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**TOWN OF BELMONT
ZONING BOARD OF APPEALS**

Case no. 17-32

Applicant: Belmont Manor Nursing Home, Stewart Karger, Administrator

Property Address: 34 Agassiz Ave.

Date of Public Hearing: January 8, 2018

Members Sitting: Nick Iannuzzi, Chair
Jim Zarkadas
Faustino Lichauco
Andrew Plunkett
Phil Ruggiero, Associate Member

Members Voting: Nick Iannuzzi, Chair
Jim Zarkadas
Faustino Lichauco
Andrew Plunkett
Phil Ruggiero, Associate Member



2018 00079096

Bk: 71105 Pg: 309 Doc: DECIS
Page: 1 of 2 06/04/2018 01:25 PM**Introduction**

This matter came before the Board of Appeals ("Board") of the Town of Belmont ("Town") acting as Special Permit Granting Authority under the Zoning By-Law of the Town of Belmont, Massachusetts ("By-Law") and Chapter 40A of the Massachusetts General Law ("Zoning Act") at a joint meeting with the Planning Board for Design and Site Plan Review. The Applicant, Belmont Manor Nursing Home, Stewart Karger administrator seeks to amend a Use Variance previously granted and modified (granted in 1966, modified in 1991 and 2000) to expand a nursing home at 34 Agassiz Avenue.

Proposal

The relief sought is permission to expand a non-conforming use in a GR Zoning District by constructing a 2.5 story addition with 4,974 square feet area to eliminate all remaining triple-occupancy rooms, to create additional visiting and dining areas, a common area, and a laundry. §7.6.2 subparagraphs 2 and 3 of the By-Law authorizes the Board to grant and amend variances if it determines that "The desired relief may be granted without substantial detriment to the public good", and "Without nullifying or substantially derogating from the intent or purposes of the By-Law".

The hardship now advanced by the Applicant is that these changes have become necessary as regulations governing nursing homes and patient expectations have changed. An inability to adapt to such changes would thus create a significant adverse impact on the wellbeing of the patients and the business.

The proposed modification is consistent with the use originally permitted. Whether or not such modification would be substantially detrimental to the neighborhood is a question of fact for which it is appropriate to defer to the judgment of those who live in the neighborhood and would be the most familiar with the impact of the modification.

The application indicates that details of the proposed construction were presented to those most directly affected and that no objections were raised. The population of the facility is not changed

STEWART A. KARGER
BELMONT MANOR N.H.
34 AGASSIZ AVENUE
BELMONT, MA 02478

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significantly; only the population density is being changed by the reconfiguration. Hence, it is unlikely that increased traffic will result.

No one spoke in favor or in opposition.

Upon completion of the Zoning Board of Appeals Special Permit portion of the hearing, the Planning Board continued the hearing for Design and Site Plan Review.

Decision

After the Planning Board's vote 4-0 to accept the Design and Site Plan Review with amendments and conditions, The Board deliberated on case ZBA 17-32.

Upon motion duly made and seconded, **the Board voted 5-0 to grant the requested Use Variance to the applicant to construct a 2.5 story, 4,974 Square foot addition.** Prior to applying for a Building Permit, the applicant must,

- 1. Incorporate all amendments and conditions stipulated by the Planning Board.**

For the Board:

Dated: March 23, 2018


Ara Yogurtian
Assistant Director
Office of Community Development

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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 March 23, 2018, and further I certify that no appeal has been filed with regard to the granting of said Use Variance Amendment with one (1) condition.

April 13, 2018



Ellen O'Brien Cushman, Town Clerk
Belmont, MA