



# CITY OF NEWTON, MASSACHUSETTS

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Ruthanne Fuller  
Mayor

## ZONING BOARD OF APPEALS Heather Zaring, Interim Board Clerk

#07-21

### DETAILED RECORD OF PROCEEDING AND DECISION

Petition #07-21 Brenda Arduino of 15 Keefe Avenue, Newton, Massachusetts, requesting to amend a previously granted variance (#17-63) which created the subject property in 1963 by allowing for a reduced frontage of 50.13 feet where 80 feet was the requirement. The Petitioner seeks to remove two conditions placed on variance #17-63 that limited the use of the property to a single-family home and that required the dwelling be located at least 60 feet from the front lot line. The subject property is located at 15 Keefe Avenue within a Multi-Residence 1 (MR-1) zoning district and consists of a 10,640 square foot lot improved with a single-family dwelling.

The Zoning Board of Appeals for the City of Newton (the "Board") held a virtual public hearing via Zoom on Wednesday, November 17, 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 November 3, 2021 and November 10, 2021.

The following members of the Board were present:

- Brooke K. Lipsitt (Chair)
- Treff LaFleche
- Michael Rossi
- Stuart Snyder
- Michael Quinn

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

1. 15 Keefe Avenue Variance Application, received October 14, 2021
2. 15 Keefe Avenue Variance Decision #17-63

### THE PUBLIC HEARING

1. Erica Chamberlain, realtor, 25 Bonad Road, spoke on behalf of the petitioner. She explained the history of the subject property and why the removal of the prior variance conditions should be granted. Ms. Chamberlain explained that the subject property was created in the 1960s when 9-11 Keefe Avenue was subdivided, has been owned by the same owners since it was created, that it is a single-family home on a Multi-Residence 1 lot and is set back a great

distance from the front property line. She discussed that there are numerous non-conforming lots in the immediate area that do not have the 80 feet of required frontage just like the subject property. She stated that the two conditions of the existing variance significantly decrease the property value as the lot is unable to be marketed as an MR-1 lot and that the conditions should be removed to make the lot consistent with the rest of the neighborhood. Ms. Chamberlain explained that the family is trying to sell the property to provide some financial support for those caring for aging family members. Marketing the property as a MR-1 zoned home with the potential to put a two-family home on the property increases the property value so the family would have more funding to help them tend for their elderly family members.

2. The Board hear comments from public. Stephen Tocci, of 17 Keefe Avenue, stated that he does not want a large house built next door but also feels like the petitioner should not be penalized for trying to sell her lot for as much as she can.
3. A motion was made by Michael Quinn to close the public hearing, seconded by Stuart Snyder. The motion passed 5-0 and the public hearing was closed.
4. The Board then discussed and deliberated the merits of the petition. Board members focused their discussion on whether the petition meets the statutory standard for uniqueness of the lot and substantial hardship.

#### **FINDINGS & DETERMINATION**

After careful study of the materials submitted and the information presented at the hearing, the Board makes the following findings and determination:

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 Petitioner failed to demonstrate any uniqueness related to the land's shape, size, or topography that justify the request to remove the conditions from the previously granted variance.
2. *Literal enforcement of the provisions of the Newton Zoning Ordinance would not result in a substantial hardship to the owner.* The Petitioner failed to demonstrate a substantial hardship that would result if the use of the property was limited to a single-family dwelling and the home be at least sixty feet setback from the front property line as currently conditioned by the existing variance. The property can continue to be used reasonably and in compliance within the zoning ordinance's dimensional requirements without the requested variance.

A motion was made by Treff LaFleche to deny the request to amend the variance #17-63 to remove the conditions limiting the use of the property to a single-family dwelling and the home be at least sixty feet setback from the front property line. The motion was duly seconded by Stuart Snyder and the motion passed five in favor, and none opposed. As a result the variance request was denied.

AYES: Brooke K. Lipsitt  
Stuart Snyder  
Treff LaFleche  
Michael Rossi  
Michael Quinn

NAYS:

  
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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.

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Carol Moore, City Clerk