



KIMBERLEY DRISCOLL  
MAYOR

# CITY OF SALEM, MASSACHUSETTS

## BOARD OF APPEALS

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2017 MAY 3 AM 11:42  
CITY CLERK  
SALEM, MASS

May 3, 2017

### Decision

### City of Salem Board of Appeals

Petition of 3 MALONE DRIVE LLC, requesting a Variance per Sec. 4.1.1 *Table of Dimensional Requirements* to allow the construction of a 6' x 28' front porch at 11 NURSE WAY (Map 9 Lot 259)(R-1 Zoning District)

A public hearing on the above Petition was opened on April 19, 2017 pursuant to M.G.L Ch. 40A, § 11. The hearing was closed on that date with the following Salem Board of Appeals members present: Peter A. Copelas (Vice-Chair), Jimmy Tsitsinos, Mike Duffy, Tom Watkins and Paul Viccica (alternate).

The petitioner is requesting a Variance per Sec. 4.1.1 *Table of Dimensional Requirements* to allow the construction of a 6' x 28' front porch.

#### **Statements of fact:**

1. In the petition date-stamped March 29, 2017, the Petitioner requested a Variance per Sec. 4.1.1 *Table of Dimensional Requirements* to allow the construction of a 6' x 28' front porch.
2. Ryan Herrick and Dominic Pezzulo, managers of 3 Malone LLC, present the petition.
3. The property is located in an R-1 Zoning District.
4. The petitioner is proposing to construct a 6' x 29' front porch at the property. The porch is currently constructed and it was confirmed by Griffin Engineering that the positioning of the front porch encroaches on the front yard setback requirement by one (1') foot. The required front yard setback is fifteen (15') feet.
5. Griffin Engineering plans called for a five (5') foot setback to meet the required setbacks, but the contracting company built a six (6') wide by accident.
6. To comply with the front yard setback requirements, the petitioner would have to remove the entire structure including footings, roofing, decking and newly constructed stone wall and reconstruct all of these features again.
7. The property is located at the end of a cul-de-sac. Therefore the measurements to determine front yard setback are from the closest part of the circumference of the cul-de-sac.
8. The petitioners brought this issue to the attention of the City building inspector.
9. The requested relief, if granted, would allow the petitioner to construct a 6' x 28' front porch.
10. At the public hearing, no (0) members of the public spoke in opposition to the petition or in favor of 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, makes the following **findings**:

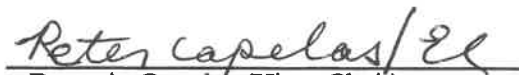
**Findings for Variance:**

- 1) There are special conditions and circumstances that especially affect the land, building, or structure involve, generally not affecting other lands, buildings, and structures in the same district as the property sits on a cul-de-sac.
- 2) 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 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 voted five (5) in favor (Peter A. Copelas (Vice-Chair), Jimmy Tsitsinos, Mike Duffy, Tom Watkins and Paul Viccica (alternate)) and none (0) opposed, to approve the special permit to expand the non-conforming structure 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 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 Inspection is to be obtained.
7. A Certificate of Occupancy 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.

  
Peter A. Copelas (Vice- 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.*