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**TOWN OF BELMONT
ZONING BOARD OF APPEALS**

Case no. 23-15

Applicant Belmont Manor Nursing Home, Stewart Karger, Administrator

Property Address 34 Agassiz Ave.

Date of Public Hearing May 2, 2023

Members Sitting Nicholas A. Iannuzzi Jr., Chair
Casey Williams
Andrew Kelley
Teresa MacNutt
Elliot Daniels, Associate Member

Members Voting Nicholas A. Iannuzzi Jr., Chair
Casey Williams
Andrew Kelley
Teresa MacNutt
Elliot Daniels, Associate Member

Introduction

This matter came before the Board of Appeals (the "Board") of the Town of Belmont (the "Town") acting as Special Permit Granting Authority under the Zoning By-Law of the Town of Belmont, Massachusetts (the "By-Law") and Chapter 40A of the Massachusetts General Law (the "Zoning Act"). The applicant, Belmont Manor Nursing Home, Stewart Karger administrator (the "Applicant"), seeks to amend a Use Variance previously granted in 1966, and modified in 1991 and 2000, to expand a nursing home at 34 Agassiz Avenue. A Use Variance was granted by the Board on January 8, 2018, but has since expired. The Applicant proposes no additional amendments or changes to the Use Variance that was approved by the Board in 2018.

Proposal

The relief sought is permission to expand a non-conforming use in a GR Zoning District by constructing a 2.5 story addition with 4,974 square feet area to eliminate all remaining triple-occupancy rooms, to create additional visiting and dining areas, a common area, and a laundry. §7.6.2 sub-paragraphs 2 and 3 of the By-Law authorizes the Board to grant and amend variances if it determines that "The desired relief may be granted without substantial detriment to the public good", and "Without nullifying or substantially derogating from the intent or purposes of the By-Law". The hardship now advanced by the Applicant is that these changes have become necessary as regulations governing nursing homes and patient expectations have changed. An inability to adapt to such changes would thus create a significant adverse impact on the wellbeing of the patients and the business.

The proposed modification is consistent with the use originally permitted. Whether or not such modification would be substantially detrimental to the neighborhood is a question of fact for which it is appropriate to defer to the judgment of those who live in the neighborhood and would be the most familiar with the impact of the modification. The application indicates that details of the proposed construction were presented to those most directly affected and that no objections were raised. The population of the facility is not changed significantly; only the population density is being changed by the reconfiguration. Hence, it is unlikely that increased traffic will result.

ZBA Case# 23-15
Address: 34 Agassiz Avenue.

The the hearing George Kokoros spoke in favor of the Use Variance, Martha Eakin spoke in opposition.

Decision

Accordingly, Upon motion duly made by Chair Nicholas A. Iannuzzi, Jr. and seconded by Teresa MacNutt, the Board voted 5-0 to grant the requested Use Variance to the applicant to construct a 2.5 story, 4,974 Square foot addition. Prior to applying for a Building Permit, the applicant must,

1. Incorporate all amendments and conditions stipulated by the Planning Board at the Joint Planning/Zoning Board hearing on January 8, 2023.

For the Board

Dated: July 31, 2023



Gabriel S. Distler
Staff Planner
Office of Community Development