

INFORMATION ONLY

TOWN OF BELMONT ZONING BOARD OF APPEALS

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CASE NO. 21-13

APPLICANT: Edward Yezdoghlyan and Susanna Hartenyan

PROPERTY: 37-39 Wiley Road

DATE OF PUBLIC HEARING: May 17, 2021

MEMBERS SITTING: Nick Iannuzzi, Chairman
Jim Zarkadas, Vice Chair
Andrew Kelley
Teresa MacNutt
William Fick, Associate Member
Elliot Daniels, Associate Member

MEMBERS VOTING: Nick Iannuzzi, Chairman
Jim Zarkadas, Vice Chair
Andrew Kelley
Teresa MacNutt
William Fick

Introduction

This matter came before the Board of Appeals ("Board") of the Town of Belmont ("Town") acting as Variance and 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, Edward Yezdoghlyan and Susanna Hartenyan ("Applicant"), request One (1) Special Permit under Section 1.5 of the Zoning By-Laws to retain a newly constructed brick oven (outdoor grille) at 37-39 Wiley Road located in a General Residence (GR) Zoning District.

The Board held a duly noticed hearing on the application on May 17, 2021. The applicants had submitted for the Board's review a plot plan dated February 10, 2021 and a copy of the letter received from the Inspector of Buildings, Mr. Glenn R. Clancy, P.E.

Proposal

The applicants propose to retain a newly constructed outdoor grill. The request of the Special Permit was in response to Mr. Clancy's letter dated September 30, 2020. In his September 30, 2020 letter, Mr. Clancy states that the Town of Belmont Zoning By-Law regulates the placement of structures on a property. The By-Law defines a structure as: "Anything constructed or erected, the use of which requires a fixed location on the ground, including buildings, mobile homes, signs, swimming pools, and tanks, but for the purpose of this By-Law not including walls, fences, or paving".

It is his opinion that an outdoor grille meets the definition of a structure and must be regulated as such and must comply with the Table 4.2.2 Linear Requirements for “other” structures (other than dwellings), 20 feet from the front line, 10 feet from the side and 12 feet from the rear. The existing grille’s rear setback is at 0.28 feet and would be allowed by a Special Permit granted by the Board of Appeals.

Mr. Melkon Yezdoghlyan, the son of the applicants presented the case to the Board.

He stated that prior to designing and constructing the grille, he had contacted the building department and had spoken with one of the local inspectors. The local inspector had explained to him that structures such as a brick oven or a grille are not regulated by the Zoning By-Law as long as they do not exceed 200 square foot in area and/or 10 feet in height.

Mr. Matthew Fulton, 28 Holden Road, noted that he was surprised that this structure could be built without a permit, he had contacted the Board of Selectman, and that the smoke from the grille blows to his property. He added that this was a very tall structure and very close to the property line. None of the neighbors were consulted with. He had a problem with the environmental issues of having the wood burning.

Ms. Reddy Prabashni, 26 Holden Road, came before the Board to note that she felt there was a lack of communication with the neighbors and the oven was unsightly and very close to her yard. She also noted that she felt it was a fire risk.

Mr. Zarkadas noted that the Zoning Board does not have jurisdiction to comment on this, he felt that it was like a swing set and these are all over town and this was a gray area in the Zoning By-Law. He reiterated that this does not fit here with the ZBA. There was no section or a page in the By-Law to point to.

Mr. Iannuzzi noted that this was not governed by the Zoning By-Laws as it was not a regulated structure. The ZBA does not have the authority to act. It does not fit within the envelope of the by-law. He reiterated that because it is not defined in the Zoning By-Law it is not regulated by the ZBA.

Andrew Kelley noted that he thought it would be a good idea to get advisement from Town Counsel.

Mr. Fick noted that smoke was not a new issue and the ZBA was not in the position to regulate a fireplace.

Conclusion

On May 17, 2021 the Board deliberated on the Applicants’ request for one (1) Special Permit under Section 1.5 of the By-Law to retain an existing grille at 37-39 Wiley Road located in General Residence (GR) Zoning District.

Accordingly, **Motion was made by Mr. William Fick that the Board does not believe the outdoor oven meets the definition of a structure as defined in the present Town of Belmont Zoning By-Laws and it is not regulated by the Zoning Board of Appeals. Motion was seconded by Mr. Iannuzzi. Motion passed, Vote 4-1.**

Roll call:

Yes Votes indicate that outdoor oven grilles are not regulated by the Town of Belmont By-Law.

William Fick

Yes

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Nicholas Iannuzzi	Yes
Teresa MacNutt	Yes
James Zarkadas	Yes
Andrew Kelley	No

For the Board:

Dated: June 24, 2021



Ara Yogurtian
Assistant Director
Office of Community Development