

**TOWN OF BELMONT
ZONING BOARD OF APPEALS
MEETING MINUTES
June 21, 2021**

**RECEIVED
TOWN CLERK
BELMONT, MA**

DATE: October 14, 2021
TIME: 2:32 PM

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

Staff: Ara Yogurtian, Assistant Director, Community Development

1. CALL TO ORDER AT 7:00 PM

Mr. Iannuzzi called the meeting to order and introduced the Zoning Board of Appeals members. He noted the order of the meeting and explained the video conference process.

2. CONTINUED CASES:

- a. CASE NO. 21-14 – FIVE SPECIAL PERMITS
183-185 Beech Street (GR) – Gabriel Vellante

Mr. Iannuzzi noted that there were a few issues at the first ZBA hearing. The issue was that the porch needed to be covered because of ice and snow. The new plans show an enclosed and covered staircase. The members of the Board were happy with the new plans.

MOTION to approve the five special permits was made by Mr. Iannuzzi and seconded by Mr. Zarkadas. Motion passed.

Roll call:

YES VOTES-

W. Fick

J. Zarkadas

C. Williams

A. Kelley

N. Iannuzzi

- b. CASE NO. 21-15 – TWO VARIANCES AND ONE SPECIAL PERMIT
24 Stults Road (SRC) – Marc and Kristen Becker

Mr. Yogurtian explained that the variances were for a building too close to the garage and now it was pulled back and it was all set. The question now remains, if the addition meets all the requirements was it allowed to be in front of the accessory building that was already nonconforming for the rear setback. He asked the Board to consider if the existing was nonconforming will this be by special permit [instead of a variance] based on the Gale vs. Gloucester case? Would they be allowed by special

permit to go further into the front yard from the front line of the garage? He also explained that the other variance for the rear setback was known as conforming and the proposed was not conforming but that there was an error by Cliff Rober and that he fixed it. The bulkhead extends into the setback so now the existing and proposed setbacks are by special permit. The lot coverage had been reduced and it remained nonconforming. Mr. Yogurtian noted that the variances were eliminated and one of them was up for interpretation by the Board if it could be considered as a special permit because the existing conditions were nonconforming.

Mr. Yogurtian added that the Board would need to determine and make an interpretation of passing beyond the front line of the garage because the existing building was nonconforming with the rear setback. The Board would need to decide if this was a variance or a special permit. He noted that if it were not for the Gale vs. Gloucester case, it would be a variance. If the rear setback of the existing building were nonconforming then no matter what that garage was, it would not meet the requirement of the By-Law. It would not have met even if they did the smallest building. Gale vs. Gloucester says if there was an existing nonconforming there it wouldn't be a variance it would be a special permit. Mr. Yogurtian suggested that the Board make this decision and that it was his professional opinion that this was only needing a special permit.

Mr. Iannuzzi noted that the Board does not interpret as whether a case needs to be determined as a variance or a special permit.

Ms. Williams noted that whatever they do on the exterior in the future would need a special permit.

Mr. Yogurtian clarified the three special permits as-

1. Special Permit for rear setback which was a variance but now a special permit.
2. Special permit for lot coverage
3. Special Permit to extend the proposed rear line of the building beyond the front line of the detached garage because of Gale vs. Gloucester the case is by special permit.

Bill Fick noted that the Gale vs. Gloucester case where there is an existing nonconforming use the grant of special permit trumps the need for a variance. The variance vs. special permit issue is a legal question that this appeals case answers.

Mr. Iannuzzi asked Mr. Yogurtian to check with Mr. Clancy to determine whether it is a variance or a special permit.

MOTION to continue to July 12, 2021 was made by Mr. Iannuzzi and seconded by Ms. Williams. Motion passed.

Roll call:

YES VOTES-

J. Zarkadas
T. MacNutt
C. Williams
A. Kelley
N. Iannuzzi

- 3. Mr. Fick noted that August 6, 2021 would be the closing on his house and he would need to step down from the ZBA before then.**
- 4. ADJOURN 7:39 PM**