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TOWN OF NEEDHAM
MASSACHUSETTS
BOARD OF APPEALS

SPECIAL PERMIT AMENDMENT

*Jay Patel & Nidhi Kumar, owners
8 Old Greendale Avenue
Map 16, Parcel 40*

(Filed during the Municipal Relief Legislation, Chapter 53 of the Acts 2020)

August 20, 2020

Jay Patel and Nidhi Kumar, owners, made application to the Board of Appeals for a Special Permit under Sections 1.4.6, 7.5.3 and any other applicable Sections of the By-Law to allow the change, extension, alteration and enlargement of a lawful, pre-existing, non-conforming structure associated with the construction of a covered porch at the front door. The property is located at **8 Old Greendale Avenue**, Needham, MA in the Single Residential A District. A public hearing was held remotely on Zoom Meeting ID Number 869-6475-7241, on Thursday, August 20, 2020 at 7:30 p.m.

Documents of Record:

- Application for Hearing, Clerk stamped July 27, 2020.
- Cover Letter from George Giunta, Jr., attorney, dated July 27, 2020.
- Plot Plan, prepared and stamped by Richard J. Hood, Professional Land Surveyor, dated July 2, 2020.
- Plans and Elevations prepared and stamped by Timothy E. Lund, Registered Architect, dated July 22, 2020.
- Memorandum of Support with Exhibits A-E, prepared by George Giunta, Jr., dated August 11, 2020.
- Letter from Dave Roche, Building Commissioner, dated August 13, 2020.
- Letter from Thomas A. Ryder, Assistant Town Engineer, dated August 13, 2020.
- Letter from Lee Newman, Director of Planning and Community Development, dated August 13, 2020.
- Bellata vs Zoning Board of Appeals of Brookline, 481 Mass. 372 (2019).

The Board held this meeting virtually as allowed under "Order Suspending Certain Provisions of the Open Meeting Law G.L. c. 30A, S20."

The Board included Jon D. Schneider, Chair; Jonathan D. Tamkin, Vice-Chair; and Howard Goldman, Member. Also participating was Peter Friedenberg, Associate Member. Mr. Schneider opened the hearing at 7:30 p.m. by reading the public notice.

George Giunta, Jr., representative of the owners, stated that the application is an existing two-story residence located on a 20,000 square foot lot, with 196.02 feet of frontage. It also includes 242 of frontage on Hardy Street. Hardy Street was abandoned as a public way by the Town in 1988.

The current structure is lawful, non-conforming as to front yard setback at 26 feet. The current required front yard setback is 30 feet. However, when the structure was built in 1965, the required front yard setback was 20 feet and the building complied with the front yard setback requirements of the time.

In 1971, a two-car garage addition was constructed to the south of the structure with a 30-foot front yard setback as required by the 1968 Zoning By-Law.

In December 1, 1981, the Board issued a Variance to allow an addition that was built with an eight-foot setback from Old Greendale Avenue.

The property is isolated on Old Greendale Avenue buffered from Greendale Avenue by the abandoned Hardy Street.

The current owners propose to construct a covered, front porch to provide shelter and enhance the attractiveness of the front entrance. The proposed porch is 24 feet wide by six feet deep for a total of 144 square feet. The By-Law only allows a 50 square foot porch, thereby requiring that the owners seek a Special Permit under Section 1.4.6. Mr. Giunta argued that the porch would have no negative impact or be detrimental to the neighborhood since it was a modest porch on an isolated private property.

Mr. Schnieder noted that the Board would have to change its long-standing policy not to allow extensions of non-conformities to permit this porch. He asked if Gale vs Zoning Board of Appeals Gloucester was still good law.;

Mr. Friedenbergs stated that the SJC recently ruled that, with respect to non-conforming single-family and two-family structures, Zoning Boards may allow an increase in a non-conformity with a Special Permit and without the need of a Variance provided that they make a Section 6 finding that the increase is not substantially detrimental to the neighborhood.

