



# CITY OF NEWTON, MASSACHUSETTS

City Hall  
1000 Commonwealth Avenue, Newton, MA 02459-1449  
Telephone: (617) 796-1060 Fax: (617) 796-1086  
[www.newtonma.gov](http://www.newtonma.gov)

Ruthanne Fuller  
Mayor

**ZONING BOARD OF APPEALS**  
Brenda Belsanti, Zoning Board Clerk

## **MEETING MINUTES**

**Wednesday, June 22, 2022**

**7:00 p.m.**

**Virtually via Zoom**

**Board Members Present:** Brooke Lipsitt (Chair), Michael Rossi, Elizabeth Sweet, Treff LaFleche, and William McLaughlin (all participated remotely)

**Staff Present:** Brenda Belsanti, ZBA Clerk, Jennifer Wilson, Assistant City Solicitor, and Jonah Temple, Assistant City Solicitor

**A public hearing of the Newton Zoning Board of Appeals was held virtually via Zoom on Wednesday, June 22, 2022, at 7:00 p.m. on the following petitions:**

1. **#06-22** Ed Zielinski requesting to amend variances #1-80 and #10-08 to allow a reduced side setback. The subject property is located at 128 Gibbs Street within a Single-Residence 2 (SR-2) zoning district and consists of a 9,555 square foot lot
2. Review and approval of minutes for May 25, 2022 meeting.

---

**Agenda Item 1:** #06-22 – Ed Zielinski for 128 Gibbs Street Sitting Members: Brooke Lipsitt (Chair), Michael Rossi, Elizabeth Sweet, Treff LaFleche, and William McLaughlin

### **Documents Submitted:**

1. 128 Gibbs Street stamped application dated June 1, 2022.
2. Copies of two previous variances submitted June 15, 2022.

### **Testimony:**

The petitioners, Ed Zielinski and Lisa Hines, of 128 Gibbs Steet, requested to allow a reduced side setback to create an accessory apartment in the residence to have their daughter and grandchild move in and live as a multigenerational household.

Mr. Zielinski is an architect and spoke of the design submitted for a modest addition of a two-story



# CITY OF NEWTON, MASSACHUSETTS

City Hall  
1000 Commonwealth Avenue, Newton, MA 02459-1449  
Telephone: (617) 796-1060 Fax: (617) 796-1086  
[www.newtonma.gov](http://www.newtonma.gov)

Ruthanne Fuller  
Mayor

## ZONING BOARD OF APPEALS Brenda Belsanti, Zoning Board Clerk

internal staircase to connect the basement through third floors on the west side of the house, subdivide the house and to create a second form of egress with minimal internal construction. The proposed design is to minimize internal construction within the home and takes into account where the pre-existing plumbing is located in the home. Mr. Zielinski also explained that the previous variance in 2008 was for a carport and the additional staircase would go behind the carport. The addition would only be seen from two other properties.

Chair Lipsitt wanted an explanation of what the hardship would be for this property to justify the requested variance.

Mr. Zielinski argued that he was supporting the city directive to include more multi-housing units and multigenerational housing, and to have two families living in a house instead of one. The proposal is centered around taking a large house and creating two smaller units. This cannot be done on any other portion of the site the way it is constructed.

Chair Lipsitt referenced the ZBA rules and requirements under Chapter 40A of the state statutes regarding the hardships of topography, shape, soil conditions and asked Mr. Zielinski to explain the hardships this proposal would address.

Mr. Zielinski responded that the modifications could not be done on any other portion of the site/property the way that it is constructed. The relief is not available on the east, north or south side of the property. It can only be accommodated on the west side.

Chair Lipsitt noted that there was an existing exterior stairway to the basement on the south side and asked why that could not be extended to the second floor.

Mr. Zielinski explained that it was a non-conforming stair to the basement. It is a bulkhead with a cap and is not capable of fulfilling the code to be both an egress and an access stair to the second floor.

Chair Lipsitt asked if that could be explained further.



# CITY OF NEWTON, MASSACHUSETTS

City Hall  
1000 Commonwealth Avenue, Newton, MA 02459-1449  
Telephone: (617) 796-1060 Fax: (617) 796-1086  
[www.newtonma.gov](http://www.newtonma.gov)

Ruthanne Fuller  
Mayor

## ZONING BOARD OF APPEALS Brenda Belsanti, Zoning Board Clerk

Mr. Zielinski explained that the stair as it is today is non-conforming so he would have to remove that stair, add an additional stair and due to the roofline would not be able to extend the stair all the way to the second floor.

