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**TOWN OF NEEDHAM
MASSACHUSETTS
BOARD OF APPEALS**

SPECIAL PERMIT

***Curragh Dobbin Inc., Applicant
7 Rolling Lane
Map 110, Parcel 5***

July 11, 2019

Curragh Dobbin Inc. made application to the Board of Appeals for a Special Permit under Sections 1.4.6, 4.2, 7.5.2 and any other applicable Sections of the Zoning By-Law, and a finding pursuant to M.G.L. c. 40A, Section 6, to permit the demolition, extension, alteration, enlargement and reconstruction of a lawful, pre-existing, non-conforming single family dwelling. The property is located at 7 Rolling Lane, Needham, MA in the Single Residence A District. A public hearing was held in the Select Board Chambers, Needham Town Hall, 1471 Highland Avenue, Needham, MA, on Thursday, July 11, 2019 at 7:45 p.m.

Documents of Record:

- Application for Hearing, dated June 17, 2019, Clerk stamped June 17, 2019.
- Architectural Plans & Elevations, A-1.2, A-1.3, A-2.1, A-2.2, A-2.3, A-2.4 prepared by McKay Architects, stamped by Michael McKay, registered architect, dated May 22, 2019.
- Email from Tara Gurge, Assistant Public Health Director, July 1, 2019.
- Email from Dennis Condon, Chief of Department, Fire Department, June 26, 2019.
- Letter from Dave Roche, Building Commissioner, Building Department, July 1, 2019.
- Letter from the Planning Board, prepared by Lee Newman, Director of the Planning and Community Development Department, July 3, 2019.
- Letter from Thomas A. Ryder, Assistant Town Engineer, July 3, 2019.

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The Board included Jon D. Schneider, Chairman; Howard S. Goldman, Member; and Peter Friedenberg, Associate Member. Mr. Schneider opened the hearing at 9:50 p.m. by reading the public notice.

George Giunta, Jr., representing the applicant, reported that the property is located in a neighborhood that was zoned Single Residence B in the 1950s, in which lots were required to contain a minimum of 10,000 square feet of area, a minimum of 80 feet of frontage, and a minimum front yard setback of 20 feet. In the 1970s, the area was rezoned to Single Residence A, which has increased dimensional requirements of a minimum lot area of one

acre and minimum lot frontage of 150 feet, making all the lots in this neighborhood legally non-conforming as to those dimensional requirements.

According to the records of the Assessors Department, the house was built in 1950. When the house was built, the lot and the house conformed with the Zoning By-Law as then in effect with respect to lot size, frontage and front setback. At the time, there were no side setback requirements.

The property is occupied by a one story, single-family dwelling on a 10,891 square foot lot with 117.51 feet of frontage on Rolling Lane and 101.45 feet of frontage on Brookside Road. The house has approximately 1,210 square feet of finished space on the first floor, consisting of 6 rooms, 3 bedrooms, and 1 full bath, as well as approximately 450 square feet of finished space in the basement and a one-car attached garage. The existing structure is set back 34.2 feet from Rolling Lane and 29.3 feet from Brookside Road

As a corner lot, for zoning purposes the property is subject to two side yard setbacks (on the north and west sides of the dwelling – minimum of 15 feet required for existing structures; minimum of 25 feet required for new structures) and two front yard setbacks along Rolling Lane and Brookside Road (minimum of 30 feet required). The existing structure does not comply with (and is legally nonconforming with respect to) the front yard setback on the Brookside Road side (29.3 feet setback) and the side yard setback on the north side (14.7 feet setback).

The applicant intends to demolish the existing house and replace it with a new house. According to the Plot Plan provided by the applicant, the new structure will comply with all dimensional, height and density requirements except for the north side setback. The current house is 14' 7" from the north sideline and the proposed new structure will be 15 feet from that sideline (25 foot setback is required). The north side setback will continue to be non-conforming, but will be an improvement from the current situation.

