decision dated December 30, 2013. Petitioner proposes to change present nonconforming use as a first-floor restaurant with 2 dwelling units above subject to a condition to lease off-street parking to the same use with no requirement to lease off-street parking.

Documents and Exhibitions

- Application date-stamped December 23, 2023, and supporting documentation

Chair Vyedin introduces the petition and explains that a request to withdraw without prejudice was submitted.

Attorney Bill Quinn introduces himself on behalf of the petitioner and states that previously the Board there was a discussion whether the right relief was being sought, and the Board recommended the petitioner discuss the matter with the City Solicitor. Pursuant to such discussion, it was determined that a variance is needed, but only a special permit was applied for. Mr. Quinn explains that they are seeking to withdraw without prejudice, and that they are filing a new application for a variance with more information.

Chair Vyedin opens the floor to public comment but there is none.

**Motion and Vote:** Ms. Osthoff motions to approve the request to withdraw without prejudice the petition of public hearing for all persons interested in the petition of DEMETRA KARLIS (A/KOUNSALIEH), TRUSTEE at 152-156 DERBY STREET (Map 35, Lot 348) (B1 Zoning District) for a Special Permit per Section 3.3.2 Nonconforming Uses to delete condition #8 from the Board of Appeals decision dated December 30, 2013.

Mr. Viccica seconds the motion. **The vote is four (4) in favor (Nina Vyedin, Paul Viccica, Ellen Simpson, and Hannah Osthoff) and none (0) opposed. The motion passes.**

## REGULAR AGENDA

Location: **29 Linden Street (Map 33, Lot 362) (R2 Zoning District)**

Applicant: **Ed Burge**

Project: A public hearing for all persons interested in the petition of ED BURGE at 29 LINDEN STREET (Map 33, Lot 362) (R2 Zoning District) for a Special Permit per Section 3.3.5 Nonconforming Single- and Two-family Structures to construct a 14'x 13'-10" second-story addition with two landings and stairs to the current structure. Relief is for side yard setback, 10 feet is required, and 9 feet is sought. Petitioner has 37.3 % lot coverage and an increase to 39.8% lot coverage is sought.

### Documents and Exhibitions

- Application date-stamped December 23, 2023, and supporting documentation

Chair Vyedin introduces the petition.

Ed Burge introduces himself and discusses the proposal to construct a second story addition with two landings and stairs to current structure. Mr. Burge presents a plot plan and discusses the relief related to side yard setback and lot coverage. Mr. Burge explains that the project goes back 16 years, when his wife started planning for renovations. He further states she was diagnosed with cancer in 2008 and passed away in 2009, and the renovations have been on hold since. Mr. Burge indicates he is a carpenter who has worked in Salem for 32 years. He provides plot plans showing the proposed addition, along with elevations of both existing and proposed conditions. Mr. Burge notes there will be one bay window facing the backyard, and an entry door on the driveway side.

Chair Vyedin asks if the property is a single-family home. Mr. Burge states it is a two- family home, and that he lives on the second floor and rents out a one-bedroom apartment on the first floor.

Ms. Osthoff asks if the proposal will infill the area that the existing deck is taking up, and Mr. Burge confirms. Ms. Osthoff asks if the new stairs are the only element that will be outside the existing footprint, and Mr. Burge confirms.

Mr. Burge next presents photographs of existing conditions and discusses the stair location and proposal overall in more detail. Ms. Osthoff asks if Mr. Burge has discussed the project with the downstairs tenants, and he says he has.

Chair Vyedin asks how the driveway would be impacted, and Mr. Burge states it will not be.

Chair Vyedin opens the floor to public comment.

Ward 5 City Councilor Jeff Cohen of 12 Hancock Street introduces himself and voices support for the proposal.

Mr. Viccica asks Mr. Burge to go through the special permit criteria and he does, noting no impact to neighbors, traffic flow and parking, utilities, the environment, and drainage. He also notes a positive impact to the city tax base.

