

DATE: January 11, 2023
TIME: 10:46 AM

**TOWN OF BELMONT
ZONING BOARD OF APPEALS
MEETING MINUTES
July 11, 2022**

Present: Nick Iannuzzi, Chair; James Zarkadas, Vice Chair; Andrew Kelley; Teresa MacNutt; David Stiff; Elliot Daniels; Casey Williams

Staff: Ara Yogurtian, Assistant Director, Community Development
Gabriel Distler, Staff Planner, Community Development

In keeping with the extension of the remote participation portion of Governor Baker's Executive Order of March 12, 2020: "Order Suspending Certain Provisions of the Open Meeting Law" – All Participation for Town Residents, Boards and Committees will be by Remote Access.

1. CALL TO ORDER AT 7:00 PM

Mr. Iannuzzi called the meeting to order and introduced the Zoning Board of Appeal's members. He noted that the meeting was live and being recorded. He announced that Jeff Birenbaum has resigned and has moved to the Planning Board. Draft meeting minutes were recorded by Kim Beer.

2. PUBLIC HEARINGS:

a) CASE NO. 22-11 ONE SPECIAL PERMIT 11 Brighton Street (GB) – Comella's Restaurant Holdings

Mr. Iannuzzi read the public notice.

John P. Comella, owner. The applicant requests One Special Permit under §3.3 of the Zoning By-Law to operate a Fast Food Restaurant at 11 Brighton Street located in General Business (GB) Zoning District. Zoning Board of Appeals Agenda Monday, July 11, 2022 Page 2 Special Permit: §3.3 of the Zoning Bylaw allows fast food restaurants in the General Business zoning district by a Special Permit granted by the Board of Appeals File Date: June 6, 2022

Mr. Stephen B. Rosales, Attorney, representing Mr. John P. Comella. Mr. Rosales described the current restaurant as a great community asset. He explained that they have applied to operate in the same way that they have in the Belmont center. Mr. Rosales reviewed the floorplan and noted the proposed 60 seats – 48 as tables and 12 at a bar. He explained that 30 spaces were needed to meet the parking requirements, 1 per every two seats. Mr. Rosales presented an aerial image with 12 parking spaces as owned by the Applicants, 10 spaces secured with written permission from F.A. Williams and there were 9 on street parking spaces there. He noted that there was also plentiful parking in the neighborhood. He added that there was widespread

support for this project and an online petition was circulated with 47 names in support.

Ms. Williams asked how patrons will know that they can park in the F.A. Williams spots. Attorney Rosales noted that the availability of the additional off-street parking will be posted inside the restaurant.

Ms. MacNutt asked for information regarding the handicap accessibility. Mr. Yogurtian pointed it out for her on the shared screen. She noted that she was glad that it was up to safety standards, and she was pleased with the location.

Mr. Iannuzzi asked Mr. Comella to explain the trash incident at the location on Leonard Street during summer of 2021. Mr. Comella noted that trash would not be a problem at this location. He explained that the trash was going to be left in the dumpster and another dumpster would be added.

Mr. Iannuzzi noted that permit would be conditioned on no outdoor seating, and Mr. Comella would have to come back for permission for outdoor seating. Mr. Iannuzzi explained that outdoor seating information was not included in this application and was not a consideration at this hearing.

Public comments-

Emma Thurston, Baker Street, was in support of the application.

Mr. Noone, neighbor, had a comment concerning the location of the dumpster, the comment was made in the comments section of the Zoom meeting.

MOTION to approve with standard conditions of the previous Loading Dock decision was made by Mr. Zarkadas and seconded by Mr. Iannuzzi. MOTION passed.

Additional condition - There would be no outdoor seating allowed yet and the Applicant would have to come back for permission for outdoor seating.

YES votes-

Ms. MacNutt

Ms. Williams

Mr. Kelley

Mr. Iannuzzi

Mr. Zarkadas

Due to technical difficulties, Mr. Iannuzzi left the meeting at 7:40 PM. He called back into the zoom link on his phone. Mr. Zarkadas managed the rest of the meeting as Vice Chair.

b) CASE NO 22-12 TWO SPECIAL PERMITS 231 Orchard Street (SRC)

Mr. Zarkadas read the public notice.

Vincent Nazar, the applicant requests Two Special Permits under §1.5 of the Zoning By-Law to construct a side addition and dormers at 231 Orchard Street, located in Single Residence C (SRC) zoning district. Special Permits: 1. §4.2 of the Zoning By-Law Dimensional Regulations allow a maximum of 2-1/2 story structures, the existing structure is three and a half (3-1/2) stories. The lowest level of the dwelling is a basement (59% of the foundation walls are exposed) and is considered a story. The existing structure and the proposed dormers are at a three and a half (3-1/2) story level. 2. §4.2.2 requires a minimum side setback of 10.0', the existing and proposed side setback is 8.5'. File Date: June 6, 2022

Mr. Paccione, Architect, presented the plans for the dormer that would be converted to a master suite. The existing house was three and a half story and non-conforming. The side setback on the existing house had a sunroom converted to a living room. They extended the foundation wall to square off the back corner of the house and there is a small section of 11.68 square feet that has remained in the setback at the first floor. For the story relief, they proposed to raise the grade up to 12" and the existing basement would now fit the definition of a cellar.

