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TOWN OF BELMONT
ZONING BOARD OF APPEALS
MEETING MINUTES

February 4, 2019

Present: Jim Zarkadas, Vice Chair; Casey Williams; Blake Currier; Andrew Plunkett;
Phil Ruggiero
Absent: Nick Iannuzzi, Chair
Staff: Ara Yogurtian, Liaison to the Office of Community Development

1. CALL TO ORDER 7:00 PM

Mr. Zarkadas called the meeting to order and introduced the Board members. He noted the order of the meeting and asked the audience members to please sign-in if they were planning to make a statement.

2. CONTINUED PUBLIC HEARINGS:

a. CASE NO.19-01 ONE (1) VARIANCE
214 Waverly Street (GR) – Liyang Diao

Liyang Diao and Mike [last name unconfirmed], Applicants, came before the Board to request a Variance to construct a tool shed. The required front setback of the tool shed is 20' and the proposed is 6'. The lot was a corner lot and it was an irregularly shaped lot. Liayng noted that the downstairs neighbors' windows will be blocked if the shed was to be placed within the setback requirement. There was no basement and they needed storage space for their lawn mower, etc.

No one spoke in favor of the proposal.

In opposition:

Carol Brown, 7 Ash Street, noted that she was not in favor of the shed and the driveway exits on Shean Road. There were kids walking on the street because they cannot walk on the sidewalk. She also noted that there was a ten-foot fence and the shed was taller than the fence. She would like to see the shed go up against the house. She said that it was dangerously placed and blocked views for the drivers. She shared pictures of people walking in the street because the fence was too tall.

Daniel Brackesy, 17 C Street, noted that the issue was kids walking on the sidewalk and the unsafe condition of the height of the fence. The fence was in violation and needed to be fixed.

Mr. Yogurtian noted that the fence was a different matter and the shed was in front of the Board at this time and the decision would be based on the shed not the fence.

The Applicants agreed that the fence was too high, and they will lower the fence in the spring. The shed will be moved closer towards the house, outside the visual range. There was a plot plan that with the proposed location of the shed.

MOTION to allow a variance to have the shed at 10 feet off of the Shean Road setback and maintain the 20 feet offset from Waverly Street was made by Ms. Williams and seconded by Mr. Currier. Motion Passed, vote 5-0.

3. PUBLIC HEARINGS:

- a. CASE NO.19-05 Interpretation of Zoning By-Law
70 Clark Street – Joshua M. Alper, et al

Mr. Zarkadas read the public notice.

Mark K. Bobrowski, Attorney, representing the people of the Clark Street neighborhood. He noted that he was hired by the neighbors to appeal the decision of the Inspector of Buildings, that section 4.2.2 B (2) of the Belmont Zoning By-Law does not apply to existing buildings in the SR-C zoning district being evaluated under section 1.5.4 (B) (2). Mr. Bobrowski submitted a memo to the Board members and read the specific names of the neighbors that he was representing. He described the proposed two-story addition to the house located at 65 Clark Street. He reviewed the dimensions of the addition and noted that this important factor would determine whether this structure would need a special permit or not. He noted that the existing structures that were taller than 34' to the ridge and were also subject to the regulation adopted in 2016. He noted that the 2016 by-law amendment made the structure nonconforming with regards to height. He stated that this case was a classic uniformity violation. He noted that the existing building height was 36.37' according to the plot plan and the structure was nonconforming. He stated that section 1.5.4 (B) says if proposed addition of 26' X 44' exceeds 30% of the existing gross floor area of the building, it requires a Special Permit. He explained that 63.2% of the lower story was underground and this meant that the cellar could not count in the Gross Floor Area for this building. He noted that the existing structure had 5,415 square feet gross floor area and 30% would be 1,624 square feet. The proposed addition was for

2,302 square feet and this was more than 30%. Mr. Bobrowski stated that the neighbor's position was to send the Applicant to Planning Board to see whether or not this application fits into the neighborhood. He submitted a petition from the neighbors.

Mr. Yogurtian explained that according to the Building Department's interpretation, this was a conforming building (lot size, height and setbacks) and the Board was to decide if the by-law section 4.2.2 B (2) should apply to existing buildings or only for future buildings. 1.5.4 (B) (2) does not apply and all of the calculations are accurate. He noted that section 4.2.2. B (2) does not apply to new buildings, it was only meant for new construction or new additions. The Zoning Board's decision will dictate how the Building Department proceeds in the future. He added that the intent of the by-law section 4.2.2 B (2) should not affect the existing building. The vote by the Board will be to decide whether the decision by the Offices of Community Development - Building Department was correct or not correct.

