

20-03

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**TOWN OF BELMONT
ZONING BOARD OF APPEALS**

Case No. 20-03

Applicant: Derek Tommy

Property: 15-17 Moraine Street

Date of Public Hearing: February 3, 2020

Members Sitting: Nicholas A. Iannuzzi, Jr. Chair
Jim Zarkadas, Vice Chair
Andrew Plunkett
Casey Williams, Associate Member
Andrew Kelley, Associate Member
Teresa MacNutt, Associate Member

Members Voting: Nicholas A. Iannuzzi, Jr. Chair
Jim Zarkadas, Vice Chair
Andrew Plunkett
Casey Williams, Associate Member
Teresa MacNutt, Associate Member

*Deed Reference
Book 69135
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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 Derek Tommy ("Applicant"), seek six (6) Special Permits under Section 1.5 of the Belmont Zoning-By- Laws expand a first story porch, to construct a second story porch and to construct a new staircase from the second story porch to the ground level at 15-17 Moraine Street ("Property") located in a General Residence (GR) Zoning District.

Proposal

The Board held a duly noticed hearing on the application on February 3, 2020. The Applicant proposes to expand a first story porch, to construct a second story porch and to construct a new staircase from the second story porch to the ground level at 15-17 Moraine Street. The need for Special Permits is triggered by the following facts:

1. §1.5.4 A of the By-Laws allow extensions and alterations of non-conforming structures in the GR district by a Special Permit granted by the Board of Appeals.
2. The maximum allowed lot coverage is 30%, the existing is 49.0% and the proposed is 49.6%.
3. The minimum allowed open space is 40%, the existing is 37.6% and the proposed is 38.1%.

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4. The minimum required front setback is 20.0' the existing is 0.7' and the proposed is 6.6'.
5. The minimum required side setback is 10.0', the existing and proposed is 6.0'.
6. The required rear setback is 16.0', the existing is 15.2' and the proposed is 14.9'.

The proposal is set forth on plans, including elevations prepared by Kiwi Enterprise, dated January 6, 2020, a plot plan dated December 18, 2019 and a Zoning Compliance Checklist dated December 30, 2019.

Derek Tommy, the applicant, presented the case to the Board and submitted a signature sheet of 7 neighbors in support of the project.

Mr. Derek explained to the Board that the existing second means of egress from the second floor to the ground level were originally constructed very steep and were not considered safe. The proposed addition of the new staircase was to replace the existing interior stairs with an exterior one which conforms to the current codes. To allow the construction of the new staircase a new porch was to be added on the second floor and the existing on the first floor had to be extended.

During the hearing it was noticed by Andrew Plunkett, a full member of the Board, that there was a conflict between the percentages of the lot coverage and the open space presented on the plot plan and the zoning checklist. The plot plan has not included the percentages of the lot coverage and open space of the staircase, whereas the zoning checklist has. The hearing continued with the consideration of the revised percentages which included the additional percentages for the staircase. The revised proposed lot coverage is 50.7% and the revised proposed open space is 36.9%.

Number of parking spaces was also considered by the Board. Mr. Tommy explained that the existing driveway was wide enough that after the proposed expansions, it will continue to allow the parking of one car on the side as before.

No one spoke in support or in opposition to the case during the hearing.

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.

Special permits to allow an extension to the first floor porch, the construction of a second floor porch and a new exterior staircase at the property was considered by the Board. The Board

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found that the proposed alterations do not substantially increase the non-conforming nature of the structure nor create a new nonconformity. The Board concluded that the proposed alterations and extensions are not substantially more detrimental to the neighborhood than the existing non-conforming structure, and that the proposed are in keeping with the character of the neighborhood in which the property is located.

Accordingly, upon motion duly made by Andrew Plunkett and seconded by Chair Nick Iannuzzi, the Board voted 5-0 to grant the requested six (6) special permits as requested.

For the Board,


Date: March 4, 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 March 4, 2020, and further I certify that no appeal has been filed with regard to the granting of said Six (6) Special Permits with Zero (0) conditions.



Ellen O'Brien Cushman, Town Clerk
Belmont, MA

April 16, 2020