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2021 DEC 23**TOWN OF BELMONT  
ZONING BOARD OF APPEALS**

2021 DEC 23 AM 10:12

Case No. 21-15

Applicant: Marc and Kristen Becker

Property: 24 Stults Road

Date of Public Hearing: May 17, 2021  
Continued: June 21, 2021 and July 12, 2021  
November 1, 2021, December 6, 2021

Members Sitting: Nick Iannuzzi, Chairman  
Jim Zarkadas, Vice Chair  
Casey Williams  
Andrew Kelley  
Teresa MacNutt  
Elliot Daniels, Associate Member

Members Voting: Nick Iannuzzi, Chairman  
Jim Zarkadas, Vice Chair  
Casey Williams  
Andrew Kelley  
Elliot Daniels, Associate Member



2022 00010063  
Bk: 79555 Pg: 402 Doc: DECIS  
Page: 1 of 3 01/19/2022 11:16 AM

**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 applicants Marc and Kristen Becker (the "Applicants"), seek two (2) Variances and one (1) Special Permit under Section 1.5 of the Belmont Zoning-By-Laws to construct rear additions at 24 Stults Road. §4.2 of the Zoning By-Law Dimensional Regulations allow a minimum rear setback of 23.72' (30% average depth of lot), allow a maximum lot coverage of 25% and §4.3.5 b) 2 requires a minimum set back of 5.0' between an accessory structure and the principal structure it is accessory to.

1. The existing rear setback is 31.9' and the proposed is 15.9'. A Variance.
2. The existing lot coverage is 29.5% and the proposed is 36.1%. A Special Permit.
3. The existing set back from the garage to the principal structure is greater than 5.0' and the proposed is 2.8'. A Variance.

The Board held a duly noticed hearing on the original application on May 17, 2021 and continued on June 21, 2021 and July 12, 2021. The Applicants presented the proposal at the hearing and submitted architectural plans prepared by NEDC design, dated January 6, 2021 and a plot plan and zoning checklist dated December 21, 2020.

BK-51334 P. 85

Case No. 21-15  
Property: 24 Stults Road

### **Proposal**

The Applicants propose to construct a mudroom, a screened porch and a deck at the rear of the dwelling.

Mr. Zarkadas brought to the applicants' attention that variances from the terms of the applicable zoning ordinance or by-law are reviewed and possibly approved by the Board, only when it is as a result owing to circumstances relating to soil conditions, shape, or topography of such land, and specifically affecting such land or structures but not affecting generally the zoning district in which they are located. Mr. Iannuzzi added that variances are not often given out and the applicant needed to prove hardship.

Mr. Marc Becker, the applicant, requested a continuance until the following meeting on June 21, 2021.

On June 21, 2021, the applicant submitted new drawings showing the screened porch 5' clear from the garage, this change eliminated one of the variances. After a brief discussion, the Board reaffirmed their position on the second variance requested. The case was continued until July 12, 2021.

The applicants submitted to the Board's review final plans dated July 1, 2021. These plans showed the front section of the detached garage removed, the total square footage of the proposed addition was reduced and the requested relief for variances were eliminated. The revised proposed plans required two Special Permits and no variances. The two Special Permits requested are for the 1.- Rear setback, existing 24.8' and proposed 19.9' and 2.- Lot coverage, existing 29.5% and proposed is 32.8%.

### **Decision**

Pursuant to the "Gale vs. Gloucester" decision, the relief needed by the Applicants are special permits.

MGL 40A §6 provides in pertinent part: "Pre-existing nonconforming structures or uses may be extended or altered, provided, that no such extension or alteration shall be permitted unless there is a finding by the permit granting authority or by the special permit granting authority designated by ordinance or by-law that such change, extension or alteration shall not be substantially more detrimental than the existing nonconforming use to the neighborhood".

In the present case, as revised on July 1, 2021, the Board did not find the proposed additions would be substantially more detrimental. The Board found that the proposed Addition does not increase the nonconforming nature of the structure or create a new nonconformity. The proposed additions will be consistent in style with the existing house. In the circumstances, the Board concluded that the proposed are not substantially more detrimental than the existing non-conforming structure to the neighborhood and that the proposed is in keeping with the character of the neighborhood in which it is located.

On July 12, 2021, the Board deliberated on the revised proposed project and found that the proposed is in keeping with the character of the neighborhood and was not more detrimental than the existing non-conforming structure. **Accordingly, upon motion duly made by Nick Iannuzzi and seconded by Casey Williams, the Board voted 5-0 to grant the requested two (2) special**

Case No. 21-15  
Property: 24 Stults Road

**permits for the proposed additions as requested** as shown on the revised plans submitted to the Board.

On September 27, 2021 the applicants requested an amendment to the approved project. The proposed amendment is to add a 2.4' by 3.6' bump out on the south side to the pre-approved porch. The proposed changes would increase the lot coverage by 0.16%, making the new proposed lot coverage at 32.96%.

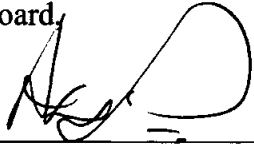
The Board held a duly noticed hearing on the amended application on November 1, 2021 and continued on December 6, 2021.

The Board found that the proposed amendment is de minimis and it is still not substantially more detrimental than the existing non-conforming structure to the neighborhood and that the proposed is in keeping with the character of the neighborhood in which it is located.

On December 6, 2021, the Board deliberated on the amendment to the project and found that the proposed is in keeping with the character of the neighborhood and was not more detrimental than the existing non-conforming structure. **Accordingly, upon motion duly made by Nick Iannuzzi and seconded by Casey Williams, the Board voted 5-0 to grant the requested two (2) special permits for the proposed amendment as requested.**

For the Board,

Date: December 23, 2021



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 December 23, 2022, 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.

January 18, 2021



Ellen O'Brien Cushman, Town Clerk  
Belmont, MA