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**TOWN OF NEEDHAM
MASSACHUSETTS
BOARD OF APPEALS**

SPECIAL PERMIT

*Alex Kuzakovsky, applicant
Carol A. Patch, owner
260-262 Rosemary Street
Map 225, Parcel 5*

September 19, 2019

Alex Kuzakovsky made application to the Board of Appeals for a Special Permit under Sections 1.4.7.4, 3.2, 7.5.2, and any other applicable Sections of the By-Law to permit the demolition, extension, alteration, enlargement and reconstruction of the lawful, pre-existing, non-conforming two-family dwelling and replacing it with a new two-family residence. The property is located at 260-262 Rosemary Street, Needham, MA in the Single Residential B District. A public hearing was held in the Charles River Room, Public Services Administration Building, 500 Dedham Avenue, Needham, MA, on Thursday, September 19, 2019 at 7:45 p.m.

Documents of Record:

- Application for Hearing, dated and Clerk stamped August 26, 2019.
- Letter prepared by George Giunta, Jr., August 26, 2019.
- Existing Conditions Plan of Land, Proposed Plan of Land and Building Permit Plan of Land, prepared by Glossa Engineering, Inc, stamped by John F. Glossa, Engineer and Andrew C. Murphy, Land Surveyor, August 21, 2019.
- Plans A-1 – A9 prepared by I. S. Hernandez Services, Inc., stamped by Fergal D. Brennock, Registered Engineer, August 13, 2019.
- Memorandum of Support prepared by George Giunta, Jr., September 10, 2019.

Exhibit A - Original Assessing Department Field Card.

Exhibit B - Residential Property Record Card, December 1, 2003.

Exhibit C - Current Assessing Department Card.

Exhibit D - Building Permit 1243.

Exhibit E - Building Permit 4967 and Board of Health Memo June 1, 1977.

Exhibit F - Electrical Permit 7644.

Exhibit G - Electrical Permit 7961.

Exhibit H - Kitchen Remodel Application and Permit.

Exhibit I - Building Department Letter, May 26, 2010.

Exhibit J - Vinyl Window Replacement Application and Permit

Exhibit K - Deck Plot Plan, Application and Permit.

Exhibit L - Plumbing Permit P120110634.

Exhibit M - Building Department Field Card.

Exhibit N – 262 Rosemary Street – ZBA Special Permit – 7-15-2010.

- Revised Proposed Plan of Land, prepared by Glossa Engineering, Inc., stamped by John F. Glossa, Engineer, September 19, 2019.
- Letter from Lee Newman, Director of Planning and Community Development, September 4, 2019.
- Letter from Thomas A. Ryder, Assistant Town Engineer, Department of Public Works, September 10, 2019.
- Letter from David A. Roche, Building Commissioner, Building Department, September 10, 2019.
- Email from Dennis Condon, Chief, Needham Fire Department, September 3, 2019.
- Email from Dennis Condon, Chief, Needham Fire Department, September 9, 2019.
- Email from Tara Gurge, Assistant Public Health Director, September 6, 2019, plus attachment “Notification Demolition Form.”
- Letter from Carol Patch, July 18, 2019.

September 19, 2019

The Board included Jon D. Schneider, Chairman; Jonathan D. Tamkin, Member; and Howard S. Goldman, Member. Also participating was Kathy Lind Berardi, Associate Member. Mr. Schneider opened the hearing at 7:45 p.m. by reading the public notice.

George Giunta, Jr., attorney representing the applicant, reported that the applicant was seeking to demolish and reconstruct a lawful, pre-existing, non-conforming two-family house located on a 10,200 square foot lot with 80 feet of frontage. The current house was built in 1918 before the adoption of zoning in Needham. The current house has four bedrooms and two baths. The house is non-conforming with a side setback at 11’1” on the west side and 9’5” on the east side.

Records indicate that the property has been a two-family since 1925. The original property field card describes the property as a two family as well as the current Assessor’s Residential Property Card. Building permits from 1969 through 2012 also make reference to the property as a two-family one.

Mr. Giunta provided information from the U.S. Census showing that two separate families occupied the property. From 1924 through 1969 only two years (1935 and 1963) showed no entry information regarding the residents. In 1936-1937 the property numbering was changed.

The Board previously found that the existing structure was a legally non-conforming two family in a Decision dated July 15, 2010.

Mr. Schneider asked if anyone from the public had comments concerning the two family status of the property. Patricia Flueckiger, 252 Rosemary Street, said she has lived next door since 1987 and has known the property to be a two-family property. There were no other

comments.

Mr. Giunta reported that the applicant is seeking to demolish the current structure and replacing it with a new two-family dwelling. Each unit will have approximately 1,795.5 square feet. There will be lot coverage of 17.9% (under the required 18%). The property will have a 37 feet front setback. The new house will comply with all dimensional and density requirements.

