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CITY CLERK
NEWTON, MA. 02159

ZONING BOARD OF APPEALS Sherri Boivin, Board Secretary

#19-05

Detailed Record of Proceeding and Decision

Petition of James Smith & Maxine Hart of 9 Day Street, Newton, MA

(AKA JAMES F. SMITH, JR.)
For a variance of 1.4 feet from the easterly side yard setback requirement for "Old Lots" of 7.5 feet for residential structures in order to construct a 1 1/2 story addition to the rear of an existing single family dwelling.

The Zoning Board of Appeals for the City of Newton held a public hearing on the above entitled proceeding on Tuesday, October 25, 2005 at 6:30 p.m. in the Aldermanic Chambers at City Hall, Newton, Massachusetts.

The following members of the Board were present:

- Catherine Clement, Chairman
- Bernard Shadrawy
- Joseph Cosgrove
- Trudy Ernst
- Anthony Summers




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The petition was filed on September 23, 2005.

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.

Accompanying the petition were plans entitled "Plan to Accompany the Petition of James F. Smith" dated September 20, 2005 by Bruce Bradford, Land Surveyor, Everett M. Brooks Co., 49 Lexington Street, West Newton, MA, and floor and facade plans entitled "Hart/Smith Residence" sheets A-1, A-2, A-3, A-4, A-5, A-6 and A-7 dated September 20, 2005 by Architect Harriett Christina Chu, 113 Chestnut Street, West Newton, MA.

A True Copy
Attest



City Clerk of Newton, Mass.

224430-1252-80-

FACTS:

The petitioners represented themselves.

LOT 32 16' x P. 345.
The subject site is located at 9 Day Street, Newton, MA, Ward 4, Section 43, Block 40, Lot 5 containing approximately 6,671 square feet of lot area in a Single Residence 3 District.

The petitioners requested a variance of 1.4 feet from the northerly side yard setback requirement of 7.5 feet (Old Lot), under Section 30-15 Table I within a Single Residence 3 District in order to construct a 1 ½ story addition to the rear of an existing single family dwelling.

The petitioners stated that the site is unique due to the location of the existing single family dwelling which is angled sharply towards the side lot line combined with small narrow lot and curved street frontage creates a unique circumstance that does not exist elsewhere in the neighborhood.

The petitioners stated that a hardship exists due to the need for additional space in a cramped first floor kitchen, which is so small that the refrigerator is kept on the back porch. Secondly, the proposed basement guestroom would not have adequate space for a bed. The existing design of these small rooms creates a hardship when combined with the existing location of the house with its sharp angle towards the side lot line.

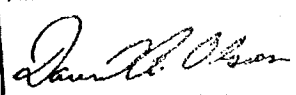
The petitioner stated that the small addition would maintain the character of the residence and the surrounding neighborhood.

The petitioner stated the abutter most effected by the variance was in favor of the proposed addition.

No one spoke in opposition.

FINDINGS AND DETERMINATION

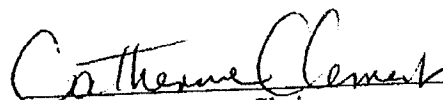
1. The site is unique due to the location of the existing single family dwelling which is angled sharply towards the side lot line and when combined with small, narrow, and irregular lot and curved street frontage is unique in the neighborhood.
2. A hardship exists in that the need for additional space in a cramped first floor kitchen, along with the proposed basement guestroom creates a hardship when combined with the existing location of the house and the sharp angle to the side lot line.

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Attest

City Clerk of Newton, Mass.

3. No substantial detriment to the public would occur since the proposed addition would be in conformity with the neighborhood.
4. Granting the variance would not derogate from the spirit and intent of the Zoning Ordinance in that the departure from the Zoning Ordinance requirement would not change the character of the surrounding area.

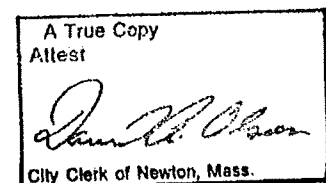
Accordingly, a motion was made by Mr. Shadrawy and duly seconded by Mr. Cosgrove to grant the petition, which motion passed five in favor and none opposed. Therefore, the side yard variance of 1.4 feet for the proposed 1 ½ story addition is granted subject to the following conditions:

1. That the proposed basement guestroom shall not be used as an apartment for rent.
2. That the basement guestroom shall not contain a kitchen, and the single family dwelling, in its entirety, shall not contain a second kitchen.
3. That the petitioner shall submit a revised landscape plan for review and approval of the Planning and Development Department that shall, at a minimum, provide a year round vegetative screen along the (northern) side lot line.
4. That this variance must be exercised within one year from the date of its filing with the City Clerk or the variance lapses.
5. That this variance must be recorded with the Middlesex Registry of Deeds within one year from the date of its filing with the City Clerk or the variance lapses.


Catherine Clement, Chairman

AYES: Catherine Clement
Bernard Shadrawy
Joseph Cosgrove
Trudy Ernst
Anthony Summers

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



The decision was filed with the City Clerk on November 23, 2005.

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 has been filed.

Linda Finucane
Edward English, City Clerk
acting **LINDA FINUCANE**

I, Sherri Boivin, am the Acting Clerk of the Zoning Board of Appeals and the Keeper of its records. This is a true copy of its decision.

Sherri A. Boivin
Sherri Boivin, Clerk

A True Copy
Attest
Edward English
City Clerk of Newton, Mass.