Comments received:

- The Planning Board recommends denying the application. The Planning Board believes that a voluntarily demolished nonconforming structure must be rebuilt to meet the existing dimensional requirements.
- The Engineering Department noted that the proposed new structure must meet all the requirements of the Town of Needham Stormwater Bylaws.
- The Fire Department had no issues.
- The Health Department requested that the applicant complete and submit the required "Notification of Demolition" form.
- The Building Commissioner noted that the property as a corner lot in the SRA District has two side setbacks and two front setbacks and would have to meet the respective 25' and 30' established minimums.

There were no public comments.

Mr. Friedenber moved to issue a Special Permit to the applicant to permit the demolition of the existing house and the reconstruction of a new house at 7 Rolling Lane as shown on the Plot Plan dated May 16, 2019. Mr. Goldman seconded the motion. The motion was unanimously approved.

The meeting adjourned at 10:05 p.m.

Findings:

On the basis of the evidence presented at the hearing, the Board makes the following findings:

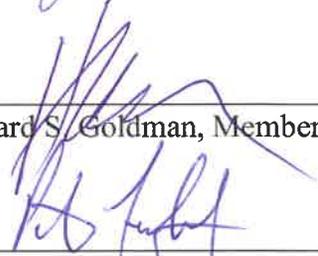
1. The property is a 10,891 square foot lot located in the Single Residence A District that is improved with a single-family house with an attached single-car garage. The lot conformed to the applicable dimensional requirements of the Zoning By-Law prior to it being rezoned from a Single Residence B District into a Single Residence A District, at which time it became legally non-conforming with respect to minimum lot area and minimum frontage. The applicant's proposed project would not make any changes to those dimensions of the lot.
2. The existing single-family dwelling was originally built in 1950, when the lot was in the Single Residence B District. When initially constructed, the house complied with the applicable 20 foot required front yard setback and there were no side yard setback requirements. When the property was later rezoned to the Single Residence A District, the house became legally non-conforming with respect to the side yard setback on the north side and the front yard setback along Brookside Road.
3. The applicant proposes to demolish the current house and replace it with a new single-family, two and ½ story house with an attached two car garage.
4. The proposed replacement house will have a side yard setback of 15 feet on the north side (25 feet required) and a front yard setback of 29.3 feet on the Brookside Road side (30 feet required), but will otherwise comply with all current dimensional requirements of the Zoning By-Law.
5. Notwithstanding the Planning Board's comment, it is the position of this Board, based on Section 1.4.6 of the By-Law, that the Board may permit the reconstruction of a lawful pre-existing non-conforming structure as long as the reconstruction does not create new non-conformities and the proposed new structure is not more detrimental to the neighborhood than the existing structure.
6. Based on the comments received from the other Town departments, the absence of any public comment on the proposed project, and the Board's consideration of the materials provided to it, the Board finds that the proposed new house will not be substantially more detrimental to the neighborhood than the existing structure (for purposes of both the Zoning By-Law and M.G.L. c. 40A, sec. 6) and will not be in violation of any dimensional, parking or intensity regulation with which the structure was theretofore in conformity. The issuance of a special permit here is consistent with the provisions of Section 1.4.6 and Section 7.5.2 of the By-Law, as well as the provisions of M.G.L. c. 40A, Section 6.

Decision:

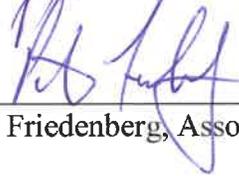
On the basis of the foregoing findings, following due and open deliberation, upon motion duly made and seconded, the Board by unanimous vote grants the applicant a Special Permit under Sections 1.4.6 and 7.5.2 of the Zoning By-Law, and makes the finding pursuant to Section 6 of M.G.L. c. 40A as set forth above, to permit the reconstruction of the lawful, preexisting, nonconforming single family dwelling at 7 Rolling Lane, Needham, MA in the Single Residential A District in accordance with the plans presented at the hearing.



Jon D. Schneider, Chairman



Howard S. Goldman, Member



Peter Friedenber, Associate Member