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18-13

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**TOWN OF BELMONT  
ZONING BOARD OF APPEALS**

2018 JUN 21 PM 1:18

**CASE NO.** 18-13  
*Gaffey*  
**APPLICANTS:** Jeffrey and Carolyn Gaffey  
*and owners*  
**PROPERTY:** 17 Stearns Road  
**DATE OF PUBLIC HEARING:** May 14, 2018  
**MEMBERS SITTING:** Nicholas A. Iannuzzi, Jr., Chairman  
James Zarkadas  
Andrew Plunkett  
Faustino Lichauco  
Craig White  
Phil Ruggerio (Associate Member)  
**MEMBERS VOTING:** Nicholas A. Iannuzzi, Jr., Chairman  
James Zarkadas  
Andrew Plunkett  
Faustino Lichauco  
Craig White

*deed: 55705/152*

**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").

The Applicants sought 2 Special Permits under Section 1.5 of the Zoning Bylaw to construct a Second Story addition. Special Permits –1. Maximum allowed lot coverage is 25%, the existing lot coverage is 27.1% and the proposed is 28.6%. 2. Minimum required side setback is 10.0'. The existing side setback is 9.4' and proposed is 9.3'.

**Applicants' Proposal**

The applicants proposed to construct a two-story expansion of their home at 17 Stearns Road in order to expand their kitchen into an existing 3 season porch with a second story study place above. The applicants received signatures in support from 10 neighbors. In addition the proposal does not seek to increase the height of the structure. It does however seek to increase lot coverage by 1.5% primarily by shortening the set-back by nearly 8 feet. The new setback is still in compliance however. Our primary consideration was around lot coverage and that the structure be in keeping with the neighborhood.

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, 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. A zero

*Jeffrey Gaffey  
17 Stearns Road  
Belmont, MA 02478*

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tolerance policy for such incremental increases, even small ones, is the only way to truly avoid the smoldering metastasis of zoning creep.

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 live in the present 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, 4 members of the Board voted in favor and 1 member voted in opposition, to GRANT the requested Special Permit.**

For the Board:


Dated: June 21, 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 June 21, 2018, and further I certify that no appeal has been filed with regard to the granting of said one (1) Special Permits with zero (0) conditions.

July 12, 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.