Mr. Giunta reported that the Conservation Commission (ConCom) held a public hearing for the proposal on September 12, 2019. The ConCom requested that the applicant move the house out of the 25' no build zone. A revised plan was submitted decreasing the back deck of the west unit so it is no longer in the no-build zone. No other changes were made.

Each unit will feature three bedrooms and three and one-half baths with an attached garage, a basement recreation area and a bonus attic space on the third floor.

Comments received:

- The Planning Board had no comment.
- The Building Department found the proposal to be in compliance to the Town's Zoning By-Law.
- The Fire Department had no concerns.
- The Health Department requested that the applicant complete the "Notification of Demolition."
- The Engineering Department had no comment or objection to the proposed plan.

Mr. Goldman and Mr. Tamkin concurred that the documentation establishing the continuous two-family use and were supportive of the proposal.

Mr. Tamkin moved to grant the Special Permit to demolish the current two-family residence and to allow the reconstruction of a new two-family in accordance to the plans submitted. Mr. Goldman seconded the motion.

Sylvia Lewinstein, 259 Rosemary Street, wanted to know how long the construction disruption will be. The applicant responded that it would take one day to demolish the current house and about four to six months for the construction period.

The applicant added that the project will be a blue color and will fit in nicely with the neighborhood. The house will sit 14' above ground because of the site grade. The side yards will be terraced and landscaped with grass and the front will have a large setback.

Donna and Paul Huang, 266 Rosemary Street, were concerned about their privacy. They were also concerned that their view to the lake would be affected.

The applicant offered to plant trees to provide privacy.

Mr. Tamkin asked which was the issue - privacy or the view. They stated that they did not want big trees to block their views. Mr. Tamkin said a condition could be made that trees not be planted that would affect the views. It was noted that plantings, tree replacements and their location may be an issue with the ConCom.

Ms. Huang wanted the property to be moved forward to the 20 foot front setback because the proposed new house would partially block their view. She also asked if the units could be side by side, rather than staggered as indicated in the proposed plan.

The applicant said he could not move the entire plan forward because it would increase the grade to the garages under the house which already have steep grade. He also believed that moving the units side by side instead of staggered as proposed would be unattractive because it would increase the massing of the design.

Ms. Huang continued to express her concerns. Mr. Schneider indicated that the Board would grant a continuance if the applicant wanted to discuss the matter further with the neighbors or take a vote. The applicant agreed to move the house two feet forward and asked that the Board take a vote on the proposal.

Mr. Tamkin amended his motion to condition approval on the applicant moving the house forward by two feet decreasing the front set back by two feet from what was proposed in the submitted plans and that plants be selected so as not to block the view. Mr. Goldman seconded the motion. The motion was unanimously approved.

Revised plans will be submitted to the Board prior to issuance of a Decision.

The meeting adjourned at 8:30p.m.

Findings:

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

1. The premises is a 10,200 square foot lot with 80 feet of frontage located in the Single Residence B District bordering Rosemary Lake to the rear and improved with a two family house.
2. The two family house was constructed prior to the adoption of Zoning in 1925. The house has consistently been treated as a two family house in the assessing and building department records and is currently assessed as a two family house. Census records indicated that the house has been occupied by two families. The Board previously found that the structure was a legally non-conforming two family in a Decision dated July 15, 2010. A neighbor confirmed that the house has been a two family since she moved in in 1987. The structure is a legally Non-Conforming Building and the two family use is a legally Non-Conforming Use.
3. The applicant proposes to demolish the existing structure and build a new two family house that will comply with all dimensional and density requirements of the By-Law, The new two family house will eliminate non-conformities with respect to side setbacks.
4. In response to objections from one neighbor, the applicant agreed to move the two family house two feet closer to the street and to avoid planting trees that would block

the neighbor's view of Rosemary Lake.

5. The proposed two family house will not be substantially more detrimental to the neighborhood than the existing non-conforming use or structure and will not violate any dimensional, parking or intensity regulation with which the structure or use was thereto in conformity. The issuance of a Special Permit is consistent with the criteria of Section 7.2.

Decision:

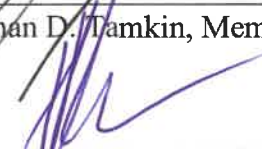
On the basis of the foregoing findings, following due and open deliberation, upon motion duly made and seconded, the Board by unanimous vote, grants the Applicant a Special Permit under Section 1.4.6 to demolish the existing two family structure and reconstruct a new two family house in accordance with the plans presented at the hearing, subject to the conditions that (a) the proposed new two family house will be constructed two feet closer to Rosemary Street than shown on the plans presented at the hearing, (b) the applicant will submit new plans reflecting the location closer to Rosemary Street, and (c) the applicant will not plant trees that block the view of Rosemary Lake from the adjacent property at 266 Rosemary Street.



Jon D. Schneider, Chairman



Jonathan D. Tamkin, Member



Howard S. Goldman, Member