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2016 NOV 30 P 1:00

FILE #
CITY CLERK, SALEM, MASS.

November 30, 2016 Decision

City of Salem Board of Appeals

Petition of JASON & CHRISTINA ROBBINS, requesting Variances from *Sec. 5.1.5 Parking Design* and *Sec. 5.1.8 Table of Required Parking Spaces* of the Salem Zoning Ordinance, to construct a 24' wide curbcut and associated parking area within five (5) feet of the street line at the property of 77 PROCTOR STREET (Map 25, Lot 5) (R-2 Zoning District).

A public hearing on the above Petition was opened on October 19, 2016 pursuant to M.G.L. Ch. 40A, § 11 and continued to the November 16, 2016 meeting. The hearing was closed on that date with the following Salem Board of Appeals members present: Rebecca Curran (Chair) Peter A. Copelas, Tom Watkins, James Hacker (alternate), and Paul Viccica (alternate).

The Petitioner is requesting Variances from Sec 5.1.5 Parking Design and Sec. 5.1.8 Table of Required Parking Spaces of the Salem Zoning Ordinance, to allow the construction of a 24' wide curb cut and associated parking area within five (5) feet of the street line.

Statements of fact:

1. In the petition date-stamped September 12, 2016, the Petitioner requested Variances from Sec 5.1.5 Parking Design to allow the construction of a 24' wide curbcut and Sec. 5.1.8 Table of Required Parking Spaces of the Salem Zoning Ordinance, to construct an associated parking area within five (5) feet of the street line.
2. Jason and Christina Robbins presented the petition.
3. The property is located in a Residential Two- Family (R-2) zoning district.
4. The petitioner is proposing to remove an 18' x 24' wide section of the landscaped front yard and existing stairway to construct a parking area, associated retaining walls, and curbcut to create parking for at least two (2) cars.
5. At the October 19, 2016 meeting, the Board requested that the applicant meet the dimensional requirement of a curbcut for a residence as the Board found that there was no substantial hardship for the requested 24' feet.
6. At the October 19, 2016 meeting, the Board request a revised plan with a twenty (20') wide curbcut, a revised statement of hardship for the Variance request, and additional information on the distance between the proposed curbcut and existing fire hydrant.
7. At the November 16, 2016 meeting, the petitioner provided additional supporting documentation requested and presented an amended plan with a twenty (20') foot wide curb cut. The petitioner rescinded the Variance request for a twenty-four (24') foot wide curb cut.
8. The Board found that due to the existing location of the home, that there were no alternatives to the parking area within five (5) feet of the street line.
9. The requested relief, if granted, would allow the petitioner to construct a 24' wide curb cut and associated parking area within five (5) feet of the street line.
10. At the public hearing, no members of the public spoke in favor or in opposition to the petition.

11. The Salem Board of Appeals, after careful consideration of the evidence presented at the public hearing, and after thorough review of the petition, including the application narrative, makes the following **findings**:

Findings for Variance:

- 1) Special conditions and circumstances that especially affect the land, building, or structure involved, generally not affecting other lands, buildings, and structures in the same district. The existing house is located within the front yard setback and there are no alternative options.
- 2) Literal enforcement of the provisions of the Ordinance would involve substantial hardship to the applicant as the existing structure of the house cannot be easily moved to allow a parking area to be constructed beyond five (5) feet of the street line.
- 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.

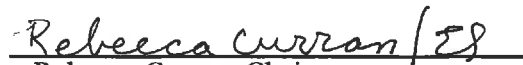
On the basis of the above statements of facts and findings, the Salem Board of Appeals five (5) voted (Rebecca Curran, Peter A. Copelas, Tom Watkins, James Hacker (alternate), Paul Viccica (alternate) in favor and none opposed, to approve the requested Variance to allow the petitioner to construct a parking area within five (5) feet of the street line subject to the following **terms, conditions and safeguards**:

Standard:

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.
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 Inspection is to be obtained.
7. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to the Planning Board.

Special Condition:

1. The petitioner shall apply to the City of Salem Engineering Department for a curb cut permit.


Rebecca Curran, Chair
Board of Appeals

A COPY OF THIS DECISION HAS BEEN FILED WITH THE PLANNING BOARD AND THE CITY CLERK

Appeal from this decision, if any, shall be made pursuant to Section 17 of the Massachusetts General Laws Chapter 40A, and shall be filed within 20 days of filing of this decision in the office of the City Clerk. Pursuant to the Massachusetts General Laws Chapter 40A, Section 11, the Variance or Special Permit granted herein shall not take effect until a copy of the decision bearing the certificate of the City Clerk has been filed with the Essex South Registry of Deeds.