

TOWN OF BELMONT
ZONING BOARD OF APPEALS

2019 JUL -5 AM 10: 58

Case No. 19-12

Applicant: John Owens and Mary Frances Owens, Trustees
The Owens Real Estate Trust

Property: 7-11 Sunnyside Place

Dates of Public Hearing: March 4, 2019
Continued: April 8, 2019
Continued: May 13, 2019

Members Sitting: Nick Ianuzzi, Chair
Jim Zarkadas, Vice Chair
Andrew Plunkett
Phil Ruggiero
Blake Currier, Associate Member
Casey Williams, Associate Member

Members Voting: Nick Ianuzzi, Chair
Jim Zarkadas, Vice Chair
Andrew Plunkett
Phil Ruggiero
Blake Currier, Associate Member

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 applicant, John Owens ("Applicant"), seeks Nine (9) Variances (represented as "V" in this section) under § 1.5 of the Zoning By-Law to subdivide an existing non-conforming lot at 7-11 Sunnyside Place located in a Single Residence A (SRA) Zoning District to Two (2) non-conforming Buildable lots. §4.2 of the By-Laws require a minimum lot area of 25,000 square feet, lot frontage 125.0', front setback 30.0', rear setback 40.0' and side setbacks of 15.0'. The existing lot area is 12329.7 square feet, the existing lot frontage is 193.23' and the side setbacks for both existing structure are greater than 15.0'. A.- The proposed lot D will have V-1) a lot area of 6403.3 square feet, V-2) a frontage of 117.7', V-3) Front setback at 9.28', V-4) Rear setback at 8.60' and V-5) a side setback from the existing structure to the newly created lot line 10.06'. B.- The proposed Lot E will have V-6) a lot area of 5899.4' V-7) a lot frontage of 75.53', V-8) a front setback of 9.53' and V-9) a rear setback of 15.90'. The existing structures will remain at their current locations.

In a decision made by the Board in 1980, Case number 80-5, the Board finds that "Lots D and E containing 12,329.7 square foot, being numbered 11 and 7 Sunnyside Place and having two single family houses thereon, said lots D and E to remain in common ownership".

Proposal

The applicant requests from the current Board to reverse the decision made by the Board in 1980 and request variances to allow to have separate and individual ownerships for each lot.

Mr. Joseph Noone, Attorney, Representing Mr. Owens, provided a summary of variances, a supplement and a draft of the decision. He reviewed the history of the property and he noted that this property was the subject of a previous Zoning Board of Appeals Special Permit review process. Mr. Noone explained that there were two historical homes existing on one lot. He noted that this was the only one in the Town that exists this way. These lots were created before the enactment of the Zoning By-Laws. Mr. Noone explained that in 1980, there was a purchaser for both of these homes and he was seeking variances to create separate lots but the parcel had to stay under common ownership. He added that the hardship for the variance was that the houses were designated as Historic and they could not tear down to build one house on the property. He explained that the Applicant would like to effectively use his property in a meaningful way. He also noted that the Historical designation could suffice for grounds to grant a variance. He stated that there were no negative factors in granting the relief and all of the homes were similar in size, there would be no change to exterior of home and each home would have its own lot and to be able to be owned by two separate owners. He added that there was just reason for the Board to grant these variances and it really was to create separate ownership of the two homes. He noted that there would be substantial tax revenue to the town and no derogation of the intent of the by-law.

No one spoke in support or opposition.

Mr. Zarkadas asked Mr. Noone if his client considered "condominiumizing" the lot. Mr. Noone noted that "condominiumizing" would be a less desirable outcome. The property would be worth less as condominiums. He added that having separate ownership was not changing the use or character of the property.

Decision


The Zoning Act authorizes the Board to grant a variance from the terms of the By-Law where the Board "specifically finds that owing to circumstances relating to the soil conditions, shape, or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of the . . . by-law would involve substantial hardship, financial or otherwise, to the petitioner. . . and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of such . . . by-law." M.G.L. c. 40A, § 10. The By-Law variance provision essentially tracks the statute.

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Accordingly, **upon motion duly made to deny the variances as requested by the Applicant was made by Mr. Iannuzzi and seconded by Mr. Carrier. Motion to deny passed by vote 5-0.**

For the Board,

July 5, 2019



Ara Yogurtian
Assistant Director
Office of Community Development

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.