



KIMBERLEY DRISCOLL
MAYOR

CITY OF SALEM, MASSACHUSETTS BOARD OF APPEALS

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CITY CLERK
SALEM, MASS

November 29, 2017

Decision

City of Salem Board of Appeals

Petition of MICHAEL and ANGELA DIRUZZA seeking a variance for relief from the provisions of Sec. 5.1.5 (c) Parking Design, of the Salem Zoning Ordinance, to exceed the maximum allowable curbcut width at the property of 13 GREENLAWN AVE (Map 8, Lot 113) (R-1 Zoning District).

A public hearing on the above Petition was opened on September 20, 2017 pursuant to M.G.L. Ch. 40A, § 11 and continued to the regularly scheduled meetings of October 18, 2017 and November 15, 2017. The hearing was closed on that date with the following Salem Board of Appeals members present: Rebecca Curran (Chair), Peter A. Copelas (Vice-Chair), Mike Duffy, Tom Watkins and Paul Viccica.

The Petitioner seeks a variance for relief from the provisions of Sec. 5.1.5 (c) Parking Design, of the Salem Zoning Ordinance, to exceed the maximum allowable curbcut width.

Statements of fact:

1. In the petition date-stamped August 24, 2017, the Petitioner requested a variance per Sec. 5.1.5 *Parking Design*, of the Salem Zoning Ordinance, to exceed the maximum allowable curbcut width.
2. The property is located in an R-1 Zoning District and the maximum allowable curbcut width is twenty (20') feet.
3. The petitioner currently has an existing twenty (20') foot curbcut and is proposing to extend it by another twelve feet (12') to have a thirty-two (32') foot wide curbcut.
4. The petitioner is requesting an expansion of the existing curbcut to accommodate four (4) vehicles without the need to shuffle cars on the existing property to provide access to on-site parking.
5. The petitioner has a one (1) car garage and associated driveway that provides parking for three (3) cars. The petitioner currently uses available on-street parking for the fourth car.
6. The petitioner is proposing to expand the existing curbcut to accommodate three (3) cars side-by-side in the front yard and one car in the existing garage.
7. The petitioner stated that added cars parked on the street can be in the way of delivery trucks and emergency vehicles if there are cars parked on both sides of the street. Additional parking is also needed during a snow emergency.
8. At the September 20, 2017 meeting, the petitioner stated that the proposed curbcut extension is now thirty (30) feet and the petitioner proposes to remove an eight (8) foot section of curb and sidewalk.
9. The proposal would eliminate an on-street parking space, remove approximately eight (8) feet of curb and sidewalk. An existing street tree may also be impacted by the proposal.
10. At the September 20, 2017 meeting, the Board found that the proposal does not meet any of the three (3) standard criteria for a Variance. In particular, the proposal to eliminate an on-street parking space

for the private benefit of the applicant for convenience was not a hardship as defined by M.G.L. Chapter 40A.

11. The Board requested that the petitioner explore the possibility for alternative parking arrangements on the property to allow the petitioner to add a parking area to the left of the existing driveway. From the plot plan provided as part of the application, it appeared that there is adequate space for the petitioner to provide parking for the fourth vehicle without the need for a wider curbcut.
12. At the September 20, 2017 meeting, the petitioner requested to continue to the next regularly scheduled meeting to provide the Board with additional plans to demonstrate the possibility of alternative on-site parking arrangements.
13. In a letter dated October 15, 2017, the petitioner requested to withdraw the application without prejudice.
14. On October 18, 2017, the petitioner attended the regularly scheduled public hearing and retracted the request to withdraw the application without prejudice and requested a continuation to the next regularly scheduled meeting on November 15, 2017.
15. At the November 15, 2017 meeting, the petitioner stated that the hardship is that the driveway is shallow and it will be difficult to maneuver a car on the property without an expanded curbcut.
16. The petitioner stated that there is space for there to be a parking area to the left of the existing driveway, but it is more difficult to maneuver a car in and out of the property.
17. The requested relief, if granted, would allow the petitioner to exceed the maximum allowable curbcut width.
18. At the public hearing, seven (7) members of the public spoke in favor of the petition and no members spoke in opposition to 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**:

1. There are no special conditions or circumstances that especially affect the land, building, or structure involved, generally not affecting other lands, buildings or structures involved.
2. Literal enforcement of the provisions of the Ordinance would not involve substantial hardship to the applicant.
3. Desirable relief may not 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.

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On the basis of the above statements of facts and findings, the Salem Board of Appeals voted none (0) in favor and five (5) opposed (Rebecca Curran (Chair), Peter A. Copelas (Vice-Chair), Mike Duffy, Tom Watkins and Paul Viccica), to allow the petitioner to exceed the maximum curbcut width.

THE PETITION IS DENIED.


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.