



Ruthanne Fuller
Mayor

CITY OF NEWTON, MASSACHUSETTS

City Hall

1000 Commonwealth Avenue, Newton, MA 02459-1449

Telephone: (617) 796-1120 TDD/TTY: (617) 796-1089 Fax: (617) 796-1086

www.ci.newton.ma.us

ZONING BOARD OF APPEALS

Adrianna Henriquez, Board Clerk

#02-21

DETAILED RECORD OF PROCEEDING AND DECISION

Petition #02-21 Steve and Ani Days of 55 Hagen Road, Newton, Massachusetts requesting a variance from Section 3.1.3 & Section 7.6 of the Newton Zoning Ordinance to allow a 23.2 foot front setback. The subject property consists of an 14,101 square foot lot located at 55 Hagen Road, Newton, Massachusetts and is located in a Single-Residence 3 (SR-3) District.

The Zoning Board of Appeals for the City of Newton (the "Board") held a virtual public hearing via Zoom on Wednesday, April 28, 2021 at 7:00 p.m.

Due notice of the public hearing was given by mail, postage prepaid, to all "parties in interest" in accordance with M.G.L. c. 40A, § 11 and by publication in the *Newton Tab*, a newspaper of general circulation in Newton, Massachusetts, on April 14, 2021 and April 21, 2021.

The following members of the Board were present:

Brooke Lipsitt (Chair)
William McLaughlin
Michael Rossi
Stuart Snyder
Treff LaFleche
Elizabeth Sweet (Alternate)

The following documents were submitted to the Board and/or entered into the record at the public hearing:

1. 55 Hagen Road Variance Application
2. 55 Hagen Road Revised Zoning Memorandum dated April 21, 2021
3. 55 Hagen Road Deed

FACTS

Steve and Ani Days (the "Petitioners") own and reside at the subject property, which is located at 55 Hagen Road and consists of a 14,101 square foot lot in a Single-Residence 3 (SR-3) zoning district.

During the hearing, the Petitioners represented the following:

The Petitioners purchased the subject property in 2013 and proceeded to convert it into a single-family home through a gut renovation. The renovation was mostly completed by 2018, except for

work to the front entrance. Petitioners hired an architect to design a new front entrance and landing area that would require the stairs to be widened and the overhang to be extended two feet into the setback, with decorative columns supporting the structure. The proposed front setback is 23.2 feet, where 25 feet is required.

The Petitioners request this variance so that the property's renovations may be completed, and the landing area will be more attuned to the main structure. The Petitioners note that as is, the landing area seems disproportionately small for the size of the renovated house. Extending the landing area would involve extending the overhang, supported by two columns, into the front setback. Extending or widening the landing area or stairs may be achieved without requirement of a variance. However, extending the overhang in addition to a pair of columns would require a variance, and this is the relief sought by the Petitioners.

Mr. Days explained why he believed the petition meets the statutory requirements for the requested variance. In particular, Mr. Days stated that by doing a gut renovation, as opposed to tearing the structure down and rebuilding, the Petitioners inherited the issue of the landing area's proximity to the front setback. The Petitioners decided not to tear down the existing structure, but this disallowed them from placing the house farther from the front setback. The Petitioners state this variance, which they consider to be minimal relief from the zoning requirement, would allow them to complete their renovation.

A motion was made by Mr. Rossi to close the public hearing. This motion was duly seconded by Mr. McLaughlin. The motion passed with five in favor and none opposed. The Board then discussed and reviewed the merits of the petition, with a focus on whether the petition meets the statutory standard for a substantial hardship and whether alternatives good be achieved without zoning relief.

FINDINGS, DETERMINATION & CONDITIONS

1. *There are not special circumstances related to the soil conditions, shape or topography of the land or structures which affect it but do not generally affect other properties in the zoning district.* The Petitioners failed to demonstrate any uniqueness related to the land's shape, size, or topography that justify granting the relief of a variance.
2. *Literal enforcement of the provisions of the Newton Zoning Ordinance would not result in a substantial hardship to the owner.* The Petitioners failed to demonstrate a substantial hardship. The failure to extend the landing area with an overhang and columns is not a sufficient hardship. The land use currently meets the zoning requirements and can continued to be used in the same manner as it has been used. There may be alternatives to make the landing area more proportionate to the house without extending the overhang, such as extending the area and/or stairs uncovered. The inability to extend the covered landing area does not constitute a substantial hardship.
3. *The variance would not be in harmony with the general purpose and intent of the Newton Zoning Ordinance.* The requested variance is not in harmony with the zoning ordinance because there is no substantial hardship or special circumstances unique to the property. The property can continue to be used reasonably and, in compliance within the zoning ordinance's dimensional requirements and without the requested variance.

Accordingly, a motion was made by Mr. LaFleche to deny the Variance. This motion was duly seconded by Mr. Snyder. This motion carried with five in favor and none opposed. As a result, the variance was denied.

AYES: Brooke Lipsitt
William McLaughlin
Stuart Snyder
Michael Rossi
Treff LaFleche

NAYS:



Brooke K. Lipsitt, Chairperson

The City Clerk certified that all statutory requirements have been complied with and that 20 days have lapsed since the date of filing of this decision and no appeal, pursuant to Section 17, Chapter 40A or Section 21 of Chapter 40B has been filed.

City Clerk