



KIMBERLEY DRISCOLL
MAYOR

CITY OF SALEM, MASSACHUSETTS BOARD OF APPEAL

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CITY CLERK
SALEM, MASS

March 16, 2018

Decision

City of Salem Board of Appeals

Petition of JACQUELINES GOURMET COOKIES requesting Variances per *Sec. 3.2.4 Accessory Buildings and Structures*, of the Salem Zoning Ordinance, to allow the petitioner to construct three (3) silos within the minimum allowed distance from the building and exceed the maximum height requirement at 96 SWAMPSCOTT ROAD (Map 7 Lot 70)(BPD Zoning District).

A public hearing on the above Petition was opened on February 28, 2018 pursuant to M.G.L Ch. 40A, § 11 and was closed on that date with the following Salem Board of Appeals members present: Rebecca Curran (Chair), Peter A. Copelas, Jimmy Tsitsinos, Mike Duffy and Jim Hacker.

The petitioner is seeking Variances per *Sec. 3.2.4 Accessory Buildings and Structures*, of the Salem Zoning Ordinance, to allow the petitioner to construct up to three (3) silos within the minimum allowed distance from the building and exceed the maximum height requirement.

Statements of fact:

1. In the petition date-stamped January 30, 2018, the Petitioner requested Variances per *Sec. 3.2.4 Accessory Buildings and Structures*, of the Salem Zoning Ordinance, to allow the petitioner to construct up to three (3) silos within the minimum allowed distance from the building and exceed the maximum height requirements.
2. Attorney Joseph Correnti presented the petition.
3. The property is located in the Business Park Development Zoning District. The petitioner is proposing up to three (3) new silos within six (6") inches from the building and fifty-seven (57") feet in height. The Zoning Ordinance allows a minimum distance of ten (10') feet from a building to an accessory structure and a height limit of eighteen (18") feet.
4. The petitioner stated that the silos will allow the company more flexibility with flour deliveries and help support purchasing and operations.
5. There are existing silos that are approximately twenty-four (24') feet tall, the nitrogen silo is about forty (40') feet and the side of the building is about thirty-three (33') feet in height.
6. The blowers that are on the existing silos produce about eight (8) PSI pressure to move the flour from the silos to the interior of the building. Any additional distance between the proposed silos and building would require additional pressure and a larger silos and noisier blowers to function. Further, if the ten (10') foot requirement were literally enforced, the company would have to blow flour through tubing across the existing parking lot, which is impracticable.
7. The requested relief, if granted, would allow the petitioner to construct up to three (3) silos within the minimum allowed distance from the building and exceed the maximum height requirement.

8. At the public hearing, one (1) member of the public spoke in opposition to the application.

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 special conditions and circumstances that especially affect the land, building, or structure involved, generally not affecting other lands, buildings or structures in the same district because the silo size and location is unique and necessary for the operation of the standard equipment required for this business.
2. Literal enforcement of the provisions of the Ordinance would involve substantial hardship to the applicant as the equipment that is necessary for the operation of the business would not be able to function if the ten (10') and eighteen (18') foot requirements were literally enforced.
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 and would benefit the City and an existing Salem business.

On the basis of the above statements of facts and findings, the Salem Board of Appeals voted five (5) (Rebecca Curran (Chair), Peter A. Copelas, Jimmy Tsitsinos, Mike Duffy and Jim Hacker) in favor and none (0) opposed, to allow the petitioner to construct up to three (3) silos within the minimum allowed distance from the building and exceed the maximum height requirement 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 shall obtain street numbering from the City of Salem Assessor's Office and shall display said number so as to be visible from the street.
9. 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

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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.

