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**TOWN OF NEEDHAM  
MASSACHUSETTS  
BOARD OF APPEALS**

***Special Permit***

***Med Adnen Gharsallaoui, owner  
24 Webster Street  
Map 87, Parcel 32***

***October 19, 2023***

Med A. Gharsallaoui, owner, applied to the Board of Appeals for a Special Permit under Sections 1.4.6 and any other applicable section of the By-Law to alter, enlarge and extend a pre-existing, non-conforming single-family dwelling to allow the expansion and addition of the second story to accommodate two bedrooms and a bathroom on the second floor. The property is located at 24 Webster Street, Needham, MA in the Single-Residence B (SRB) District. A public hearing was held remotely on Zoom, on Thursday, October 19, 2023 at 7:45 p.m.

***Documents of Record:***

- Application for Hearing, Clerk stamped September 25, 2023.
- Proposed Plot Plan prepared by Paul Finocchio, Professional Land Surveyor, stamped; and dated July 11, 2023.
- Revised Plot Plan prepared by Paul Finocchio, Professional Land Surveyor, stamped; and dated October 16, 2023.
- Plans (A-3, A-5, A-6, A-10, A-12, A-13) prepared by Farouk F. Youssef, Registered Architect, dated August 4, 2020.
- Plot Plan prepared by Sidney R. Vaughn, Registered Engineer, dated December 6, 1966.
- Assessor Department Real Estate Property Card, December 5, 2003.
- Assessor Department Real Estate Property Card pre-1993.
- Letter from Lee Newman, Director of Planning and Community Development, dated October 3, 2023.
- Email from Joseph Prondack, Building Commissioner, dated October 17, 2023.
- Email from Thomas A. Ryder, Assistant Town Engineer, dated October 11, 2023.
- Email from Chief Tom Conroy, Fire Department, dated October 10, 2023.
- Email from Chief John Schlittler, Police Department, dated September 26, 2023.
- Email from Tara Gurge, Assistant Public Health Director, October 10, 2023.

## October 19, 2023

The Board included Jonathan D. Tamkin, Chair, Nikolaos M. Ligris, Member, and Peter Friedenber, Associate Member. In the absence of Howard S. Goldman, Vice-Chair, Mr. Tamkin selected Mr. Friedenber to be a voting member. Mr. Tamkin opened the hearing at 7:48 p.m. by reading the public notice. (*Mr. Goldman joined the Public Hearing after it begun*).

Med Adnen Gharsallaoui, owner, reported that he has owned the house since 2017. As a family of five he is proposing to expand the current home to the second floor to include four bedrooms to accommodate his children. He noted that the house was built in 1928 and in 1966 a one-story addition was expanded to the back.

Mr. Gharsallaoui noted that the addition is limited to expanding upwards above the existing boundaries of the house. There will be no encroachments outside the existing house limits.

Mr. Tamkin requested clarification about different dates for the construction of the home as shown on the Assessor Property Card: 1928 and 1932. Mr. Ligris noted that the 1932 date was associated for the owners of the first recorded sale of the property. He was satisfied with the 1928 construction date.

The existing property and house are located in the SRB district and have the following pre-existing, non-conformities:

- a south side setback from the bay window of under 10' (the exact distance was not shown on the Plot Plan dated July 11, 2023 nor the Revised Plot Plan dated October 16, 2023);
- frontage of 52 feet;
- lot size of 7,747 square feet.

Mr. Gharsallaoui provided historic documentation substantiating the property's legal pre-existing non-conformities: a Plot Plan from December 6, 1966 illustrates the existence of the bay-window encroaching into the setback, and Assessor Property Cards from 2003 and pre-1993 noting that the home was constructed in 1928.

Mr. Friedenber was satisfied with the legal non-conformity as it has been in existence for over 10 years and the 1966 plot plan further confirms it.

Comments received:

- The Police Department was concerned about road hazard created from construction vehicles as it is a heavily used commuter and school drop-off route. Mr. Tamkin noted that the Decision, if approved, would be conditioned that construction vehicles may not impede traffic. The applicant had no issue with complying with the condition.
- The Planning Board had no comment.
- The Engineering Department had no comment or objection.
- The Building Department noted that the existing bay window foundation is less than the required 10' side setback on the south side. The Building Commissioner had requested and was waiting for the dimension to be shown by the surveyor, however, he had no

objections to the proposal.

- The Fire Department was satisfied with the proposal.
- The Health Department noted that the applicant must apply for a Demolition Review online with supplemental report documentation prior to the issuance of a Building Permit, and ongoing pest control must be conducted during demolition and throughout construction.

Mr. Friedenbergr inquired if the bay window would be continued to the second story. Mr. Gharsallaoui affirmed that the plans are to extend and continue the bay window up to the second floor.

The Board noted that the revised October 16, 2023 Plot Plan indicated new side setbacks of 10'2" on the south side, and 10.9" on the north side from the Plot Plan dated July 11, 2023. This revision on the south side appears to reference the Plot Plan of December 6, 1966.

Mr. Tamkin asked the Board if they had any issues issuing the Decision without the revised plot plan showing the non-conforming measurement on the south side setback from the bay window.

Mr. Goldman and Mr. Ligris concurred that a Decision could be arrived at without the exact measurement of the south side setback from the bay window to the property line. However, the Decision will be subject to the submission of an updated plot plan with the dimension shown.