**Motion and Vote:** Ms. Osthoff motions to approve the petition of ED BURGE at 29 LINDEN STREET (Map 33, Lot 362) (R2 Zoning District) for a Special Permit per Section 3.3.5 Nonconforming Single- and Two-family Structures to construct a 14'x 13'-10" second-story addition with two landings and stairs to the current structure, seeking relief for side yard setback where 10 feet is required and 9 feet is sought, and an increase from 37.3 % lot coverage to 39.8% lot coverage, subject to the following standard conditions:

1. Petitioner shall comply with all city and state statutes, ordinances, codes, and regulations.
2. All construction shall be done as per the plans and dimensions submitted to and approved by the Building Commissioner.
3. All requirements of the Salem Fire Department relative to smoke and fire safety shall be strictly adhered to.
4. Petitioner shall obtain a building permit prior to beginning any construction.
5. Exterior finishes of the new construction shall be in harmony with the existing structure.
6. A Certificate of Occupancy is to be obtained.
7. A Certificate of Inspection is to be obtained.
8. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board.
9. Unless this Decision expressly provides otherwise, any zoning relief granted does not empower or authorize the Petitioner to demolish or reconstruct the structure(s) located on the subject property to an extent of more than fifty percent (50%) of its floor area or more than fifty percent (50%) of its replacement cost at the time of destruction. If the structure is demolished by any means to an extent of more than fifty percent (50%) of its replacement cost or more than fifty percent (50%) of its floor area at the time of destruction, it shall not be reconstructed except in conformity with the provisions of the Ordinance.
10. All construction shall be done per the plans and dimensions submitted to and approved by this Board. Any modification to the plans and dimensions must be approved by the Board of Appeals unless such changes are deemed a minor field change by the Building Commissioner in consultation with the Chair of the Board of Appeals.
11. Petitioner shall schedule Assessing Department inspections of the property, at least annually, to project completion and a final inspection upon project completion.

Mr. Viccica seconds the motion. **The vote is four (4) in favor (Nina Vyedín, Paul Viccica, Ellen Simpson, and Hannah Osthoff) and none (0) opposed. The motion passes.**

Location: **21 Chestnut Street (Map 25, Lot 444) (R2 Zoning District)**

Applicant: **Philip Gillespie**

Project: A public hearing for all persons interested in the petition of PHILLIP GILLESPIE at 21 CHESTNUT STREET (Map 25, Lot 444) (R2 Zoning District) for a Special Permit per Section 3.3.5 Nonconforming Single- and Two-Family Structures to construct an 18 ft x 51 ft. one-story addition to the residence. The residence is an existing non-conforming historic structure. The existing non-conforming one-story addition to be torn down is 37 feet long. The new addition will extend an additional 14 feet along the wall for a total of 51 feet. This petition received the Board of Appeals approval on June 7, 2021. The applicant is reapplying as the granted Special Permits have expired.

#### Documents and Exhibitions

- Application date-stamped January 10, 2024, and supporting documentation

Chair Vyedín introduces the petition, and notes that a motion to continue was submitted.

**Motion and Vote:** Ms. Osthoff motions to continue the petition of PHILLIP GILLESPIE at 21 CHESTNUT STREET (Map 25, Lot 444) (R2 Zoning District) for a Special Permit per Section 3.3.5 Nonconforming Single- and Two-Family Structures to construct an 18 ft x 51 ft. one-story addition to the residence., to the scheduled meeting of the Zoning Board of Appeals to April 10th, 2024

Ms. Simpson seconds the motion. **The vote is four (4) in favor (Nina Vyedín, Hannah Osthoff, Paul Viccica, and Ellen Simpson) and none (0) opposed. The motion passes.**

Location: **98 Lafayette Street (Map 34, Lot 413) (B5 Zoning District)**

Applicant: **North Shore Community Development Coalition**

Project: A public hearing for all persons interested in the petition of public hearing for all persons interested in the petition of NORTH SHORE COMMUNITY DEVELOPMENT COALITION at 98 LAFAYETTE STREET (Map 34, Lot 413) (B5 Zoning District) for a Variance per Section 3.2.4.3 Accessory Buildings and Structures to construct a 230 sq.ft accessory structure located at the rear of the property. 120 sq.ft is allowed.

#### Documents and Exhibitions

- Application date-stamped January 24, 2024, and supporting documentation

Chair Vyedín introduces the petition.

Mike Proscia and Noemi Jiminian, associate and project designer at Jones Architecture introduce themselves on behalf of the petitioner.

