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**TOWN OF BELMONT
ZONING BOARD OF APPEALS**

CASE NO. 22-12

APPLICANT: Vincent Nazar

PROPERTY: 231 Orchard Street

DATE OF PUBLIC HEARING: July 11, 2022

MEMBERS SITTING: Nicholas Iannuzzi, Chair
Jim Zarkadas
Casey Williams
Andrew Kelley
Teresa McNutt
Elliot Daniels (Associate member)
David Stiff (Associate member)

MEMBERS VOTING: Nicholas Iannuzzi, Chair
Jim Zarkadas
Casey Williams
Andrew Kelley
Teresa McNutt

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 Applicant, Vincent Nazar ("Applicant"), requests two (2) Special Permits under Section 1.5 of the Zoning By-Law to construct dormers and a side addition at 231 Orchard Street located in a Single Residence C (SRC) Zoning District. In connection with this, the Applicant sought the following Special Permits: Section 4.2.2 of the Zoning By-Law Dimensional Regulations allow a maximum two and a half stories and require a minimum side setback of 10.0'. The existing structure is 3.5 stories (the lower level of the structure is exposed more than 40%, is a basement and is considered a story); the existing side setback is 8.5' and the proposed is 8.5'.

The original application granted by right for this project had shown that the proposed addition will meet the required minimum side setback of 10.0' and proper grading will be made within the allowed perimeters of the by-Law to convert the existing basement to a cellar, thus making the proposed structure a 2.5 story structure in compliance with the By-Law rules and regulations.

During rough framing inspection conducted by local inspector Kevin Pickering, it was observed that the proposed grading was not completed and the proposed addition was built at the 8.5' contrary to the 10.0' originally proposed and approved by the Building Department.

A "Stop Work" order was issued and the property owner was contacted to apply for 2 Special Permits to allow him to continue the project if approved by the Board of Appeals.

A duly noticed public hearing was held on July 11, 2022. Mr. Paccione, the architect presented the project. He mentioned that the dormers were to create a master suite in the attic, the remaining of the structure will be fully remodeled with the small 11.68 square feet addition for which the relief is sought for. He also added that with the exception of the setback of the addition, the remaining project is or will be in compliance with the Zoning By-Law rules and regulations.

Mr. Muse, 225 Orchard Street, direct abutter, noted that there were two air conditioner units that were placed in violation of the setbacks. He noted that he was concerned about the raised grade and the implications it could have on drainage. He added that they have created unsafe conditions for the children in the neighborhood. He explained that this was done purposely, and this was being built to function as a full additional story. He noted that they were feeling claustrophobic and that they have placed air conditioning units few feet from the property line; the Applicant never tried to reach out to the neighbors. Mr. Yogurtian noted that the air conditioning units would need to be relocated if they are in violation, there was no process to seek relief for this matter, that he understood that this house felt large for the neighborhood but that all other matters were in compliance with the current By-Law.

Leah Lesser, 237 Orchard Street, were strongly opposed to the addition as it was too big and she concurred with Mr. Muse's comments.

Rich Hartley, 11 Edward Street, noted that he was concerned about drainage issues on Orchard Street.

Mr. Kelley noted that there could have been some give and take that would have made it more palatable to the neighbors if they had come for the special permit at the right stage, before the framing was completed. He also noted that the structure as a whole was not harmonious with the neighborhood and the process was part of the problem.

Ms. Williams noted that she didn't have issues with the setback problem although she didn't like that it was coming to them after it had been built.

Mr. Zarkadas noted that it was unfortunate for the neighborhood and that the neighbors would still not be happy if it was reduced 1.5 feet. It was mostly built by right and the developers are allowed to build what is allowed by right.

Mr. Iannuzzi noted that there was an accountability factor here.

On July 11, 2022 the Board deliberated on the Applicant's request for Special permits.

MOTION to approve the special permit for a three and a half story structure was made by Ms. MacNutt. No second motion was made. The Board declined to vote on this matter. The project must comply with the By-Law regulations and the basement must be converted to a cellar within the allowed perimeters of the By-Law.

MOTION to approve the Special Permit to retain the addition at 8.5' from side setback was made by Ms. MacNutt and seconded by Ms. Williams.

Two members voted in favor of this motion, three members to deny this motion.

Case No. 22-12
Address: 231 Orchard Street

Votes for approval-
Ms. MacNutt
Ms. Williams

Votes for denial-
Mr. Iannuzzi
Mr. Kelley
Mr. Zarkadas

**Relief requested to retain new addition at 8.5' setback from side property line was
DENIED.**

For the Board:

Dated: August 17, 2022



Ara Yogurtian
Assistant Director
Office of Community Development

Any appeal from this decision must be made pursuant to Ch.40A, S.17, MGL, and must be filed within 20 days after the filing of such notice in the office of the Town Clerk.