There were no comments from the public. The public portion of the hearing was closed.

Mr. Friedenbergr was satisfied with the applicant's substantiation of the property's legal pre-existing non-conforming status and directed that the proposed addition not encroach into the sideline. He had no issue with the project.

Mr. Goldman was satisfied with the proposal provided that the proposed addition not encroach or increase further into the non-conformity.

Mr. Ligris was supportive of the project and noted that there was no further encroachment, no abutting single-family property on the south side and that the property abutted the driveway to a multi-family complex.

Mr. Tamkin had no additional comments.

Mr. Ligris moved to grant a Special Permit under Section 1.4.6 of the By-Law to allow the alteration, enlargement and extension of a pre-existing, non-conforming single-family dwelling to allow an addition of the second story to accommodate two new bedrooms and a bathroom at 24 Webster Street in accordance to the plans submitted with the following conditions:

- no construction vehicles be allowed to park on Webster Street or obstruct traffic as requested by the Chief of Police;
- a final plot plan showing the dimensions from the bay window on the south side of the property shall be submitted to the Board and the Building Department prior to the

- issuance of a Building Permit; and
- there shall be no further encroachments into the existing non-conforming south side setback, nor increase any other non-conformity.

Mr. Fridenberg seconded the motion. The motion was unanimously approved.

The meeting adjourned at 8:10 p.m.

### **Findings:**

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

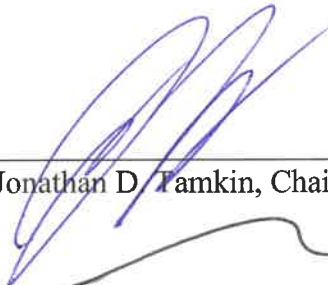
1. The premises is a 7,747 square feet lot improved by a one and a half story single-family house in the Single Residence B District. The 1,088 square feet house was built in 1928 with a rear one-story addition added in 1966.
2. The lot is non-conforming in that it is only 7,747 square feet, which is less than the required 10,000 square feet and has frontage of only 52 feet where 80 feet is required. The house is non-conforming in that the south side setback has less than 10 feet\* where 10 feet is required. All other setbacks and build factors are compliant. (*\*a surveyed plot plan indicating the current non-conforming south side setback has been provided to the Board after the hearing and will be provided prior to the issuance of a Building Permit*)
3. The owner provided a Town Assessor Property Card indicating that the original house was built in 1928. The owner also provided a Plot Plan from December 1966 illustrating the original house with the existing non-conforming south sideline setback. Since the non-conformity has existed for more than 10 years without challenge, MGL Chapter 40A, Section 7 provides that the structure is considered to be legally non-conforming.
4. The owner proposes to raise the one and half story to a full second story and extend the second-floor addition within the footprint of the existing structure to accommodate 4 bedrooms, 2 bathrooms and a laundry area. The proposal will add 538 square feet for a total of 2,176 square feet of living space.
5. The applicant confirmed that the proposed addition will be constructed directly above the existing structure and that no part of the proposed addition will extend further into the now existing non-conforming setback.
6. Pursuant to Section 1.4.6 of the By-Law, a lawful pre-existing non-conforming building may be structurally altered, enlarged or reconstructed by Special Permit if such change, extension, alteration, enlargement or reconstruction does not create any new non-conformity.
7. The property is located on a heavy commuter and school drop-off route. The Police Chief was concerned that construction vehicles not impede the lane of travel and create a road hazard. The owner agreed to not allow construction vehicles to park on Webster Street.

8. Based on the evidence submitted to the Board during the hearing, the Board finds that the existing structure is a lawful pre-existing non-conforming structure and that the proposed addition will not further encroach on or enlarge the existing nonconformity of the structure. The proposed addition will not result in a structure that is substantially more detrimental to the neighborhood than the existing non-conforming structure. The Board further finds that the proposed addition is a design that is compatible with the existing natural features of the site and is compatible with the characteristics of the surrounding area. The issuance of a special permit is consistent with the criteria of Section 7.5.2 of the By-Law.

**Decision:**

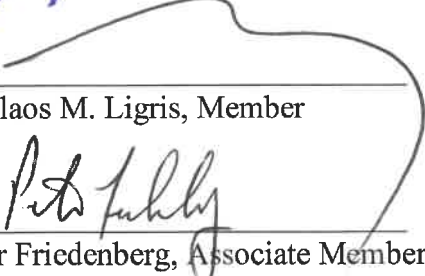
On the basis of the foregoing findings, following due and open deliberation, upon motion duly made and seconded, the Board by unanimous vote, grants the owner a Special Permit under Sections 1.4.6 and 7.5.2 of the By-Law to allow the proposed addition to 24 Webster Street according to the submitted plans, provided

- no construction vehicles be allowed to park on Webster Street or otherwise obstruct the flow of traffic;
- a final plot plan indicating the existing south side setback be submitted to the Board and the Building Department prior to the issuance of a Building Permit; and
- there be no further encroachment into the existing non-conforming south side setback nor increase any other non-conformity.



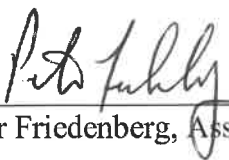
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Jonathan D. Famkin, Chair



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Nikolaos M. Ligris, Member



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Peter Friedenberg, Associate Member