Mr. Proscia provides project background, explaining they were approached by the North Shore CDC in 2021. He presents a map of the location and property and describes it as the building with the pink facade across from Spitfire Tacos. Mr. Proscia submits that North Shore CDC would like to construct an accessory structure in the rear lot, calling it “Casa de Abuela” (Spanish for “Grandma’s House”), to be a recreation of a traditional grandmother’s house in the Dominican Republic. He describes it as being a smaller version of the PEM’s Yin Yu Tang house. Mr. Proscia explains his client surveyed homes in the Dominican Republic to research size, layout, etc., to take an authentic approach to recreating this in the back of the building. He contends the structure will be for educational purposes, where the North Shore CDC can run tours and have exhibits. Mr. Proscia states the area was previously a parking lot, then a ground mural. This project will have an active use of the rear courtyard. Based on the survey, traditional homes vary from 150 to 500 square feet. City zoning allows for accessory structures of 120 square feet. Mr. Proscia states that the proposal is for 230 square feet, and he presents a plot plan and notes that all other zoning requirements are met, including setbacks and height limitations. A variance is needed for the square footage. He presents an architectural site plan as well.

Ms. Jiminian presents photo examples of traditional grandmothers’ homes, and explains the structure will be made of wood, with reclaimed wood cladding on the exterior. The structure would have shuttered wooden windows, and aluminum roof, and be painted vibrant colors according to Ms. Jiminian. She notes the structure will be to grade so it should be accessible with minimal digging. The structure would include decorative items representing a grandmother’s house in the Dominican Republic.

Mr. Proscia states there will be no utilities other than electricity running to the structure. While there may be a representation of a kitchen, it will not be real or functioning. He indicates the structure will be built to code but designed for a 10-year life span or so, rather than a permanent structure. Mr. Proscia next discusses the statement of grounds, noting the special conditions of the parcel. Unlike most properties in the B5 zone, over 50 percent of the lot is open space and underutilized according to Mr. Proscia. He maintains the proposal would allow the North Shore CDC to use the space for programming and other purposes. He suggests this would complement the neighborhood character and would not harm the public good.

Chair Vyedin asks about access and whether people would go through the building to get to the structure. Mr. Proscia explains the existing building is vacant on the ground floor, as it was another project they were working on with the CDC, the Punto Urban Art Museum, but that it is not yet complete. He states there are two egresses from the street by way of alleys, and that there is potential for access through the building eventually. Chair Vyedin asks what is on the top floors of the building, and Mr. Proscia states it is residential. Chair Vyedin asks if a variance for parking might also be required.

Mr. Viccica asks who would oversee access to the structure and about hours of operation and access. He also asks if there will be organized tours or if people are expected to go down the alley to find it. Mr. Proscia states they have not yet discussed hours but assumes it will be a traditional 9 am to 5 pm operation, and that the director of the Punto Art Museum would oversee programming. Mr. Proscia

indicates the structure would work as a “found object” or installation that the public can find. He notes that with the lights and murals the public is already invited to go back and enjoy what is there. Mr. Viccica asks if it would be locked closed, and whether it would be like the immigrant museum in New York City. Mr. Viccica is concerned about it being accessed publicly at all hours simply because the alleys are open without gates. Mr. Viccica suggests there should be parameters around access, particularly because of the residents above. He states the application needs more specifics regarding access, hours of operation, and other details.

Mr. Proscia states that they were hesitant to install gates because of wanting to have safe egresses, but that they can flesh out the details. Mr. Viccica asks if the space can currently be accessed anytime by anyone. Mr. Proscia states it can. Mr. Viccica asks that because they are seeking a formal vote for a variance for something new, he would appreciate it if the petitioner proposed how and when the structure will be used and how it will be accessed. Mr. Viccica states if there is free access to the whole city something could happen. He indicates he has no issue with the size and setbacks. Mr. Proscia states they can continue and develop those details if necessary.

Chair Vyedin states because the proposal is so unique it would be helpful to be as thorough and detailed as possible. She also suggests checking to see if a parking variance is required so there would not be another need to return.

Ms. Simpson states the proposal looks great and asks if the windows will have glass. Mr. Proscia explains they might just be wooden shutters without glass, as the traditional dwellings do not have glass windows. Mr. Viccica suggests this is a more reason to protect the building during off-use hours and further suggests that with a structure at the back of the building, no one can see what is going on there until something horrible happens. Ms. Simpson states that glass windows and lockable doors along with wooden shutters may be more secure. Mr. Proscia indicates he will discuss the matter with his clients.

