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## VIA EMAIL AND IN-HAND

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Belmont Planning Board  
19 Moore Street  
Belmont, MA 02478

Attention: Mr. Ara Yogurtian  
Inspector of Buildings, Special Permit Cases

**Re: 50 Hillside Terrace, Belmont, MA #25-28**

Dear Belmont Planning Board:

I represent Mr. and Ms. DelRose of 83 Selwyn Road and Mr. and Ms. Haddad of 42 Jackson Road, both abutters to 50 Hillside Terrace. They oppose the applicant's request for two special permits. The scale and massing of the proposed addition would create significant adverse impacts on their properties, and we respectfully request that the Board deny the application.

The applicant's Zoning Compliance Checklist incorrectly identifies the required rear setback as 18.49 feet. Section 4.2.6 of the By-Law requires a minimum 25-foot rear setback for Single Residence C District lots with a depth of less than 100 feet. The applicant's lot is well under 100 feet on both sides. This error is material: the applicant proposes a structure 135.35% larger than the existing dwelling, which already encroaches to only 13.7 feet from the rear lot line abutting the Haddads. This is not a minor alteration, but a substantial expansion of a nonconforming structure. *See Bjorklund v. ZBA of Norwell*, 450 Mass. 357 (2008); *Bellalta v. Brookline*, 481 Mass. 371 (2019).

The setback requirements are intended to ensure adequate separation and compatibility among neighboring homes. With the existing structure already only 13.7 feet from the rear boundary, a two-story addition of this size would impose directly and significantly on the Haddads' property. This is a substantial—not minimal—encroachment, and the resulting increased density constitutes a clear detriment warranting denial of the special permits.

The applicant's misstatement of the setback requirement by approximately 25% also calls into question the validity of the supporting signatures obtained from neighbors, who were not provided accurate information about the degree of nonconformity or the scale of encroachment.

The applicants inherited the small, irregularly shaped lot and were fully aware of its existing limitations for future expansion. These constraints should not be shifted onto the abutters through a project whose scale is incompatible with the surrounding neighborhood.

The proposed 135% expansion is oversized for a narrow lot and out of character with nearby homes. The resulting floor area ratio (FAR) of 39.5% would be roughly 32% larger than the Hillside Terrace average of 30%. For comparison:

- The Haddads' home at 42 Jackson Road is 2,447 sq. ft. on a 10,552 sq. ft. lot (FAR 23.1%).
- The DelRoses' home at 83 Selwyn Road is 2,653 sq. ft. on a 10,435 sq. ft. lot (FAR 25.4%).

A review of the 54 homes within 300 feet shows an average total living area (TLA) of 2,269 sq. ft. The proposed structure, at 3,061 sq. ft., would be the fourth largest—approximately 74% larger than the neighborhood average.

The applicant's TLA analysis does not assess the homes within 300 feet of 50 Hillside, but rather just shows the homes on Hillside. The applicant's failure to show the homes within the 300 feet radius must be because that analysis does not support their cause. As set forth above, when compared to the immediate abutters, the TLA of the proposed dwelling makes it one of the largest, not the 8<sup>th</sup> largest.

The applicant's stated TLA of the property of 3,061 sq. ft. does not take into account the garage space of this split family dwelling. Because there is living space above the garage, the massing of the proposed structure is even more significant because the structure will exceed 4,000 square feet. Moreover, the lot size of 7,700 square feet is well below the current requirement of 9,000 square feet in SRC. Since the garage is below the living area, it is relevant in assessing the impact of the proposed addition and the overall mass of the proposed structure. When the entirety of the structure is analyzed, it would be one of the largest in the neighborhood.

The contour of the lot being on a hill, with the proposed addition, further enhances the impact of the mass of the proposed dwelling.

Decisions from the Land Court have determined that doubling the size of structures on nonconforming lots increases or intensifies the nature of the nonconformity. *See Bransford v. Edgartown Zoning Bd. of Appeals*, 12 LCR 211, 213-214 (2004) (Misc. Case Nos. 272521 and 278436); *Holmes v. Doelger*, 3 LCR 158, 159 (1995) (Misc. Case No. 212113). The proposed addition does not satisfy By-law §1.5.4.C, as it significantly intensifies the existing

nonconformity and creates a disproportionately large mass within 13 feet of the rear setback. An expansion of this magnitude—135.3%—is unreasonable and injurious to both the DelRose and Haddad properties.

To further assess the impact of the proposal, the applicant should be required to provide a shadow study demonstrating the impact of the proposed structure, given its 11-foot intrusion into the required rear yard setback.

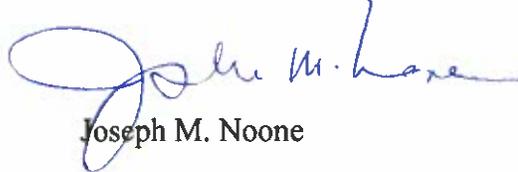
There are inconsistencies in the denial letter and the applicant's statement concerning the size of the addition. The denial letter states the proposed addition is "1810.6 square" and the applicant's statement asserts the size of the addition is "1655." If the applicant's statement is incorrect, the calculations used for the TLA analysis are also erroneous in addition to the misstatement of the required rear setback being less than 25 feet. Further, the height of the building is stated to be at the midpoint of the pitch and is 24'10". However, the By-law requires that the height be measured from the highest pitch when the pitch is 4" per foot or greater. In this instance, the pitch of the roof is stated as being 5:12, the roof height needs to be measured to the highest pitch.

For the above stated reasons, it is respectfully submitted that the Board deny the requested special permits.

Thank you for your consideration.

Very truly yours,

AVERY, DOOLEY & NOONE, LLP



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