



CITY OF NEWTON, MASSACHUSETTS

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Ruthanne Fuller
Mayor

ZONING BOARD OF APPEALS

Brenda Belsanti, Board Clerk

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DETAILED RECORD OF PROCEEDING AND DECISION

Petition #05-22 10 Champa Street LLC requesting to amend variance #379-59 to remove the condition that limits the use of the property to a single-family dwelling. The subject property is located at 10 Champa Street within a Multi-Residence 1 (MR-1) zoning district and consists of a 9,567 square foot lot.

The Zoning Board of Appeals for the City of Newton (the "Board") held a virtual public hearing via Zoom on Wednesday, May 25, 2022 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 Boston Globe*, a newspaper of general circulation in Newton, Massachusetts, on May 11, 2022 and May 18, 2022.

The following members of the Board were present:

Brooke K. Lipsitt (Chair)
Michael Rossi
Stuart Snyder
Lei Reilly
Betsy Sweet

The following documents were submitted to Board and/or entered into the record at the public hearing: 10 Champa Street Variance Application, received May 5, 2022 and 10 Champa Street LLC, Certificate of Organization submitted on May 19.

THE PUBLIC HEARING

1. Attorney Lawrence Lee, of Rosenberg, Freedman, & Lee, 246 Walnut Street, Newton, spoke on behalf of the petitioner. Attorney Lee explained that the petitioner is requesting to amend the condition of a variance granted in 1959 that limits the use of the property to a single-family home. He explained that the petitioner is not seeking to make any changes to the existing site and that amendment of the condition would still require the petitioner to obtain a special permit in order to construct a multi-family dwelling or an accessory apartment.
2. Attorney Lee argued that the condition limiting use of the property to a single-family home constitutes an undue hardship and that additional residential uses would be consistent with the neighborhood. He stated that the 1959 variance did not contain any rationale for the condition.

3. The Board heard comments from the public:

- a. Linda Ghiron, of 17 Champa Street, stated she has lived across the street for 34 years across the street, that the existing home is in pristine condition, and that the street has thirteen homes in total and only two are two-family homes. She raised concerns about the petition, including the months of ledge drilling that would be necessary for a new development and that parking is already an issue and adding extra cars will only exacerbate the parking problem.
 - b. Janet Park, of 17 Champa Street, stated that there are already issues with construction on her street as it has been the staging area for the new gas lines daily for more than six months and that there have been problems concerning noise and increased cars and lack of parking in connection with a two-family home allowed via variance in the 1980's at 23 Champa Street. She noted that there is nowhere to put an accessory apartment in the existing house at 10 Champa Street.
 - c. Stephanie Gianno, of 27 Champa Street, agreed with Ms. Ghiron's assessment and was confused about the reason for the requested amendment, as the lot is not large enough for multi-dwelling and an accessory apartment would not meet the applicant's needs. She stated that a multi-family development would limit parking and disrupt and ruin the neighborhood.
 - d. Miguel Roque, of 37 Champa Street, stated that any future development would not be affordable and would result in high profits for the developer and that he would like to see the character of the neighborhood remain.
 - e. Kevin Hennigan, of 27 Champa Street, stated this petition would be a foot in the door for a multi-family development and would push low to middle-income families out of Newton.
4. A motion was made by Stuart Snyder to close the public hearing, seconded by Betsy Sweet. The motion passed 5-0 and the public hearing was closed
5. The Board then discussed and deliberated the merits of the petition. Board members focused their discussion on whether the petition meets the statutory standard and substantial hardship in light of the previously granted variance and the conditions included in that variance.

FINDINGS, DETERMINATION & CONDITIONS

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

1. *There are no 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 or

topography that justify granting the requested relief to amend the conditions of the 1959 variance, which limit the use of the property to a single-family home.

2. *A literal enforcement of the Newton Zoning Ordinance and the conditions of the 1959 variance would not result in substantial hardship.* The petitioner failed to demonstrate any substantial hardship. The inability to construct a multi-family dwelling or an accessory apartment 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 Stuart Snyder, duly seconded by Betsy Sweet, to deny the requested amendment to the variance. The motion passed five in favor, none opposed. Therefore, the request for a variance is denied.

AYES: Brooke K. Lipsitt
 Stuart Snyder
 Michael Rossi
 Lei Reilly
 Betsy Sweet

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 has been filed.

 Carol Moore, City Clerk