



KIMBERLEY DRISCOLL
MAYOR

CITY OF SALEM, MASSACHUSETTS BOARD OF APPEAL

120 WASHINGTON STREET ♦ SALEM, MASSACHUSETTS 01970 2013 DEC 30 P 2: 01
TELE: 978-745-9595 ♦ FAX: 978-740-9846

FILE #
CITY CLERK, SALEM, MASS.

December 30, 2013

Decision

City of Salem Board of Appeals

Petition of LINDA GAGNON, requesting Variances under Section 4.0 *Dimensional Requirements* of the Salem Zoning Ordinance to grant relief from the minimum depth of rear yard and minimum width of side yard requirements at the property located at 54 CHARLES STREET (R2 Zoning District).

A public hearing on the above Petition was opened on December 18, 2013 pursuant to M.G.L. Ch. 40A, § 11. The hearing was closed on that date with the following Salem Board of Appeals members present: Ms. Curran (Chair), Ms. Harris (Vice Chair), Mr. Dionne, Mr. Watkins, and Mr. Eppley (Alternate).

The Petitioner seeks Variances pursuant to Sec. 4.0 *Dimensional Requirements* of the Salem Zoning Ordinance.

Statements of fact:

1. In the petition, date-stamped November 27, 2013, the Petitioner requests Variances to reduce the minimum depth of the rear yard to 5.9 feet and to reduce the minimum width of side yard to 7.1 feet to allow for the construction of an entryway.
2. Attorney George Atkins presented the petition for the property at 54 Charles Street (R2 Zoning District).
3. Attorney Atkins apologized to the Board for appearing before them after the construction of the entryway. He explained that Mr. Thomas St. Pierre – Building Inspector and Zoning Enforcement Officer – visited the site during construction and informed the applicant of the need for zoning conformance. The homeowner had not been aware of the need for Variances prior to Mr. St. Pierre's visit.
4. Attorney Atkins stated that the lot is an irregular shape, with a "jog" that creates a second rear lot line that is close to the house. Additionally, the entryway has to be proximate to the driveway, which is located near the "jog" in the property line.
5. At the public hearing for this petition, four abutters spoke in favor of the petition. There were no comments submitted 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 petitions, including the application narrative and plans, and the Petitioner's presentation and public testimony, makes the following **findings** that the proposed project meets the provisions of the City of Salem Zoning Ordinance:

Findings:

1. The shape of the lot and the location of the house on the lot create a hardship that is unique to the parcel and the building.
2. As evidenced by the support expressed by the abutters who spoke in favor of the petition, the desirable relief can be granted without substantial detriment to the public good.

3. Literal enforcement of the Ordinance would involve substantial hardship.

On the basis of the above statements of facts and findings, the Salem Board of Appeals voted five (5) in favor (Ms. Curran, Ms. Harris, Mr. Dionne, Mr. Watkins, and Mr. Eppley in favor) and none (0) opposed, to approve the Variance from the required minimum depth of rear yard, subject to the following **terms, conditions, and safeguards**:

1. The 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 finishes of the new construction shall be in harmony with the existing structure.
6. A Certificate of Inspection is to be obtained.
7. 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.