



CITY OF NEWTON, MASSACHUSETTS

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Setti D. Warren
Mayor

ZONING BOARD OF APPEALS

Sherri A. Lougee, Board Clerk



2011 00118371

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Detailed Record of Proceeding and Decision

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CITY CLERK
NEWTON, MA. 02159

Petition of David and Suzanne Wakefield, 229 Bellevue Street, Newton, MA 02458.

For a variance of 6.1 feet from the rear yard setback requirement of 15 feet in order to construct a two and one-half story addition for the property located at 229 Bellevue Street (the "Subject Property"), Newton, MA 02458.

The Zoning Board of Appeals for the City of Newton held a public hearing on the above entitled proceeding on Tuesday, April 26, 2011 at 7:00 p.m. in the Aldermanic Chambers at City Hall, Newton, Massachusetts.

BK 46524 PG 314

The following members of the Board were present:

- Harvey A. Creem, Chairman
- Vincent Farina
- William M. McLaughlin
- James H. Mitchell, Esq.
- Selma H. Urman, Esq.

The petition was filed on March 11, 2011.

Due notice of the hearing was given by mail, postage prepaid, to all persons deemed to be affected thereby as shown on the most recent tax list and by publication in the Newton Tab, a newspaper of general circulation in Newton, Massachusetts, on April 5 and 12, 2011.

Accompanying the petition and incorporated into the record are the following documents:

"Plan of Land in Newton MA, 229 Bellevue Street, Existing Conditions," dated February 3, 2011;

"Plan of Land in Newton MA, 229 Bellevue Street, Proposed Additions," dated March 22, 2011; and

"Plan of Land in Newton MA," dated March 22, 2011 which shows an area of roughly 300' radius around the 229 Bellevue Street property. All Survey Plans were prepared by Bruce Bradford of Everett M. Brooks Co., of West Newton, MA.

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¼" scale Architectural drawings of both existing and proposed floor plans, as well as Exterior Elevations (all sides) dated April 26, 2011. All plans and elevations were prepared by the Project Architect Patricia Welbourn of Fantuzzi Welbourn Design, Waban, MA.

Copy of Quitclaim Deed dated November 22, 2005, conveying the Subject Property to David and Suzanne Wakefield (the "Petitioners") and a copy of the deed dated July 13, 1979, conveying the Subject Property to the Petitioners' predecessors in title; and

Letter to the Zoning Board of Appeals from David and Paula Schleifer (residents of 203 Newtonville Avenue), Robert Crooks and Kalpana Seshardri (residents of 233 Bellevue Street), and Vivek and Heather Mehra (residents of 217 Bellevue Street), dated March 22, 2011, offered in support of the Request for Variance.

The Petitioners were represented at the hearing by the Project Architect, Patricia Wellbourn. Only the Petitioners testified at the hearing.

SUMMARY AND REQUEST FOR RELIEF

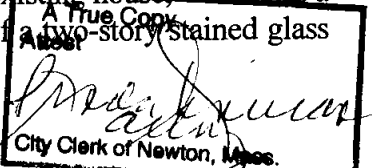
The Subject Property is located at 229 Bellevue Street Newton, MA, Ward 1, Section 12, Block 17, Lot 29; is approximately 9,700 square feet in size; and is a corner lot, bounded by Bellevue Street and Newtonville Avenue. The Subject Property is located in a MR-1 District and is subject to the pre-1953 dimensional controls set out in Table 1, sec. 30-15 of the Newton Zoning Ordinance. The Subject Property contains a Victorian single family dwelling, which faces Bellevue Street. Under the Newton Zoning Ordinance, the rear lot line on a corner lot is the lot line opposite the street on which the front door of a residential structure is located. Hence, the Subject Property's rear lot line abuts 201-203 Newtonville Avenue.

The Petitioners are requesting a 6.1 foot variance from the 15 foot rear yard setback requirement applicable to pre-1953 lots in the MR-1 District in order to construct a two and one-half story addition. As proposed, the addition will extend into the 15 foot rear year setback, and will be set back 8.9 feet from the lot line between the Subject Property and 201-203 Newtonville Avenue. If the Subject Property were not a corner lot, the lot line between this property and 201-203 Newtonville Avenue would be considered a side lot line subject to a 7.5 foot setback requirement, and the proposed addition would comply with the side yard setback requirements.

ARGUMENT IN SUPPORT OF VARIANCE

Petitioners state that in designing the proposed addition, they attempted to both respect the abutting neighbor's side setback rights while working to create an addition that respects the historical architecture of the home, which is over 130 years old. The house was constructed in 1890, and has inadequate bath and kitchen facilities for a modern family. The proposed addition will update the dwelling's kitchen and bathrooms, making the house much more livable, and a fundamentally better home.