Comments received were:

- The Building Commissioner noted that the project required a Special Permit and that there was a Variance associated with a previous building permit.
- The Engineering Department had no comment or objection.
- The Planning Board had no comment.

There were no comments from the public.

Mr. Goldman thought it was a tasteful addition to a structure in an essentially isolated private property. He did not think the project was more detrimental. He was concerned that the Decision would set a precedent on future Board cases. Mr. Schneider replied that under the new law the Board would evaluate each case on its own merits.

Mr. Tamkin believed the project was a nice addition and that the decision involved an isolated property with no neighbors. He supported the granting of the permit.

Mr. Giunta agreed that the addition was minor and could be considered as not an intensification of a non-conformity.

Mr. Tamkin moved to grant a Special Permit for 8 Old Greendale Avenue to permit the change, extension, alteration and enlargement of a lawful, pre-existing, non-conforming structure by the construction of a covered porch at the front door as described in the plans submitted with the application. Mr. Goldman seconded the motion. The motion was unanimously approved.

The meeting adjourned at 7:45 p.m.

Findings:

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

1. The premises is located in the Single Residential A District, and is improved with a two-story residence located on a 20,000 square foot lot, with 196.02 feet of frontage. It also includes 242 of frontage on Hardy Street. Hardy Street was abandoned as a public way by the Town in 1988.
2. The house is lawfully nonconforming with a front yard setback at 26 feet. The current required front yard setback is 30 feet. However, when the structure was built in 1965, the required front yard setback was 20 feet and the building complied with the front yard setback requirements at that time.
3. In 1971, a two-car garage addition was constructed to the south of the structure with a 30-foot front yard setback as required by the 1968 Zoning By-Law.
4. In December 1, 1981, the Board issued a Variance to allow an addition that was built with an eight-foot setback from Old Greendale Avenue.
5. The applicants propose to construct a covered, front porch. The proposed porch is 24 feet wide by six feet deep for a total of 144 square feet.
6. As the By-Law only allows a 50 square foot porch, thereby requiring that the applicants to seek a Special Permit under Section 1.4.6.
7. The proposed covered porch will not place the house in violation of any dimensional, parking or intensity regulation with which the building was therefore in conformity, and is not substantially more detrimental to the neighborhood than the existing non-conforming structure and will not derogate from the intent and purposes of the Zoning By-law.

Decision:

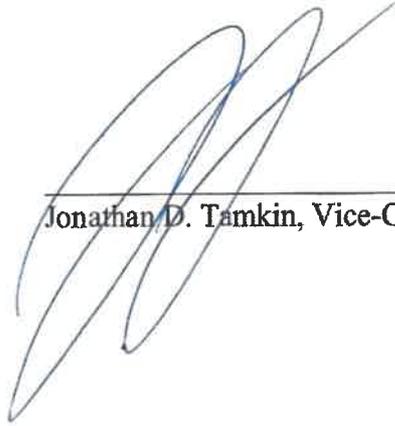
On the basis of the foregoing findings, following due and open deliberation, upon motion duly made and seconded, the Board by unanimous vote, grants the applicant a Special Permit to permit the construction of a covered porch at the front door within a legal non-conforming structure located at Old Greendale Avenue, Needham, MA in the Single Residential A District, and in accordance with the plans filed with the application.

SIGNATORY PAGE – 8 OLD GREENDALE AVENUE



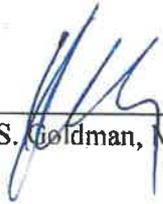
Jon D. Schneider, Chair

SIGNATORY PAGE – 8 OLD GREENDALE AVENUE

A handwritten signature in blue ink, consisting of several overlapping loops and a long horizontal stroke extending to the right.

Jonathan D. Tamkin, Vice-Chair

SIGNATORY PAGE – 8 OLD GREENDALE AVENUE



Howard S. Goldman, Member