Ms. Simpson next asks why the proposal is for a temporary, rather than permanent structure. Mr. Proscia explains the proposal is a way to expand the North Shore CDC’s presence and gain visibility, and that like a museum exhibition it can change as wanted.

Ms. Osthoff states it is exciting and that she would like to see it going forward. She states her only concern is that after hours visitors may be disruptive to the upstairs residences.

Chair Vyedin asks where trash is stored currently, and Mr. Proscia shows her where they go currently and where they would with the structure. He says they will obtain further details.

Chair Vyedin opens the floor to public comment.

Darguin Fortuna of 50 Grove Street introduces himself as a local architect. Mr. Fortuna states this proposal got his attention because he is Dominican. He states he does not like that the structure is so hidden and constrained. He wishes he had been invited to design it, suggesting he could do it more meaningfully with his heritage. Mr. Fortuna also expresses concern regarding egress through the two alleys, as well as size.

Ward 5 City Councilor Jeff Cohen of 12 Hancock Street introduces himself. Councilor Cohen suggests that if the intent is authenticity, the windows should not have glass. Mr. Cohen contends this should

be fine if the building is properly secured. He also disagrees with Mr. Fortuna regarding the location, describing it as an active and vibrant space where the North Shore CDC has open houses with picnic tables and murals. Councilor Cohen also states that the structure would be behind the building because that is where the available space happens to be. He voices support for the proposal, and states the urban museum does a great job educating about culture.

Mr. Viccica summarizes what the Board is requesting for a following meeting, including information regarding the operation of the building, security, trash pickup, and more information of the proposed building. Ms. Osthoff suggests more site photos to be helpful as well.

**Motion and Vote:** Mr. Viccica motions to continue the petition of public hearing for all persons interested in the petition of NORTH SHORE COMMUNITY DEVELOPMENT COALITION at 98 LAFAYETTE STREET (Map 34, Lot 413) (B5 Zoning District) for a Variance per Section 3.2.4.3 Accessory Buildings and Structures to construct a 230 square feet accessory structure located at the rear of the property. 120 square feet is allowed, to the next regularly scheduled meeting of the Zoning Board of Appeals on March 20, 2024.

Ms. Simpson seconds the motion. **The vote is four (4) in favor (Nina Vyedin, Ellen Simpson, Paul Viccica, and Hannah Osthoff) and none (0) opposed. The motion passes.**

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Location:        **28 Fairmount Street (Map 25, Lot 444) (R2 Zoning District)**

Applicant:       **Fairmount Street, LLC**

Project:         A public hearing for all persons interested in the petition of 28 FAIRMOUNT STREET, LLC at 28 FAIRMOUNT STREET (Map 27, Lot 164) (R2 Zoning District) for a Special Permit per Section 3.3.5 Non-conforming Single- and Two-Family Structures to request Board of Appeals approval for work of a previous owner which added two dormers to the 3rd floor and to alter the rear exterior stairs/deck.

#### Documents and Exhibitions

- Application date-stamped January 25, 2024, and supporting documentation

Chair Vyedin introduces the petition.

Attorney Bill Quinn introduces himself on behalf of the petitioners, who are contractors that recently purchased the property. Mr. Quinn states that the previous owner received a demolition permit and proceeded to do much more work, including installing dormers and a rear stair tower, without obtaining permits. The city issued a letter in 2023 to cease work and obtain a permit and approval from the ZBA to enlarge the two-family structure. Mr. Quinn suggests they were attempting to construct a three-family, but that his current client is content with a two-family. He contends there are no new units or expansion of use with this proposal, and parking will remain as is. Mr. Quinn asserts his clients have not done any work without permits and decided to come before the Board. He indicates some neighbors expressed concerns, although he did not see any written comments submitted. Mr. Quinn states his clients have attempted to talk to neighbors to take steps to address any concerns including the size and the height of the stair tower in back. He presents photographs of

the property and stair tower, which serves all three floors. Mr. Quinn states that since his clients do not need the stair tower to access the third floor, the intent is to redesign it as a two-story egress. According to Mr. Quinn other concerns have related to density and neighbors fearing the building would morph into a multi-family without obtaining proper permits. Mr. Quinn states his clients are trying to be proactive and compliant and are before the Board asking for permits to renovate a two-family structure.

