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**TOWN OF NEEDHAM
MASSACHUSETTS
BOARD OF APPEALS**

Special Permit

***Scott and Elizabeth Lubker, owners
25 Fenton Road
Map 123, Parcel 43***

October 21, 2021

25 Fenton Road - Scott Lubker, applicant, applied to the Board of Appeals for a Special Permit under Sections 1.4.6 and any other applicable Sections of the By-Law to allow the construction of a 188 square foot second floor addition within the footprint of the existing non-conforming single-family house. The property is located at 25 Fenton Road, Needham, MA in the Single Residence B (SRB) District. A public hearing was held remotely on Zoom, on Thursday, October 21, 2021 at 7:30 p.m.

Documents of Record:

- Application for Hearing, Clerk stamped September 27, 2021.
- Existing Conditions Plot Plan prepared by Christopher C. Charlton, Professional Land Surveyor, stamped and dated September 20, 2021.
- Renovation and Expansion Construction Plan, A-1-A8 prepared by Tuan V. Nguyen, Professional Engineer, stamped and dated June 16, 2021.
- Rendering Front and Side
- Plan of Subdivision dated August 18, 1927.
- Sketch of Subdivision Plan dated March 18, 1920.
- Assessor Department Real Estate Property Card.
- Letter from Lee Newman, Director of Planning and Community Development, dated October 5, 2021.
- Letter from Dave Roche, Building Commissioner, dated October 1, 2021.
- Email from Thomas A. Ryder, Assistant Town Engineer, dated October 13, 2021.
- Email from Chief Dennis Condon, Fire Department, dated September 29, 2021
- Email from Chief John Schlittler, Police Department, dated September 28, 2021.

- Email from Tara Gurge, Assistant Public Health Director, October 13, 2021.
- Quitclaim Deed, dated February 11, 2021.

October 21, 2021

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

Scott and Elizabeth Lubker, owners, attended and represented themselves. Mr. Lubker reported that they were proposing to expand and reframe the second floor to add a master bedroom within the current footprint of the existing structure. There will be renovations to the first floor to improve the interior flow and create a different entry approach to the house.

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

- a back (west) setback at 8.8’;
- a front (east) setback at 0.7’; and
- a lot size of 5,750 square feet.

Mr. Lubker provided historic documentation substantiating the property’s legal pre-existing non-conformities: a Subdivision Plan from August 18, 1927, and a Sketch of Subdivision Plan dated March 18, 1920 which matched the current setbacks. He also included an Assessor Property Card noting that the home was built in 1884.

Comments received:

- Planning Board had no comment.
- Engineering Department had no comment or objection.
- Building Department noted that due to the existing non-conformities the addition would require a Special Permit under 1.4.6 Alteration.
- The Fire Department was satisfied with the proposal.
- The Police Department had no issue.
- The Health Department had no comment.

There were no comments from the public.

Mr. Friedenberg was satisfied with the applicant’s substantiation of the property’s legal pre-existing non-conforming status and that the proposed addition would stay within the current footprint. He thought the proposal would not be more detrimental to the neighborhood. Ms. Berardi concurred.

Mr. Goldman thought the proposal was a good project.

Mr. Tamkin thought the applicant did a good job in presenting the historic facts of the property and further showed that the addition will not encroach beyond the current building walls and that the proposal met the requirements of the By-Law.

Mr. Goldman moved to grant a Special Permit under Sections 1.4.6 of the By-Law to allow the construction of a 188 square foot second floor addition within the footprint of the existing non-conforming single-family house located at 25 Fenton Road in accordance to the plans submitted. Ms. Berardi 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:

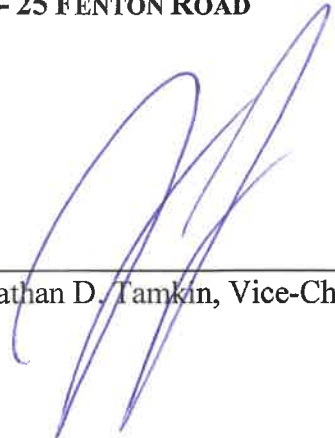
1. The applicant Scott Lubker, owns the property located at 25 Fenton Road, which is in the Single Residence B District. The property contains 5,750 square feet.
2. The property currently contains a single family house. The applicant seeks to add a 188 square foot second floor addition within the footprint of the existing structure.
3. The existing house is located 0.7 feet from the front (east) side property line and 8.8 feet from the rear (west) property line. Neither of these setbacks meet the current requirements under the Zoning By-Law. The applicant therefore seeks a Special Permit allowing the addition.
4. 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, alternation, enlargement or reconstruction would not be substantially more detrimental to the neighborhood than the existing non-conforming structure, and if it is designed in a manner that is compatible with the existing natural features of the site and the characteristics of the surrounding area.
5. The applicant provided a Subdivision Plan from August 18, 1927, and a Sketch of Subdivision Plan dated March 18, 1920 which show the current setbacks. The applicant also submitted an Assessor Property Card noting that the home was built in 1884. These documents demonstrate that the existing home was constructed prior to the existence of the zoning front and rear setback requirements. Accordingly, the existing house is a lawful pre-existing non-conforming structure.
6. The applicant confirmed that the proposed addition will be constructed directly above the existing structure and that no part of the proposed addition will encroach on or enlarge the existing non-conforming setbacks. The Building Inspector confirmed that the proposed addition will meet the sideline, lot coverage and FAR requirements of the By-Laws.
7. 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.

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 Sections 1.4.6 and 7.5.2 of the By-Law to allow the proposed addition to 25 Fenton Road according to the submitted plans, provided that such addition does not encroach on or enlarge the lawful pre-existing non-conforming front and rear setbacks.

SIGNATORY PAGE - 25 FENTON ROAD



Jonathan D. Tamkin, Vice-Chair

SIGNATORY PAGE – 25 FENTON ROAD



Howard S. Goldman, Member

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SIGNATORY PAGE – 25 FENTON ROAD



Kathy Lind Berardi, Associate Member