

19-23



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**TOWN OF BELMONT
ZONING BOARD OF APPEALS**

2019 JUL 24 PM 2:37

Case No. 19-23

Applicants: *OWNERS* Paul Peng and Muqing Gu

Property: *LOTS* 6 Spinney Terrace

Date of Public Hearing: June 17, 2019

Members Sitting: Nicholas A. Iannuzzi Jr. (Chair)
James Zarkadas (Vice Chair)
Andrew Plunkett
Casey Williams (Associate Member)

Members Voting: Nicholas A. Iannuzzi Jr. (Chair)
James Zarkadas (Vice Chair)
Andrew Plunkett
Casey Williams (Associate Member)



Introduction

This matter came before the Board of Appeals (the "Board") of the Town of Belmont (the "Town") acting as 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, Paul Peng and Muqing Gu ("Applicant"), seek One Special Permit under Section 1.5 of the Zoning By-Laws to construct a three story addition at 6 Spinney Terrace located in a Single Residence C (SRC) Zoning District.

Proposal

The applicants propose to construct a three (3) story addition. The By-Law allows 2-1/2 Story structures, the existing structure is three and a half (3-1/2) stories. The lowest level of the dwelling is a basement (63.2% of the foundation walls are exposed) and is considered a story. The proposed addition is a three (3) story addition.

The proposed project is presented on plans dated March 22, 2019, a plot plan dated May 7, 2019 and a zoning checklist dated April 30, 2019.

Keith Miller, Miller Architects, came before the Board to present the plans for a three-story addition. He noted that the Applicants had received several letters of support. He noted that there had been a complaint regarding construction noise for a project that was underway as a by-right project at this home. He noted that the proposed home would fit within the natural weave of the neighborhood and was not detrimental to the neighborhood. Mr. Miller noted that the petition of support had 15 signatures.

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During the hearing, some of the signatories revoked their support of the project. They claimed, the project initially was not described as was presented to the Board.

Blanca Lain, 23 Myrtle Street, spoke in opposition of the proposed addition. She noted that she was concerned about how they would access the site for construction. She discussed many concerns about the dimensions of the project.

Jeanne and Jeremiah McCarthy, 16 Cottage Street, spoke in opposition of the project. They noted that they had previously met with the Applicants but that they had some questions about the driveway. Mr. Iannuzzi noted that there was no proposal for a driveway. She asked for clarification regarding the size of the rear entrance deck. Mr. Iannuzzi noted that the deck was allowed to be built by-right and did not need a special permit. They would like to have their names removed from the petition of support until they have a better understanding of the project.

There was a copy of a letter of opposition that was presented to the Applicant. Mr. Iannuzzi noted that this letter arrived very late.

17 Myrtle Street, noted that she had signed the petition in support but was concerned about how far out the addition would go. Mr. Plunkett noted that the addition would come out 15.5 feet.

Mr. Miller noted that he had not heard any opposition to the project until then, the driveway was not part of the project, there was dirt and noise complaints and the Builder has been made aware of this and to be very conscientious of this complaint. He noted that the relief for a half-story and the complaints were not relevant.

Conclusion

The § 1.5.3. of the Town's Zoning By-Law provides that the Board may issue a Special Permit 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."

In an email sent to the Board members by Ara Yogurtian, Assistant Director of Office of Community Development, Mr. Yogurtian brings to the Board members' attention that the plot plan and the deed of the property (Bk. 71939 Pg. 484) indicate that the property consists of two separate parcels and the information provided considers those two parcels as combined, which in his opinion was not a true presentation of the existing.

The Board deliberated on June 17, 2019. The Board found that the proposed three story addition does not increase the nonconforming nature of the existing structure or create a new nonconformity. The Board noted that there are existing residences in the neighborhood which have similar conditions. 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 alteration is in keeping with the character of the neighborhood in which it is located.

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Accordingly, **motion duly made to approve with a condition was made by Mr. James Zarkadas and seconded by Ms. Casey Williams. The Board voted 4-0 to grant the Special Permit as requested with the following condition:**

Condition: An updated deed was to be submitted prior to the issuance of the Building permit.

For the Board,

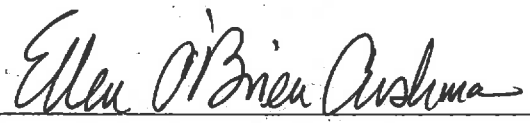
Dated: July 24, 2019



Ara Yogurtian
Assistant Director
Office of Community Development

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 July 24, 2019, and further I certify that no appeal has been filed with regard to the granting of said one (1) Special Permit with one (1) condition.

August 14, 2019



Ellen O'Brien Cushman, Town Clerk
Belmont, MA

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Official Receipt for Recording in:

Middlesex South Registry of Deeds
208 Cambridge St.

Cambridge, Massachusetts 02141

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Recording Fees

Document Description	Number	Book/Page	Recording Amount
DECIS	00119984	73104 555	\$75.00
			\$75.00

Collected Amounts

Payment Type	Amount
Cash	\$100.00
	\$100.00

Total Received :	\$100.00
Less Total Recordings:	\$75.00
Change Due :	\$25.00

Thank You
MARIA C. CURTATONE - Register of Deeds

By: Beverly C

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2356019 08/14/2019 10:18a

Total Received :	\$175.00
Less Total Recordings:	\$175.00

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Cambridge, Massachusetts 02141

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PAUL PENG
6 SPINNEY TER

BELMONT MA 02478

Recording Fees

Document Description	Number	Cert Number	Recording Amount
DECIS	01820716	269303	\$75.00
CC			\$4.00

Collected Amounts

Payment Type	Amount
Cash	\$79.00

Total Received :	\$79.00
Less Total Recordings:	\$79.00
Change Due :	\$0.00

Thank You
MARIA C. CURTATONE - Register of Deeds

By: Karen Haroian

Receipt# Date Time
2356013 08/14/2019 10:02a