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18-01

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**TOWN OF BELMONT
ZONING BOARD OF APPEALS**

2018 MAR 15 PM 12:41

CASE NO. 18-01

APPLICANTS: Richard and Karin Lehr

PROPERTY: 47 Hillside Terrace

DATE OF PUBLIC HEARING: February 5, 2018

MEMBERS SITTING: Nicholas A. Iannuzzi, Jr. Chairman
James Zarkadas
Faustino Lichauco
Andrew Plunkett
Phil Ruggerio (Associate Member)

MEMBERS VOTING: Nicholas A. Iannuzzi, Jr.
James Zarkadas
Faustino Lichauco
Andrew Plunkett
Phil Ruggerio (Associate Member)



Introduction

43491 - 225

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").

The Applicants sought Two Special Permits under Section 1.5 of the Zoning Bylaw to construct an Extension to the Front Porch. SPECIAL PERMITS – (1). Minimum required front setback is 25.0'. The existing front setback is 24.7' and the proposed is 22.7'. (2). Maximum allowed lot coverage is 25%, the existing lot coverage is 25.6% and the proposed is 25.9%.

Applicants' Proposal

The applicants sought two special permits, one regarding set back and the other regarding lot coverage to increase the size of their existing front porch. The increases were de minimis. Several neighbors indicated their support in writing and none raised opposition, in writing or in person.

The increased lot coverage is de minimis. However, such de minimis changes have a pernicious effect often referred to as zoning creep. This phenomenon is similar to compound interest. As a result of it, small changes can add up over the years to cause significant changes to the character of the neighborhood, even though no one incremental change is sufficient.

Had this matter come before the Board before 2011, this permit would most likely have been denied for the foregoing reasons. However, under the Gayle vs. Gloucester case, it is difficult to identify a substantial marginal increase in detriment associated with the proposed incremental increase in lot coverage. While in the long run a series of such incremental increases will be no doubt become substantially detrimental, Gayle vs. Gloucester case instructs us to not consider


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such cases as Variance requiring to prove hardship but to consider them as Special Permits and consider only the incremental change before us. In following this mandate, the Board was unable to articulate a substantial detriment.

Accordingly, **upon motion duly made and seconded, the Board voted 4-1 in favor to GRANT the requested Special Permits.**

For the Board:

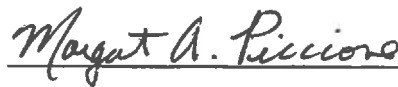
Dated: March 15, 2018


Ara Yogurtian
Assistant Director
Office of Community Development

CERTIFICATION

I, Margaret A. Piccione, hereby certify that twenty (20) days have elapsed after the decision was filed in the office of the Belmont Town Clerk on March 15, 2018, and further I certify that no appeal has been filed with regard to the granting of said two (2) Special Permits with zero (0) conditions, and as shown on the plans submitted to the Board.

April 6, 2018



Margaret A. Piccione, Assistant 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.

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Official Receipt for Recording in: -----*

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 Cambridge, Massachusetts 02141

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RICHARD LEHR
 47 HILLSIDE TER
 BELMONT MA 02478

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Total Received : \$77.00
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Thank You
 MARIA C. CURTATONE - Register of Deeds
 By: Crystal B

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