Mr. LaFleche asked to review the previous variance regarding the carport in 2008. It was granted due to the small area and issues with the site that were listed.

Chair Lipsitt discussed that the previous variances were first to sub-divide the lot because it was too big in 1980 and then the next variance was because the lot was now too small in 2008.

Mr. LaFleche noted that various variances were granted over the history of the City of Newton interpreting the language of the state statute in different ways. Variances in 1980 or 2008 may not prevail in 2022. The Board has become more consistently clear in insuring the uniqueness of the land in relation to the shape, topography, soil of the land and not the improvements on the land. The first filter in evaluating the merits of the variance is to make sure that first threshold is met in terms of the uniqueness and how it leads to some hardship. That is what would make the application worthy of granting. What is the uniqueness of this property that results in hardship that requires this relief?

Mr. Zielinski argued that the area where the variance being requested would be within the envelope of the variance that was granted in 2008. In 2008 the lot line was extended 11 feet, and the addition would be 7 feet wide. Also, if the city is looking for multi-unit housing this would be an opportunity to make an existing structure into multi-unit housing. He believed that his proposal is in the spirit the city is trying to make with multigenerational housing and hopes that would be taken into consideration.

Chair Lipsitt noted that the 2008 decision applies only to the trellis structure as proposed and specifies that it will not grant relief for any other use, structure, building, modification, addition, or any other construction no matter how similar to the current proposal at any time for that carport area.

Mr. LaFleche asked if there was another area that the stairway could be located that would not



# CITY OF NEWTON, MASSACHUSETTS

City Hall  
1000 Commonwealth Avenue, Newton, MA 02459-1449  
Telephone: (617) 796-1060 Fax: (617) 796-1086  
[www.newtonma.gov](http://www.newtonma.gov)

Ruthanne Fuller  
Mayor

## ZONING BOARD OF APPEALS Brenda Belsanti, Zoning Board Clerk

require a variance and could a similar staircase be within the allowed building area rather than into the setback and only require a special permit.

Mr. Zielinski responded no matter where the stairway goes there will be an issue with the setback due to the configuration of the lot.

Chair Lipsitt stated that if construction was located in the rear of the building it would not interfere with the setback line since the southern end of the structure already is going further in the rear beyond the major structure of the house. She stated that something could be done in the allowed building envelope as it exists today and inquired if that was examined.

Mr. Zielinski responded that it was examined and because of the way it would be constructed it would go into the rear yard setback.

Chair Lipsitt suggested that he examine again the basement stair area and see if it was possible to reconstruct a stairway to the second floor to meet the goals of the proposal and provide a second means of egress.

Mr. Zielinski responded that he believes it would still broach the rear yard setback and taking into consideration the existing interior configuration of the house it would make it very difficult to reconfigure the interior of the house.

There was no comment from the public.

A motion was made by Treff LaFleche to close the public hearing, seconded by Michael Rossi. The motion passed 5-0 and the public hearing was closed.

### **Deliberation:**

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.



# CITY OF NEWTON, MASSACHUSETTS

City Hall  
1000 Commonwealth Avenue, Newton, MA 02459-1449  
Telephone: (617) 796-1060 Fax: (617) 796-1086  
[www.newtonma.gov](http://www.newtonma.gov)

Ruthanne Fuller  
Mayor

**ZONING BOARD OF APPEALS**  
Brenda Belsanti, Zoning Board Clerk

Accordingly, a motion was made by Michael Rossi, duly seconded by Betsy Sweet, to deny the request to allow a reduced setback. The motion passed five in favor and none opposed. Therefore, the request for a variance is denied.

---

**Agenda Item 2:** Review and approval of minutes for May 25, 2022, meeting.

A motion was made by Michael Rossi to approve the minutes as circulated. This motion was duly seconded by Treff LaFleche. The motion passed 5-0.

Adjourned 7:32 p.m.

**ZBA DECISIONS can be found at [www.newtonma.gov/ZBA](http://www.newtonma.gov/ZBA)**