

**TOWN OF BELMONT
ZONING BOARD OF APPEALS**

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TOWN CLERK
BELMONT, MA

2020 DEC -1 AM 11:34

Case No. 20-31

Applicant: Diane Malcolmson

Property: 9 Pinehurst Road

Date of Public Hearing: November 9, 2020

Members Sitting: Nicholas Iannuzzi (Chair)
Jim Zarkadas
Casey Williams
Teresa McNutt
Andrew Kelley
William Fick (Associate Member)
Elliot Daniels (Associate Member)

Members Voting: Nicholas Iannuzzi
Jim Zarkadas
Casey Williams
Teresa McNutt
Andrew Kelley



2021 00007182

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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 "Zoning By-Laws") and Chapter 40A of the Massachusetts General Law (the "Zoning Act"). The applicant, Diane Malcolmson (the "Applicant") sought two (2) Special Permits under Section 1.5 of the Zoning Bylaw to construct additions to a single-family home located in the Single Residence A (SRA) Zoning District. **Special Permit 1:** §4.2.2 of the Zoning Bylaws requires a minimum front setback of 30.0'. The existing front setback is 24.2' and the proposed front setback to the addition is 24.7'. **Special Permit 2:** §4.2.2 of the Zoning Bylaws requires a minimum side setback of 15.0'. The existing side setback is 8.7' and the proposed side setback is also 8.7'.

Proposal

The petitioner proposes to add a new one (1) story addition for a two (2) car garage, kitchen and family room, along with a two (2) story addition for a sunroom, main bedroom and sitting room to Applicant's home. Applicant is also renovating the existing garage.

The Applicant, represented by Juliet Ohri of LDA Architecture & Interiors, LLP (the "Architect"), presented the proposal at a duly noticed public hearing on November 9, 2020 conducted via ZOOM videoconference (in connection with current restrictions regarding social distancing in connection with COVID-19).

The applicant submitted for the Board's review: (a) Plot plan prepared by The Jillson Company dated September 22, 2020, (b) architectural drawings prepared by LDA Architecture & Interiors, LLP dated October 5, 2020, (c) letters of support from six (6) sets neighbors (Mukund M. Thatcher, Margo Furman,

BK.32595 p.233

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Paul and Susan Shaw, Meghan Newberry, Laura Vail Wooster, and Stephen McEvoy) (d) a "Narrative Statement" prepared by LDa Architecture & Interiors, LLP and (d) a Zoning Compliance Checklist dated September 22, 2020.

No one other than Architect spoke in support or in opposition to the application. The Applicant was in attendance via ZOOM videoconference.

Decision

Pursuant to the "Gale vs. Gloucester" decision, the reliefs requested by the Applicant are by Special Permits.

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 November 9, 2020. During deliberations the Board discussed the applicant's request for two (2) Special Permits, including the size of the proposed additions.

The relief sought is two (2) special permits. Special Permits are required in the Single Residence A Zoning District to construct any additions not in compliance with the current zoning regulations. The proposed Special Permits were duly considered by the Board. The Board found that the proposed additions do not substantially increase the non-conforming nature of the structure or create a new nonconformity. The Board also concluded that the proposed alteration is not substantially more detrimental to the neighborhood than the existing non-conforming structure, and that the proposed alterations are in keeping with the character of the neighborhood in which the property is located.

Accordingly, upon motion duly made Jim Zarkadas and seconded by Nick Iannuzzi, the Board voted 5-0 to grant the Two Special Permits as requested.

For the Board,

Dated: November 30, 2020



Ara Yogurtian,
Assistant Director
Office of Community Development

CERTIFICATION BY TOWN CLERK

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 December 1, 2020, 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. Statutory appeal periods, and thus the issuance of Certificates of No Appeal, have been temporarily affected by Court Standing Orders, available at www.mass.gov/guides/court-system-response-to-covid-19. Applicants, abutters and interested parties should consult the Standing Orders to determine their next actions. Any decision by a permit holder to proceed is at their own risk, and the permit holder is urged to consult their own legal counsel.

Under Section 17 of Chapter 53 of the Acts of 2020, the requirement to record permit decisions with the Registry is suspended for so long as the Registry is "closed or subject to rules and procedures restricting public in-person access." However, such recording will still be required upon the full reopening of the Registry. The Middlesex County Registry of Deeds continues to accept filings by postal mail during this period, and permit holders are requested to file for recording through this method to the extent possible.

December 29, 2020


Ellen O'Brien Cushman, Town Clerk
Belmont, MA