Petitioner stated the addition was designed to look as if it was *always* part of the original planning, and not to look like an "addition". Placing the addition on the north side of the existing house, which has a side setback requirement of only 7.5 feet, would have resulted in the loss of a two-story stained glass

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window and would negatively impact the architectural integrity of this historic home. The proposed addition has been administratively reviewed and approved by the City's Senior Preservation Planner.

Petitioners state that the hardship presented is that the Subject Property is a corner lot, with an existing structure fronting on Bellevue Street. This results in the lot line abutting 201-203 Newtonville Avenue to be considered a rear, rather than a side, lot line. Additionally, the existing house is pushed back from Bellevue Street, closer to the rear lot line, due to the grade of the lot which slopes up from Bellevue Street

Petitioners state that the character of the neighborhood, once grand with turn of the century Victorians, was dramatically altered by the building of the Massachusetts Turnpike in the late 1950's. The Turnpike essentially dissected this neighborhood. 229 Bellevue is on the side of Newtonville Avenue roughly 200' from the chain link fence that now overlooks the Turnpike. The Turnpike made this area somewhat undesirable. The areas between Newtonville Avenue to the Turnpike overlook has become a buffer zone for the rest of the Neighborhood as evidenced by it being zoned "Multi-Family" as opposed to "Single Residence." Some of the houses in the buffer zone have been demolished and reconstructed, or enhanced in the past several years.

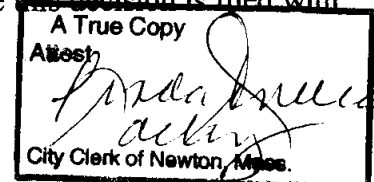
Petitioners state that they believe their addition is consistent with the architectural context of this classic Victorian, and will only serve to further the overall improvements to the neighborhood.

FINDINGS AND DETERMINATION:

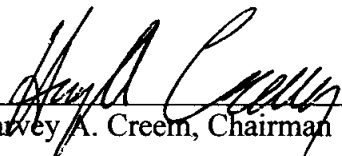
1. The Subject Property is a corner lot which results in a hardship not shared by other lots surrounding the Subject Property because the lot line separating this property from 201-203 Newtonville Avenue is treated as a rear, rather than side, lot line. This lot line is considered a rear lot line under the Zoning Ordinance based on the location of the front door of the existing house, which location could be changed so that this lot line would then be considered a side, rather than rear, lot line. Additionally, the grade of the lot results in the existing structure being pushed closer to the rear lot line. Literal enforcement of the 15 foot rear yard setback will impose a substantial hardship on the Petitioners by preventing them from locating the proposed addition on the rear of the existing structure.
2. Granting a 6.1 foot variance from the rear yard setback so that the addition may be located 8.9 feet from the rear lot line will not result in a detriment to the public good or derogate from the spirit and intent of the Zoning Ordinance because the 8.9 foot setback exceeds the side setback requirement and will not change the character of the surrounding area.

Accordingly, a motion was made by Mr. Mitchell and duly seconded, to grant the petition, which motion passed, four in favor, with Mr. Farina voting in the negative. Therefore, a variance of 6.1 feet from the 15 foot rear yard setback is granted subject to the following conditions:

1. That this variance must be recorded with the Middlesex Registry of Deeds within one year from the date this decision is filed with the City Clerk or the variance lapses.
2. That this variance must be exercised within one year from the date this decision is filed with the City Clerk or the variance lapses.



- 3. That the north lot line separating the Subject Property from 233 Bellevue Street be treated as the rear lot line with a 15 foot rear yard setback requirement.



 Harvey A. Creem, Chairman


AYES: Harvey A. Creem, Chairman
 William M. McLaughlin
 James H. Mitchell, Esq.
 Selma H. Urman, Esq.

NAYES : Vincent Farina

Copies of this decision and all plans referred to in this decision have been filed with the Planning and Development Board and the City Clerk.

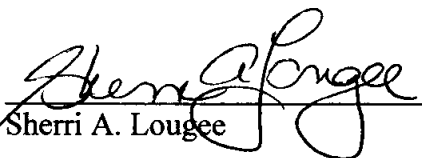
This decision was filed with the City Clerk on *June 20, 2011.*

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

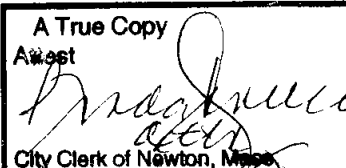


 David A. Olson, City Clerk
acting

I, Sherri A. Lougee, am the Clerk of the Zoning Board of Appeals and the keeper of its records. This is a true copy of its decision.



 Sherri A. Lougee

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 City Clerk of Newton, Mass.