

Middlesex South Registry of Deeds

Electronically Recorded Document

This is the first page of the document - Do not remove

Recording Information

Document Number	: 124291
Document Type	: DECIS
Recorded Date	: July 28, 2020
Recorded Time	: 03:33:29 PM
Recorded Book and Page	: 75231 / 378
Number of Pages(including cover sheet)	: 3
Receipt Number	: 2495824
Recording Fee	: \$105.00

Middlesex South Registry of Deeds
Maria C. Curtatone, Register
208 Cambridge Street
Cambridge, MA 02141
617-679-6300
www.middlesexsouthregistry.com

RECEIVED
TOWN CLERK
BELMONT, MA**TOWN OF BELMONT
ZONING BOARD OF APPEALS**

2019 AUG 27 PM 3:26

Case No. 19-26

Applicant: Nabih El-Lakkis - 90 Trapelo Road, LLC

Property: 90 Trapelo Road

Date of Public Hearing: July 15, 2019

Members Sitting: Nicholas A. Iannuzzi, Jr.
Jim Zarkadas
Craig White
Philip Ruggiero
Blake Currier (Associate member)
Casey Williams (Associate member)

Members Voting: Nicholas A. Iannuzzi, Jr.
Jim Zarkadas
Craig White
Philip 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 Belmont, Massachusetts (the "By-Law") and Chapter 40A of the Massachusetts General Law (the "Zoning Act"). The applicant, Nabih El-Lakkis ("Applicant"), seeks one (1) Special Permit under Section 1.5 of the Belmont Zoning-By-Law to construct a canopy over the existing 2 fuel pumps. Special permit 1. - Section 6.7.4 of the Zoning-By-Law, motor vehicle Service Station, setbacks, requires a minimum front setback to buildings and structures no less the 40.0' in any zoning district. The existing structure is set back 37.2' off Common Street and 39.4' off Trapelo Road. The proposed canopy is 1.4' off Common Street and 0.0' off Trapelo Road and has an overhang over the Public Right of Way.

Proposal

Pursuant to the "Gale vs. Gloucester" decision, the relief needed by the Applicant is a Special Permit. The Applicant proposes to construct a 24' x 32' canopy over the two existing gas pumps at Cushing Square Gas. Due to the location of the existing pumps, the proposed new canopy will be set back 1.4' feet from Common Street, 0.0' clearance from Trapelo Road right of way and will hang over a section of the Trapelo Road right of way. The case before the Board of Appeals is to determine if the canopy within the property is not detrimental to the neighborhood than the existing structures on the lot. The section of the canopy overhanging Town property would require a Grant of Location permit by the Select Board.

* See Deed in Book 68966, Page 31

Case No. 19-26

Property: 90 Trapelo Road

Attorney Sami Baghdadi presented the case to the Board. He explained, that in 1927 an area of approximately 1000 square feet of this property was transferred to the Town to widen Trapelo Road. The overhang of the canopy will be limited to this area and will be clear of the existing sidewalk.

Ruth Smuillen, an abutter to the property raised concerns about the lighting on the canopy. No one spoke in support or in opposition.

Decision

The 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." By-Law § 1.5.3.

The Board deliberated on July 15, 2019. The Board concluded that the proposed canopy is not substantially more detrimental to the neighborhood. The Board stated that following conditions must be met:

- No increase in hours of operation.
- All new lighting must be contained within the underside of the proposed canopy.
- The Petitioner must obtain approval from the Select Board for the overhang of the canopy above Town property.

Accordingly, **upon motion duly made by Jim Zarkadas and seconded by Nick Iannuzzi, the Board voted 5-0 to grant the requested special permit for the proposed canopy as requested and shown on the plans submitted to the Board.**

For the Board,


Date: August 27, 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 August 27, 2019, and further I certify that no appeal has been filed with regard to the granting of said one (1) Special Permit with three (3) conditions.

January 7, 2020



Ellen O'Brien Cushman, Town Clerk
Belmont, MA