



KIMBERLEY DRISCOLL  
MAYOR

# CITY OF SALEM, MASSACHUSETTS BOARD OF APPEAL

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FILE #  
CITY CLERK, SALEM, MASS.

January 29, 2014

## Decision

### City of Salem Board of Appeals

**Petition of PETER HANTZOPOULOS requesting Variances under Section 4.0 *Dimensional Requirements* of the Salem Zoning Ordinance to allow the creation of two lots, each smaller than the required minimum lot area of 15,000 square feet, and with less than the required minimum lot frontage of 100 feet and the required minimum lot width of 100 feet, for the property located at 13 CHERRY HILL AVENUE (R1 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 January 15, 2014 with the following Salem Board of Appeals members present: Ms. Curran (Chair), Ms. Harris (Vice Chair), Mr. Dionne, Mr. Duffy, Mr. Watkins, and Mr. Tsitsinos.

The Petitioner seeks Variances from Section 4.0 *Dimensional Requirements* of the Salem Zoning Ordinance.

#### **Statements of fact:**

1. In the petition date-stamped September 25, 2013, the Petitioner requested Variances to allow the creation of two lots from one existing lot.
2. Attorney John Keilty presented the petition for the property at 13 Cherry Hill Avenue.
3. The requested Variances would allow the creation of two lots, each smaller than the required minimum lot area of 15,000 square feet, and with less than the required minimum lot frontage of 100 feet and the required minimum lot width of 100 feet. Proposed Lot A would have a lot area of 11,413 square feet, 75.0 feet of frontage, and a lot width of 74.26 feet. Proposed Lot B would have a lot area of 11,416 square feet, 75.0 feet of frontage, and a lot width of 75.8 feet.
4. The single lot now in existence was created from the merging of 3 separate lots. The three lots were recorded on a plot plan drawn in October 1925 by Thomas A. Appleton, C.E. The three lots were conveyed to Peter Hantzopoulos and his wife in August 1962. In 2013, Mr. Hantzopoulos conveyed the land to himself and his wife as Trustees of the Hantzopoulos Irrevocable Trust. In this 2013 conveyance, the land was still described in reference to the three lots as drawn in the 1925 plot plan.
5. In 1965 the City of Salem adopted a Zoning Ordinance, which zoned the three lots as R1. The three lots were undersized according to the requirements of the R1 zone, and as the three lots were under common ownership they were, after two years lapsed, merged into one lot of 22,829 square feet, 150 feet of frontage, and 150.06 feet in width. These dimensions exceed the requirements of the R1 zoning district for a minimum area of 15,000 square feet, minimum frontage of 100 feet, and minimum width of 100 feet.
6. The applicants were unaware of the merging of the three lots under their ownership. The reduction of the three lots to one lot imposes an economic hardship on the applicants.
7. The three lots were regularly-shaped lots, lined up side-by-side along the frontage on Cherry Hill Avenue.

8. The petitioners are not seeking to recreate the original three lots, but rather to divide the one lot into two lots.
9. The existing large single lot is out of character with the neighborhood, which is largely comprised of smaller lots with smaller residences.
10. At the public hearing, no members of the public spoke in favor of, or 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, the Petitioner's presentation and public testimony, and a memorandum submitted to the Board at the hearing, makes the following **findings** that the proposed project meets the provisions of the City of Salem Zoning Ordinance:

**Findings:**

1. The three original lots were regularly-shaped lots, and were lined up side-by-side along Cherry Hill Avenue. This creates a unique condition in which a literal enforcement of the *Dimensional Requirements* under the City of Salem's Zoning Ordinance, specifically the required minimum lot area of 15,000 square feet, the required minimum lot frontage of 100 feet, and the required minimum lot width of 100 feet, would be a substantial hardship to the appellant.
2. The desired relief may be granted without substantial detriment to the public good.
3. The desired relief may be granted without nullifying or substantially derogating from the intent or purpose of the City of Salem Zoning Ordinance. The development of the land as two smaller lots would be more consistent with the character of the neighborhood than the development of the one large lot. The existing single lot was created from the merging of three lots, but the applicant seeks only to divide the existing lot into two lots.

On the basis of the above statements of facts and findings, the Salem Board of Appeals voted five (5) in favor (Ms. Curran – Chair, Mr. Watkins, Mr. Dionne, Ms. Harris, and Mr. Duffy), none (0) opposed, to approve the Variances from: the required minimum lot area of 15,000 square feet to allow the creation of Lot A at 11,413 square feet and Lot B at 11,416 square feet; the required minimum lot frontage of 100 feet to allow a lot frontage of 75.0 feet at Lot A and 75.0 feet at Lot B; the required minimum lot width of 100 feet to allow a lot width of 74.26 feet at Lot A and 75.8 feet at Lot B; subject to the following **terms, conditions, and safeguards**:

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

  
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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.*