Mr. Yogurtian explained how the door and the steps would work with the proposed grading. The only remaining special permit that they needed was for the setback as they had already converted the three and half story to a two and a half story by raising the grade.

Mr. Nazar explained the setback mistake and noted that the first floor did not jog over to meet the setback requirements and they made an error.

Mr. Kelley noted that this addition was completed and the permitting was being done in a retrospective fashion. Mr. Iannuzzi reiterated that this was already built and this was very large compared to the house next door where Mr. Muse lives.

Mr. Yogurtian walked the Board through the addition with detail explaining the grading, the location of the foundation and the height of the addition. He noted that the addition had been built, a stop work order was issued and they continued to work at their own risk.

Mr. Muse, 225 Orchard Street, direct abutter, noted that there were two air conditioner units that were placed in violation of the setbacks. He noted that he was concerned about the raised grade and the implications it could have on drainage. He added that they have created unsafe conditions for the children in the neighborhood. He explained that this was done purposely, and this was being built to function as a full additional story. After the work stoppage he noted that the plan does not meet what was approved. He noted that they were feeling claustrophobic and that they

have placed air conditioning units mere feet from the property line. The Applicant never tried to reach out to the neighbors. Mr. Yogurtian noted that the air conditioners would need to be moved if they are in violation. Mr. Yogurtian explained that he understood that this house felt large for the neighborhood but the other matters were allowed by right. He reviewed the draining building code and noted that they are not allowed to divert any water from their yard to any of the neighbor's yard.

Mr. Zarkadas explained that this was a hearing only for the side setbacks and the other issues could be handled by Offices of Community Development.

Leah and Eric Lesser, 237 Orchard Street, were strongly opposed to the addition as it was too big and she concurred with Mr. Muse's comments.

Rich Hartley, 11 Edward Street, noted that he was concerned about drainage issues on Orchard Street.

Mr. Zarkadas noted that they would close the public portion of the meeting.

Ms. Williams noted that she didn't have issues with the setback problem although she didn't like that it was coming to them after it had been built.

Ms. MacNutt noted that this had an element of compatibility with the neighborhood.

Mr. Kelley noted that there could have been some give and take or something that would have made it more palatable to the neighbors if they had come for the special permit at the right stage. It was not harmonious with the neighborhood and the process was part of the problem.

Mr. Zarkadas noted that this was unfortunate for the neighborhood and that the neighbors would still not be happy if it was reduced 1.5 feet. It was mostly built by right and the developers can build what is allowed by right.

Mr. Iannuzzi noted that there was an accountability factor here.

MOTION to approve the special permit was made by Ms. MacNutt. There was no second. The motion was declined.

MOTION to approve the special permit for the setback was made by Ms. MacNutt and seconded by Ms. Williams. Motion denied. VOTES 2:3

Votes for approval-
Ms. MacNutt
Ms. Williams

Votes for denial-

Mr. Iannuzzi
Mr. Kelley
Mr. Zarkadas

c) CASE NO 22-13 FIVE SPECIAL PERMITS 32 Chester Road (SRC)

Mr. Zarkadas read the public notice.

Bradley Noyes and Emily Pinney, Applicants. The applicants request Five Special Permits under §1.5 of the Zoning By-Law to Enlarge front Entry Hall, Construct Second Story Front Porch and Enlarge Second Story Rear Porch at 32 Chester Road, located in General Residence (GR) zoning district. Special Permits: (1) §1.5.4A of the By-Law allows alterations and expansions in the GR district by a Special Permit granted by the Board of Appeals. (2) §4.2 of the By-Law, allows maximum lot coverage of 30%, the existing and proposed lot coverage is 39.2%. (3) requires minimum side setback of 10.0', the existing and proposed side setback is 4.2'. (4) requires minimum front setback of 10.3' (average of the 2 abutting properties' front setbacks), the existing and proposed front setback is 9.3', and (5) requires a minimum rear setback of 17.8' (20% of the average depth of the lot), the existing and proposed rear setback is 17.6'. File Date: June 6, 2022

Mr. Noyes presented the plans for the addition. He noted that they were seeking a permit to build a roof over the second-story front porch. Both front and rear porches would be rebuilt. They would like to extend the second story rear porch to match that of the first-floor rear porch and to extend the vestibule by 12". They have letters of support from neighbors and they felt that they would be making the house more conforming to the neighborhood.

