



CITY OF NEWTON, MASSACHUSETTS

City Hall
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www.newtonma.gov

Ruthanne Fuller
Mayor

ZONING BOARD OF APPEALS
Brenda Belsanti, Zoning Board Clerk

MEETING MINUTES

Wednesday, September 28, 2022
7:00 p.m.

Hybrid – in person and via ZOOM

Board Members Present: Brooke Lipsitt (Chair), Michael Rossi, Elizabeth Sweet, Stuart Snyder (remote), and William McLaughlin

Staff Present: Brenda Belsanti, ZBA Clerk, Jennifer Wilson, Assistant City Solicitor, Jonah Temple, Deputy City Solicitor (remote), Heather Zaring, Executive Assistant (remote), and Anthony Ciccariello, Deputy Commissioner of Inspectional Services (remote)

A public hearing of the Newton Zoning Board of Appeals was held as a hybrid meeting in person and virtually via Zoom on Wednesday, September 28, 2022, at 7:00 p.m. on the following petitions:

1. **#07-22** Pouya Hezaveh of 60 Hope Ave Unit 320, Waltham, MA requesting a variance from Section 3.1.3 of the Newton Zoning Ordinance to allow 64.8 feet of frontage where 70 feet of frontage is required. The subject property is located at 0 Moody Street within a Single-Residence 3 (SR-3) zoning district and consists of a 7,535 square foot lot.
2. **#08-22** Josh Ehrenfried of 78 Winston Road, Newton, Massachusetts, pursuant to M.G.L. c. 40A, § 8, and 15, appealing the August 18, 2022 issuance of a building permit by the Commissioner of Inspectional Services for the installation of foundations for sports field lighting. The subject property is at 140 Brandeis Street, Newton, Massachusetts within a Public (PUB) zoning district.
3. Review and approval of minutes for June 22, 2022 meeting.

Agenda Item 1: #07-22 – Attorney Terrence Morris for 0 Moody Street Sitting Members: Brooke Lipsitt (Chair), Michael Rossi, Elizabeth Sweet, Stuart Snyder (remote), and William McLaughlin

Documents Submitted:

1. 0 Moody Street stamped application dated July 26, 2022.
2. Certificate of organization of the ARC, LLC



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3. Three pictures of site submitted September 28, 2022.

Testimony:

Representing the petitioners, Attorney Terrence Morris, 57 Elm Road, Newton, stated that the subject property is located at the end of the Moody Street and is the result of a sub-division in 1932 and is known as Lot 20. The lot is distinguished by its unorthodox shape which is one of the three criteria that the petitioner hoped to establish as a basis to grant the variance request. Attorney Morris stated most of the other lots are fairly uniform and rectangular in shape. The assessor's map shows that the subject parcel is somewhat truncated in comparison to the other lots on the street. Attorney Morris provided visuals of the topographical map and existing conditions plan showing the steepness of the grade of the subject lot. The northwest corner of the subject lot is as high 233.9 feet while the lower corner drops to 219 feet. The conditions are exacerbated by the subsoil conditions. Attorney Morris reviewed the photographs submitted regarding the severe outcropping of ledge and the steep change in topography. Attorney Morris stated that the application meets all three requirements to qualify for the variance and— soil conditions, shape of the lot, and the topography of the land. The lot is clearly unusual and as result of the soil conditions, shape, and topography the lot has never been developed. All the above characteristics solely adversely affect the subject lot and none of the other 16 lots making up the district where homes have been built. The trapezoidal shape of the subject lot makes it unique to the street with the exception of one other lot. The shape of the lot was dictated by the change in topography. Attorney Morris stated the hardship is that without the variance there is no other productive use of the land possible. When the lot was created in 1932, there was no frontage requirement which explains why the subject lot was and only one other lot in the subdivision did not have the currently required frontage of 70 feet. The frontage of the other lot measured at 63.55 feet and the subject lot measures 64.81 feet. The subject lot does have 7,573 square feet making it the second largest lot on the street. The size of the lot compares favorably to the average size lot on the street of 7,523 square feet. Attorney Morris stated due to all of these reasons he believed a variance is justified and respectfully request the variance be granted.

Mr. Rossi asked for clarification of the ownership history of the subject lot which was reported in the Planning Department memo as previously held in common ownership with 63 Moody Street.



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Attorney Morris stated that the two lots were previously owned by one person and are now in separate ownership. The former owner of 63 Moody Street was able to construct a home with no mention of merger with the subject property and the lot was sold. Mr. Rossi asked if the subject lot was purchased as is or subdivided from the adjacent lot. Attorney Morris responded that the subject lot had not been subdivided but was a result of the original subdivision. Mr. McLaughlin asked for clarification of where the right of way pavement ends. Attorney Morris responded he was unaware of where the pavement ends exactly. Mr. McLaughlin stated he had visited the site and the existing condition is the road ends prior to the subject property with no turnaround, cul-de-sac, or fire access to the subject lot. Mr. McLaughlin asked if permission was granted to build a roadway and what was the applicant's intention in regard to the roadway. Attorney Morris responded that the owner of the subject lot will extend the road further to access the subject lot. Mr. McLaughlin asked if the extension would connect to the Carabetta property. Attorney Morris responded that due to the topography it would be impossible to connect the properties.

Chair Lipsitt asked if it was the client's intent to bring the extended roadway up to city standards. Attorney Morris responded that it would meet city standards.

Chair Lipsitt asked if it would be acceptable if the Board made it a condition of this variance that any building on the subject property would be accompanied by building the roadway to the city engineer's standards at the client's expense. Attorney Morris responded that it was acceptable to impose that condition.

There was no comment from the public.

A motion was made by Michael Rossi to close the public hearing, seconded by Elizabeth Sweet. 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.



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Accordingly, a motion was made by William McLaughlin, duly seconded by Stuart Snyder, to approve the request to allow to reduce the frontage requirement for the subject lot with the condition that the road be brought up to the city standard at the owner's expense. The motion passed five in favor and none opposed. Therefore, the request for a variance is approved.

Agenda Items 2 & 3: The Board encountered technical difficulties at the beginning of the second item. A motion to postpone was made and approved.

Adjourned 7:44 p.m.

ZBA DECISIONS can be found at www.newtonma.gov/ZBA