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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: April 20, 2022

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official

Cc: James Smith, Applicant
Barney S. Heath, Director of Planning and Development
Jonah Temple, Associate City Solicitor

RE: Request to vertically extend a nonconforming side setback

Applicant: James Smith	
Site: 9 Day Street	SBL: 43040 0005
Zoning: SR3	Lot Area: 6,671 square feet
Current use: Single-family dwelling	Proposed use: No change

BACKGROUND:

The property at 9 Day Street consists of a 6,671 square foot lot improved with a single-family dwelling constructed in 1929. The petitioners received a variance in 2005 from the side yard setback for a 1.5-story rear addition. The addition was not constructed to the setback as allowed by the variance and the building permit. As such, the setback which required the variance relief is now considered nonconforming per MGL Chapter 40A, section 7. The petitioner now seeks to construct a second-story rear addition over the existing footprint, requiring a special permit to vertically extend the nonconforming side setback.

The following review is based on plans and materials submitted to date as noted below.

- Zoning Review Application, prepared by James Smith, applicant, submitted 2/17/2022
- Plan of Land existing, signed and stamped by Bruce Bradford, surveyor, dated 2/11/2022
- Plan of Land Proposed Addition, signed and stamped by Bruce Bradford, surveyor, dated 2/11/2022
- FAR worksheet, submitted 2/17/2022
- Floor plans and elevations, prepared by Leslie Saul & Associates, architect, dated 1/26/2022
- Variance decision #19-05

ADMINISTRATIVE DETERMINATIONS:

1. Variance #19-05 allowed for a reduction in the required side yard setback from 7.5 feet per section 3.1.3 to 6.1 feet to construct a 1.5-story rear addition. While the as-built side setback is not conforming with the variance at 6.0 feet, it was constructed with a building permit and has existed as such for longer than ten years without enforcement action and is thus protected as legally nonconforming. The petitioners seek to construct a second-story addition within the footprint of the existing space, vertically extending the nonconforming side setback, requiring a special permit per section 7.8.2.C.2.

SR3 Zone	Required	Existing	Proposed
Lot Size	7,000 square feet	6,761 square feet	No change
Frontage	80 feet	49 feet	No change
Setbacks <ul style="list-style-type: none"> • Front • Side • Side • Rear 	25 feet 7.5 feet 6.1 feet 15 feet	24 feet 10 feet 6 feet 38.1 feet	No change No change No change No change
Max Number of Stories	2.5	2.5	No change
FAR	.48	.42	.44
Max Lot Coverage	30%	23.3%	No change
Min. Open Space	50%	61%	No change

See “Zoning Relief Summary” below:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§3.1.3 §7.8.2.C.2	Request to vertically extend the nonconforming side setback	S.P. per §7.3.3