



KIMBERLEY DRISCOLL
MAYOR

CITY OF SALEM, MASSACHUSETTS BOARD OF APPEALS

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

CITY CLERK
SALEM, MASS

November 29, 2017

Decision

City of Salem Board of Appeals

Petition of ELLEN TALKOWSKY-DUBINSKY, seeking a variance from the provisions of Sec. 5.1.5 (c) Parking Design of the Salem Zoning Ordinance, to exceed the maximum allowable curbcut width at 3 DEVEREAUX AVE. (Map 16 Lot 382) (R-2 Zoning District).

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, Jim Hacker.

The petitioner is 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.

Statements of fact:

1. In the petition date-stamped October 20, 2017, the Petitioner requested a Variance from the provisions of Sec. 5.1.5 (c) Parking Design of the Salem Zoning Ordinance, to exceed the maximum allowable curbcut width.
2. The property is located in an R-2 Zoning District and the maximum allowable curbcut width is twenty (20') feet.
3. The petitioner currently has an existing curbcut of seventeen (17') feet +/- and a single car garage bay under the house with impaired access. The existing driveway is about twelve (12') feet in length and approximately nine (9) feet wide. The existing driveway provides access to a single car garage, but cannot accommodate the length of a car.
4. The petitioner is proposing a twenty-nine (29') foot +/- curbcut to accommodate an on-site parking area.
5. Due to the configuration of the home on the property, the location of a large tree on the property, and an existing retaining wall, the petitioner is requesting an expanded curbcut to create an on-site parking area.
6. The petitioner states that there are no other parking area alternatives on the property.
7. The proposed curbcut will not remove any on-street parking spaces as there are no parking spaces close to the corner of the street.
8. The requested relief, if granted, would allow the petitioner to exceed the maximum allowable curbcut width.

9. At the public hearing one (1) member of the public spoke in favor and none (0) 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, 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. There is an existing driveway that is unusable that serves as access rather than provide on-site parking. There is an existing associated curbcut and the petitioner is proposing to create a functional driveway to provide on-site parking. Due to the location of the house and existing retaining wall, there is no opportunity to expand the driveway to create more depth for a functional parking area or ability to create a smaller curbcut without negative impacts to the existing structures and features of the property.
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. There is no detriment to the neighborhood because the proposal is not taking away a public parking space due to the proximity of the existing street corner.

On the basis of the above statements of facts and findings, the Salem Board of Appeals voted five (5) in favor (Rebecca Curran (Chair), Peter A. Copelas, Mike Duffy, Tom Watkins, Jim Hacker), and none (0) opposed to grant a Variance per Sec. 5.1.5 (c) Parking Design of the Salem Zoning Ordinance, to exceed the maximum allowable curbcut width subject to the following standard conditions:

1. The petitioner shall comply with all city and state statutes, ordinances, codes and regulations.
2. Petitioner shall obtain a building permit prior to beginning any construction.
3. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to the Planning Board.


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.