



KIMBERLEY DRISCOLL
MAYOR

CITY OF SALEM, MASSACHUSETTS BOARD OF APPEALS

120 WASHINGTON STREET ♦ SALEM, MASSACHUSETTS 01970
TELE: 978-745-9595 ♦ FAX: 978-740-9846

NOV 29 PM 12:46
CITY CLERK
SALEM, MASS

November 29, 2017

Decision

City of Salem Board of Appeals

Petition of JENNIFER C. CRONIN, seeking a Variance per Sec. 4.1.1 *Table of Dimensional Requirements* of the Salem Zoning Ordinance, to allow an above ground swimming pool to be located within the front yard setback at the property of 3 BRADFORD STREET (Map 17 Lot 28)(B-1 Business Neighborhood)

A public hearing on the above Petition was opened on November 15, 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), Peter A. Copelas, Mike Duffy, Tom Watkins, Paul Viccica.

The petitioner is seeking a Variance for relief from the provisions of Sec. 4.1.1 *Table of Dimensional Requirements* of the Salem Zoning Ordinance, to allow an above ground swimming pool to be located within the front yard setback.

Statements of fact:

1. In the petition date-stamped October 24, 2017, the Petitioner requested a Variance for relief from the provisions of Sec. 4.1.1 *Table of Dimensional Requirements* of the Salem Zoning Ordinance, to allow an above ground swimming pool to be located within the front yard setback.
2. No one appeared before the Zoning Board of Appeals to present the petition. The Board discussed the option to continue the public hearing to the next regularly scheduled meeting or open the public hearing.
3. At the November 15, 2017 meeting, the Board decided to delay the hearing to be heard further into the evening in the case the petitioner may have been running late. By the end of the meeting, no one appeared before the Board to present this petition. The Board decided to open the public hearing to review the case as presented in the petition form and associated materials.
4. The petitioner has constructed an above ground swimming pool within the front yard setback.
5. The Board Chair read the petitioner's application into the record.
6. The application states that the petitioner had a 15' x 26' above ground swimming pool constructed on a plot of land to the left of the existing garage and was not aware of the frontyard setback requirement.
7. On September 6, 2017 the Building Department issued a violation notice to the petitioner at 3 Bradford Street, in response to a public complaint received regarding an above ground swimming pool that was constructed within the front and sideyard setbacks.

8. As described in the Salem Zoning Ordinance, pools are allowed in only side or rear yards if located at least six (6) feet from the side and rear lot lines. The front yard setback in a B-1 Zoning District is fifteen (15') feet.
9. A plot plan dated October 23, 2017, demonstrates that the newly installed pool is within four (4') feet +/- from the front yard setback and five (5') feet +/- from the side yard setbacks.
10. The plot plan also shows that the petitioner has a large enough lot that the pool could be located within the rear yard between the existing house and garage, and can reasonably meet the dimensional requirements of the zoning ordinance. There is evidence in the narrative that the previous location of the pool was located in the rear yard.
11. The requested relief, if granted, would allow the Petitioner to have an above ground swimming pool within the front yard setback.
12. At the public hearing four (4) members of the public spoke in opposition to the proposal and none (0) spoke 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, and public testimony, makes the following **findings** that the proposed project does not meet the provisions of the City of Salem Zoning Ordinance:

Findings for Variance:

1. There are no 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. 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.

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, Mike Duffy, Tom Watkins, Paul Viccica), to grant a Variance per Sec. 4.1.1 *Table of Dimensional Requirements* of the Salem Zoning Ordinance, to allow an above ground swimming pool to be located within the front yard setback.

THE PETITION IS DENIED.

Rebecca Curran/98
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.