



KIMBERLEY DRISCOLL
MAYOR

CITY OF SALEM, MASSACHUSETTS

BOARD OF APPEALS

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2017 MAY 31 PM 1:35
CITY CLERK
SALEM, MASS

May 31, 2017

Decision

City of Salem Board of Appeals

A public hearing for all persons interested in the petition of HENLEY SALEM, LLC seeking a Variance from *Sec. 4.1.1 Table of Dimensional Requirements* of the Salem Zoning Ordinance, to allow less than the required 30ft front yard depth for a new Valvoline Instant Oil Change facility at the property located at 10 PARADISE RD (Map 20 Lot 4)(B-2 Zoning District and ECOD).

A public hearing on the above Petition was opened on May 17, 2017 pursuant to M.G.L Ch. 40A, § 11 and closed on that date with the following Salem Board of Appeals members present: Rebecca Curran (Chair), Tom Watkins, Mike Duffy, Jimmy Tsitsinos, and Paul Viccica (alternate).

The petitioner is seeking a Variance from *Sec. 4.1.1 Table of Dimensional Requirements* of the Salem Zoning Ordinance, to allow less than the required 30ft front yard depth.

Statements of fact:

1. Ed Pesce of Pesce Engineering & Associates, Inc., presents the petition for Henley Enterprises, Inc.
2. In the petition date-stamped April 25, 2017, the petitioner requested a Variance from *Sec. 4.1.1 Table of Dimensional Requirements* of the Salem Zoning Ordinance, to allow less than the required 30ft front yard depth
3. The property is located in a B-2 Zoning District and Entrance Corridor Overlay District (ECOD).
4. The property is currently a vacant gas station on the corner of Vinnin Street and Paradise Road. The lot is a unique shape and the soils are contaminated. The site has a state controlled activity use limitation (AUL). Only certain uses of the property can exist on this property due to this environmental condition.
5. The petitioner is proposing to demolish and remove the existing Global Gas Station and to construct a new, 1,995 square foot, Valvoline Instant Oil Change Facility. The facility will have three (3) bays and seven (7) parking spaces for employees as required by the Zoning Ordinance.
6. The petitioner is proposing front yard depth of fifteen (15') feet where the requirement is thirty 30' feet.
7. The unique lot shape, small lot size and corner location severely limits the placement of a minimally sized building that complies with the dimensional requirements for the B-2 Zoning District. Further, the MA DEP Activity & Use Limitation on the property limits the allowable uses at this property and the methods of construction.

8. The literal enforcement of the zoning ordinance would cause a hardship that would prevent the proposed redevelopment of this site as the three (3) car bays and associated storage are necessary for the operation of this business.
9. The proposed facility is compatible with the neighboring business uses and will improve the amount of landscaping and greenspace.
10. Further the proposal will reduce the total impervious surface and improve traffic flow. The petitioner is proposing to close the existing curb cut closest to the intersection of Vinnin Street and Paradise Road and to keep the existing 24' wide curb cut on Paradise Road and a 20' wide curbcut on Vinnin Street.
11. At the public hearing the petitioner presented a petition to the Board, one (1) member of the public spoke in favor of, and none (0) opposed the petition.

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 and plans, and the Petitioner's presentation and public testimony, makes the following **findings** that the proposed project meets the provisions of the City of Salem Zoning Ordinance:

Findings for Variance:

1. There are 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.
2. The literal enforcement of the provisions of the Ordinance would involve substantial hardship to the applicant.
3. Desirable relief may be granted without substantial detriment to the public good, and without mollifying 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 voted five (5) in favor (Rebecca Curran (Chair), Tom Watkins, Mike Duffy, Jimmy Tsitsinos, and Paul Viccica (alternate)) and none (0) opposed, to grant a Variance from *Sec. 4.1.1 Table of Dimensional Requirements* of the Salem Zoning Ordinance, to allow less than the required 30ft front yard depth for a new Valvoline Instant Oil Change facility, subject to the following **terms, conditions and safeguards**:

Standard Conditions:

1. Petitioner shall comply with all city and state statues, 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 finished 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.

City of Salem Board of Appeals

May 31, 2017

Project: 10 Paradise Rd.

Page 3 of 3

Special Conditions:

1. Proposed signage will require a sign permit application and sign permit approval by the Department of Planning and Community Development prior to the issuance of a building permit.
2. The petitioner shall down light the exterior of the building rather than internally illuminated signage.
3. The petitioner shall remove the existing Global gas station lighting at the Paradise Road intersection.

Rebecca Curran/ES

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.