There were no questions from the Board members.

There were four letters of support sent to the Board.

No one spoke in support or opposition of the project.

MOTION to approve was made by Mr. Daniels and seconded by Mr. Zarkadas.
Motion passed.

Yes votes-
Mr. Kelley
Ms. MacNutt
Ms. Williams
Mr. Zarkadas
Mr. Daniels

d) CASE NO 22-14 ONE SPECIAL PERMIT 29 Stearns Road (SRC) –

Mr. Zarkadas read the public notice.

Tania and Greg Dunlap, Applicants. The Applicants requested One Special Permit under §1.5 of the By-Law to construct a two (2) story addition over a basement at 29 Stearns Road, located in Single Residence C (SRC) zoning district. Special Permit: (1) §4.2 of the By-Law allows two and a half (2.5) story structures, the lowest level of the structure is a basement (66.32% of the foundation walls are exposed and is considered a story). The proposed addition is considered a three (3) story addition. File Date: June 6, 2022 Zoning Board of Appeals Agenda Monday, July 11, 2022
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Ms. Miller, Architect, noted that they were seeking a special permit to maintain a nonconforming story count because the basement was 66% exposed. The proposed rear addition would provide a playroom on the first floor and a fourth bedroom on the second floor. They had tremendous support from the neighbors including the abutters and the addition would not be substantially detrimental to the neighborhood.

The meeting was opened up for public comment.

No one spoke in support or opposition.

There were no questions of Board members.

MOTION to approve was made by Mr. Zarkadas and seconded by Mr. Iannuzzi. Motion passed.

YES votes-
Mr. Stiff
Ms. Williams
Ms. MacNutt
Mr. Zarkadas
Mr. Iannuzzi

e) CASE NO. 22-15 ONE SPECIAL PERMIT 3-5 Williston Road (LBI)

Lalig Musserian, the Applicant was requesting one Special Permit under section 3.3 of the By-Law to convert an existing office space to a residential unit at 3-5 Williston Road, located in Local Business I (LBI) zoning district. Special Permit: (1) Residential units in LBI zoning district are allowed by a Special Permit granted by the Board of Appeals. File Date: June 6, 2022

Ms. Musserian presented the plans for the commercial space in the building to change it to residential and to make improvements on the space.

Mr. Yogurtian noted that the rear commercial space was located in the rear and it was separate from the commercial space in the front. He said that he felt that it would be more attractive as a residential space.

Mr. Zarkadas asked if they move from commercial to residential, would they be able to go back to commercial in the future? Mr. Yogurtian noted that they can convert back to commercial by right in the future.

Ms. Musserian noted that there was a driveway that could accommodate four cars.

Architect, Norman Kerlap, noted that there was also parking on the street.

The meeting was opened up for public comment.

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

MOTION to approve was made by Mr. Iannuzzi and seconded by Mr. Zarkadas. Motion passed.

YES votes-
Mr. Kelley
Ms. Williams
Ms. MacNutt
Mr. Zarkadas
Mr. Iannuzzi

e) CASE NO. 22-16 ONE SPECIAL PERMIT 180 Claflin Street (SRC)

Mr. Zarkadas read the public notice.

Andrew Miller, the Applicant was requesting One Special Permit under section 1.5 of the By-Law to construct a Dormer at 180 Claflin Street, located in Single Residence C (SRC) zoning district. Special Permit: (1) §4.2.2 of the By-Law requires a minimum side setback of 10.0', the existing side setback to the structure is 7.7' and the proposed to the dormer is 9.0'. File Date: June 6, 2022

Ms. Miller, Architect, explained that the dormer was to replace an existing dormer that did not have adequate head height for the stairs. They were proposing to extend the dormer to provide the head height above the stairs and to accommodate a new bathroom on the attic level. There was a total of three-square feet that were not conforming. They had a petition signed in support by fourteen neighbors and she also noted that the dormer would fit in with the neighborhood and it would not be detrimental.

There were no questions by Board members.

The meeting was opened up to the public.

No one spoke in opposition or support of the proposal.

MOTION to approve was made by Ms. Williams and seconded by Mr. Zarkadas. Motion passed.

Yes votes-
Mr. Iannuzzi
Ms. MacNutt
Ms. Williams
Mr. Iannuzzi
Mr. Kelley

3. Review and approve the May 5, 2022 public hearing meeting minutes.

MOTION to approve was the May 5, 2022 made by Mr. Iannuzzi and seconded Mr. Zarkadas. Motion passed.

Yes votes-
Ms. Williams
Ms. MacNutt
Mr. Kelley
Mr. Zarkadas
Mr. Iannuzzi

4. Adjourn 9:37 PM

The Zoning Board of Appeal's next regularly scheduled meeting will be held on Monday, September 12, 2022.