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**TOWN OF BELMONT
ZONING BOARD OF APPEALS**

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Case No. 21-24

Applicant: *and owner* Andrew Conery

Property: 33 Gilbert Road

Date of Public Hearing: September 13, 2021
Continued October 4, 2021



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Members Sitting:

Nick Iannuzzi, Chairman
James Zarkadas, Vice Chair
Casey Williams
Andrew Kelley
Teresa MacNutt
Elliot Daniels, Associate Member
David Stiff, Associate Member

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Members Voting:

Nick Iannuzzi, Chairman
Casey Williams
Andrew Kelley
Teresa MacNutt
David Stiff, 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 Andrew Conery ("Applicant"), seeks Four (4) Special Permits under §1.5 of the Belmont Zoning-By-Laws to reconstruct an existing garage at 33 Gilbert Road located in a General Residence (GR) zoning district. Section 4.2 of the Zoning By-Law Dimensional Regulations, for accessory structures requires a minimum rear setback of 5.0', minimum side setback of 5.0', clearance from the principal structure 5.0' and allows a maximum lot coverage of 30.0%. The four special permits requested are for the following:

1. The existing and proposed rear setback is 0.2'.
2. The existing and proposed side setback is 1.1'.
3. The existing and proposed clearance from the rear landing is +/-2.0'.
4. The existing and proposed lot coverage is 32.7%.

The Board held a duly noticed hearing on the application on September 13, 2021 and continued on October 4, 2021. Vice chair Mr. Zarkadas was not present at the September 13, 2021 meeting and did not vote on the case on October 4, 2021.

Proposal

The Applicant proposes to reconstruct an existing garage and change the roof slope from a flat roof to a sloped roof. The existing garage is unsafe and has passed a point of a regular repair work.

The applicant submitted to the Board's review plans prepared by Miller Design LLC dated April 30, 2021, a plot plan dated June 9, 2021 and a zoning checklist dated June 16, 2021.

Andrew Conery
33 Gilbert Road #2
Belmont, MA 02478

Keith Miller, the designer and Mr. Conery made the presentation to the Board. They explained the condition of the garage and the necessity to repair some walls and replace others and to change the roof from a flat roof to a sloped roof.

During the September meeting, Board members were comfortable on granting 3 of 4 of the requested Special Permits. The one exclusion being the 2 foot setback from the rear landing and requested from the owner if he would agree for a continuance to allow Board members to visit the property individually and assess the condition before making a final decision. Mr. Conery agreed and welcomed such a proposal.

At the October 4, 2021 meeting, Board members had visited the property and had concluded that although the corner of the garage was only 2 foot from the edge of the landing and the stairs, there was ample area and was safe to egress from the principle dwelling.

At the meetings no one else spoke in favor or in opposition to the proposed project.

Decision

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 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, the Board did not find the proposed reconstruction of the garage to be substantially more detrimental. The Board found that the proposed does not increase the nonconforming nature of the structure or create a new nonconformity. The proposed will be consistent in style with the existing detached garage and is in keeping with the character of the neighborhood in which it is located.

Accordingly, upon motion duly made by Nick Iannuzzi and seconded by Casey Williams, the Board voted 5-0 to grant the Four (4) special permits as requested.

For the Board,


Date: October 12, 2021



Ara Yogurtian
Assistant Director
Office of Community Development

I, Margaret A. Piccione, hereby certify that twenty (20) days have elapsed after the decision was filed in the office of the Belmont Town Clerk on October 12, 2021, and further I certify that no appeal has been filed with regard to the granting of said four (4) Special Permits with zero (0) conditions.

November 4, 2021



Margaret A. Piccione, Assistant Town Clerk
Belmont, MA