Darguin Fortuna, project architect, introduces himself and presents a plot plan and site plan. Mr. Fortuna also presents existing floor plans, noting how the previous owner attempted to create three units. He next presents existing elevations, followed by proposed floor plans and renderings of the new proposed exterior.

Chair Vyedin notes there is a photo of the property before the non-permitted renovations were done in the tax records. The dormers had been narrower and were expanded to be full length.

Mr. Viccica asks why they are not requesting a variance for maximum height, as this is three stories rather than 2.5. Mr. Quinn contends special permits can allow it if they are not expanding. Mr. Viccica notes there is no special permit request regarding height, and Mr. Quinn states there is an attached density table to the plans as filed and that the height is not changing. Mr. Viccica suggests that because work had been done previously without approval, it would be more reasonable to request relief based on what is not conforming to the original state, and a special permit for things that are now being changed. He states the chart presented does not show that a 2.5 story was illegally turned into a three-story building, and that the proposal assumes the petitioner can inherit and keep the changes made without permits. Mr. Viccica suggests the plans need to better reflect the accuracy of what exists and what is being applied for. Chair Vyedin would like to see the condition of the property before any modifications.

Ms. Simpson suggests updating the information to have three columns reflecting the property conditions prior to 2023, those existing, and those proposed. Chair Vyedin agrees.

Mr. Quinn states that photos of the street show that most homes have dormers and suggests the building fits with the streetscape.

Chair Vyedin opens the floor to public comment.

Andrew Grilz of 21 Nursery Street introduces himself and states he is an abutter. Mr. Grilz provides some property history, noting that in the 1970's an in-law suite was built for the previous owner's brother with a small kitchenette, bathroom, and wood-burning stove. He states he is unsure what approvals were obtained at the time. Mr. Grilz indicates he likes Mr. Fortuna's plans, and that he has no issue with the dormer and three stories. He suggests the property looks better than it has in previous years, and that he is enthusiastic to have neighbors and a nicer property next door again.

Dave Titus of 53 Appleton Street introduces himself as an abutter in the rear. Mr. Titus states that every day in his backyard he sees the large staircase tower, and that he appreciates that it will be reduced. He states he has no issue with the dormers, but that he hopes there are no issues with respect to drainage.



**Motion and Vote:** Ms. Simpson motions to continue the petition of 28 FAIRMOUNT STREET, LLC at 28 FAIRMOUNT STREET (Map 27, Lot 164) (R2 Zoning District) for a Special Permit per Section 3.3.5 Non-conforming Single- and Two-Family Structures to request Board of Appeals approval for work of a previous owner which added two dormers to the 3rd floor and to alter the rear exterior stairs/deck, to the next regularly scheduled meeting of the Zoning Board of Appeals on March 20th, 2024.

Ms. Osthoff seconds the motion. **The vote is four (4) in favor (Nina Vyedín, Hannah Osthoff, Ellen Simpson, and Paul Viccica) and none (0) opposed. The motion passes.**

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## MEETING MINUTES

### January 17, 2023

Chair Vyedín states she has not reviewed the minutes, but if others are ready, they can vote.

Ms. Osthoff found one small error on page 3 regarding the petition for 54 Forrester Street. In the third paragraph, “floor resistance” should be changed to “flood resistance.”

**Motion and Vote:** Ms. Osthoff motions to approve the minutes from the January 17, 2023, meeting of the Zoning Board of Appeals, as amended. Mr. Viccica seconds the motion. **The vote is four (4) in favor, and none (0) opposed. The motion passes**

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## OLD/NEW BUSINESS

### June ZBA Meeting

The Board discusses a potential change for the date of the June meeting and decided to discuss it further and vote on a new date at the next meeting.

**Next Meeting**  
March 20, 2024

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## ADJOURNMENT

**Motion and Vote:** Mr. Viccica motions to adjourn the meeting. Ms. Osthoff seconds the motion. **The vote is all in favor. The motion passes.**

**The meeting ends at 8:19 PM on February 14, 2024.**

*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:*  
<https://www.salem.com/zoning-board-appeals/pages/zoning-board-appeals-decisions-2024>

City of Salem Zoning Board of Appeals  
February 14, 2024 DRAFT Meeting Minutes

Respectfully  
Daniel Laroe, Staff Planner

submitted,