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**TOWN OF BELMONT
ZONING BOARD OF APPEALS**

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Case No. 17-25

Applicant: David DeMarco
Sharon DeMarco

Property: 36 Lodge Road

Date of Public Hearing: November 6, 2017

Members Sitting: Nicholas A. Iannuzzi Jr., Chair
Jim Zarkadas
Faustino Lichauco
Andrew Plunkett
Phil Ruggiero, Associate Member

Members Voting: Nicholas A. Iannuzzi Jr., Chair
Jim Zarkadas
Faustino Lichauco
Andrew Plunkett
Phil Ruggiero, Associate Member



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Introduction

This matter came before the Board of Appeals (the "Board") of the Town of Belmont (the "Town") acting as Variance and Special Permit Granting Authority under the Zoning By-Law of the Town of Belmont, Massachusetts (the "By-Law") and Chapter 40A of the Massachusetts General Law (the "Zoning Act"). The applicants David DeMarco and Sharon DeMarco (the "Applicants"), seek Four (4) Special Permits under Section 1.5 of the Belmont Zoning-By- Laws to construct a 2nd story addition, a deck and expand the third floor dormer to increase area with usable space. The Special permits requested 1.) The allowed maximum number of stories is 2.5, the existing structure is three and a half stories and the proposed addition is a third (3rd) floor addition. 2.) The allowed maximum lot coverage is 25%, the existing is 29.9% and the proposed is 34.0%. 3.) The minimum allowed side setback is 10.0', the existing and proposed side setbacks are 7.9'. 4.) The minimum allowed rear setback is 27.0', the existing and proposed rear setbacks are 26.9' at 36 Lodge Road located in a Single Residence C Zoning District.

Proposal

The Applicants propose to construct a 2nd story addition, a deck and expand the third floor dormer. The lowest level of the Property is a basement (the foundation walls are 51.17% exposed) and is considered a story. The proposed expansion of the dormer is considered a third story addition. The new addition on the 2nd floor will replace an existing deck for a new bedroom and a new addition on the East side will expand the dining room. A new deck elevated from the ground will replace an existing patio. The proposal is set forth on plans, including elevations dated August 2017, a plot plan dated September 18, 2017 and a Zoning Compliance Checklist dated September 18, 2018.

The Applicant David DeMarco presented the proposal at a duly noticed public hearing of the Board on November 6, 2017. The Applicant described the proposal, referred to previous Special Permits granted by the Board for a similar project in March of 2017 for 3 Special Permits, Case # 17-08. Provided 3 letters from neighbors in support of the project and photographs of the Property.

DeMarco
36 Lodge Rd.
Belmont, MA 02418

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Prior to the hearing, a letter from Judi Hamparian Hanley was sent to the Board members concerned about the rear setback and the deck which was considered to be built on a 2nd floor. The Office of Community development had responded to Mrs. Hanley's concerns explaining the interpretation of basement/cellar definitions of the By-Laws.

No one spoke in opposition of the project.

Decision


The By-Law provides that the Board may issue Special Permits to reconstruct, extend, alter, or change a nonconforming structure "only if it determines that such reconstruction, extension, alternation, or change does not increase the nonconforming nature of said structure or create a new nonconformity and shall not be substantially more detrimental than the existing nonconforming structure to the neighborhood and that it shall be in keeping with the character of the neighborhood in which it is located." By-Law § 1.5.3.

Two Special Permits to maintain the existing non-conforming side and rear setbacks, a third Special Permit to allow the existing non-conforming lot coverage of 29.9% to increase to 34.0%, and a fourth Special Permit to maintain the number of stories were considered by the Board. The Board found that the proposed alterations and additions does not substantially increase the non-conforming nature of the structure or create a new nonconformity. The Board concluded that the proposed alteration is not substantially more detrimental to the neighborhood than the existing non-conforming structure and that the proposed alterations and additions were in keeping with the character of the neighborhood in which it is located.

Accordingly, upon motion duly made and seconded, the Board voted 5-0 to grant the requested four (4) Special Permits for the proposed alterations and additions as requested and shown on the plans submitted to the Board.

For the Board,

Date: January 31, 2018




Ara Yogurtian
Assistant Director
Office of Community Development

CERTIFICATION

I, Ellen O'Brien Cushman, hereby certify that twenty (20) days have elapsed after the decision was filed in the office of the Belmont Town Clerk on January 31, 2018, and further I certify that no appeal has been filed with regard to the granting of said four (4) Special Permits with zero (0) conditions.

February 22, 2018



Ellen O'Brien Cushman, Town Clerk
Belmont, MA

Any appeal from this decision must be made pursuant to Ch.40A, S.17, MGL, and must be filed within 20 days after the filing of such notice in the office of the Town Clerk.