Mr. Steve Rosales, Attorney representing the Owners of 65 Clark Street, noted that the house was conforming and the entire argument was based on a false premise that the house became nonconforming upon the passage of the by-law amendment. He reviewed the allowed building height table in section 4.2.2 B (2) and noted that the maximum building height was at 30', measured to the mid-point between the lowest and highest points, this makes the existing building conforming. The 30% as argued was inapplicable in this instance because that requirement was predicated on the existing building being nonconforming when it was in fact conforming.

Mr. Rosales reviewed the legislative history of the 2016 by-law amendment. He noted that the legislative intent of the Planning Board was to set the thirty-four foot maximum height to the ridge. He stated that Mr. Clancy's interpretation of the by-law section 4.2.2 B (2) was correct.

Ian Watson, 81 Clark Street, Town Meeting Member, noted that the Planning Board intent was to offer an opportunity to have a discussion around large built spaces and how to manage that growth and balance in our community and that was the bottom line of that discussion.

Rhiannon Macrae, 63 Kilburne Road, noted that she came before the Board to get a special permit to build a very small addition on her small nonconforming and it seems unusual that this substantial addition may not need to come before the Board at all.

The Planning Board decided to consult with Town Council for their legal opinion on this matter before they make their interpretation.

MOTION to continue to March was made by Mr. Zarkadas and seconded by Mr. Plunkett. Motion Passed, vote 5-0.

- b. CASE NO.19-06 – ONE (1) Special Permit
34 Ridge Road (GR) – Maria Liebmann and Eunice Barcenas

Mr. Zarkadas read the public notice.

Ms. Liebmann and Ms. Barcenas came before the Board to request a special permit to operate a Child Care, Large Family in a general Residence Zoning District. She has an existing small child care (6 students) but would like to increase to the Large family (10 students) care and add another teacher to the permit. The State has already inspected and issued the State permit.

Richard Howard, 789 Belmont Street, asked for an explanation regarding the hours of operation, ages of the children 2-6 years old, he noted that he was concerned about the security of this area.

Mr. Yogurtian noted that the State regulated safety at this site and would issue the permit. The Town permit was to make sure the neighbors were aware and that pick up and drop off times were reasonable.

MOTION to approve was made by Mr. Zarkadas and seconded by Mr. Currier. Motion Passed, vote 5-0.

- c. CASE NO.19-07 – FOUR (4) Special Permits
24 Bellevue Road (GR) – Michael Graf

Mr. Zarkadas read the public notice.

Mr. Graf, Owner and Applicant, came before the Board to request four special permits in order to enclose an existing porch and to add a new open porch. He would also like to construct a new open porch. Special permits were needed to expand lot coverage and to reduce the setbacks on three sides.

No one spoke in support. No one sport in opposition.

The Board deliberated and voted.

MOTION to approve was made by Ms. Williams and seconded by Mr. Plunkett. Motion Passed, vote 5-0.

- d. CASE NO.19-08 – ONE (1) Special Permit
289 Belmont Street (LBIII) Sasirat Wyckoff Grande, d/b/a Thai Noodle Café

Mr. Zarkadas read the public notice.

Ms. Grande came before the Board and noted that she would like to change from a BBQ restaurant to a Thai restaurant. The owner would remain the same with a new menu and new name.

No one spoke in favor or in opposition.

MOTION to approve was made by Mr. Zarkadas and seconded by Mr. Plunkett.
Motion Passed, vote 5-0.

- e. CASE NO.19-09 – ONE (1) Special Permit
61 Warwick Road (GR) – Jay Bonnar

Mr. Zarkadas read the public notice.

Ms. Miller came before the Board and noted that her client would like to build an addition to expand the kitchen by only adding 72 additional feet. She added that it was a small-scale project and would not be detrimental to the neighborhood. She handed out signatures from the neighbors in support of the project.

No one spoke in favor or in opposition of the proposal.

MOTION to approve was made by Mr. Ruggiero and seconded by Mr. Currier.
Motion passed, vote 5-0.

- f. CASE NO.19-10 – ONE (1) Special Permit
368 Trapelo Road (LBIII) – Antonio J. Pereira, d/b/a Lisa's Pizzeria

Mr. Zarkadas read the public notice.

Mr. Pereira came to request a Change of Ownership from Diablo Pizza to Lisa's Pizzeria, this will be the seventh Lisa's Pizza. Trash pickup will be six days of week, he has already dropped off the contract with the Health Department.

No one spoke in support or opposition.

**MOTION to approve was made by Mr. Zarkadas and seconded by Mr. Currier.
Motion passed, vote 5-0.**

4. Adjourn 9:08 PM.