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**TOWN OF NEEDHAM
MASSACHUSETTS
BOARD OF APPEALS**

Special Permit

***Ravi Talasila & Anupama Manchikalapudi, owners/applicants
43 Brackett Street
Map 142, Parcel 31***

November 18, 2021

43 Brackett Street - Ravi Talasila and Anupama Manchikalapudi, owners, have made application to the Board of Appeals for a Special Permit under Sections 1.4.6, 1.4.7.4 and any other applicable Sections of the By-Law to allow the extension, alteration, enlargement and reconstruction of a lawful, pre-existing, non-conforming single-family structure associated with the reconstruction and enlargement of a single-family, ranch-style, one-story home with an attached two-car garage. The property is located at 43 Brackett Street, Needham, MA in the Single Residence B (SRB) District. A public hearing was held remotely on Zoom, on Thursday, November 18, 2021 at 7:45 p.m.

Documents of Record:

- Application for Hearing, Clerk stamped October 27, 2021.
- Proposed Plot Plan prepared by Cheney Engineering Co., Inc., Professional Land Surveyor, stamped by Stephen E. Davis, Professional Land Surveyor and dated September 27, 2021.
- Plans, prepared by Design by Sami LLC, Sheets 1 to 9; stamped by Sami E. Kasis, Registered Professional Engineer.
- Quitclaim Deed, recorded October 16, 2015.
- Property Record Card, November 4, 2021.
- Building Permit 0034, July 9, 1953.
- Letter from Lee Newman, Director of Planning and Community Development, dated November 3, 2021.
- Letter from Dave Roche, Building Commissioner, dated November 9, 2021.
- Letter from Thomas A. Ryder, Assistant Town Engineer, dated November 9, 2021.
- Email from Chief Dennis Condon, Fire Department, dated October 27, 2021
- Email from Tara Gurge, Assistant Public Health Director, November 9, 2021.
- Email from Judith Hedman, dated November 13, 2021.

November 18, 2021

The Board included Jon Schneider, Chair; Howard S. Goldman, Member and Peter Friedenber, Associate Member. Mr. Schneider opened the hearing at 8:10 p.m. by reading the public notice.

Joseph Hackett, the contractor from Rossmore Construction, represented the owners. He reported that more than 50% of the structure will be demolished and that the reconstruction would increase the structure by 1,980 square feet for a total living area of 3,960 square feet. He noted that the existing concrete foundation will be maintained because it is in good shape. The new structure will essentially maintain the original footprint with the exception of five additions which will increase the footprint by 306 square feet. The proposed project will keep the garage intact with its non-conforming right-side setback of 9.6 feet

Mr. Schneider was unclear why the project was not being done by right. Mr. Hackett responded that the Building Commissioner concluded that a Special Permit would be required. because over 50% of the structure was being demolished and the existing non-conforming side setback was being maintained.

Mr. Schneider noted that there is a statute which allows for a non-conformity to be protected if it has been in existence for over 10 years. Since the current right-side set back has existed longer than 10 years it is deemed legally non-conforming.

Comments received:

- Planning Board had no comment.
- Engineering Department had no comment or objection.
- Building Department noted that more than 50% of the building shell was being demolished triggering New Construction under the By-Law and a by-right building permit cannot be issued. In addition, he was concerned that the reconstruction exceeds the scope listed in the application in violation of the setback requirements.
- The Fire Department was satisfied with the proposal.
- The Health Department had no comment.
- Judy Hedman, 31 Brackett Street, was concerned about runoff flooding her basement, the adequacy of the drywells as the property was on ledge.

Mr. Schneider inquired how the run-off concerns raised by Ms. Hedman because of the ledge were being addressed. Mr. Hackett said that four drywells were being installed. He did not know what would happen to the runoff after construction. Based on his conversation with the owners, he will direct the water away from the homeowner on 31 Brackett Street with larger gutters and downspouts, larger drywells on Gay Street, and make the flow go towards Gay Street where there is a catch basin.

Mr. Schneider inquired whether the proposed drywells would be hitting ledge. Mr. Hackett responded that he did not consider the existence of ledge. He would consult with engineering for advice.

Mr. Schneider noted that a requirement of the Special Permit would be that the final infiltration

system be approved by Town Engineer.

Mr. Goldman moved to grant a Special Permit under Sections 1.4.6 of the By-Law to allow the reconstruction of the first floor, with a second-floor addition as presented in the submitted plans subject to the following conditions:

- the final infiltration system be approved by the Town Engineer; and
- the non-conforming right-side setback be maintained at 9'6".

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

The meeting adjourned at 8:30 p.m.

Findings:

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

1. The premises is a 14,507 square foot lot improved with a one-story single-family home in the Single Residence B District.
2. The two-car garage attached to the house is non-conforming on the north sideline with a setback of 9.6 feet as contrasted with the required 10 feet. The house and garage were constructed in 1954. It appears that the non-conformity occurred at the time of construction since the plot plan filed in connection with the building permit incorrectly showed the side setback as 11 feet. 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.
3. The applicants propose to add a second floor, a farmer's porch to the front of the house, a small addition on the south side of the house, a new bay window at the rear of the house and a small storage area to the rear of the attached garage. The applicants propose to re-shingle and remodel the garage, but it will be moved no closer to the lot line. The storage area and all of the additions will conform with current dimensional requirements.
4. Under Section 1.4.7.2, the applicants could make the proposed changes of right unless the project is considered to be a "reconstruction." The project constitutes "New Construction" under the By-law because the applicant is removing more than 50% of the outside surfaces. The Building Commissioner takes the view that New Construction amounts to a reconstruction that is not allowed under Section 1.4.7.2 and that the project requires a Special Permit under Section 1.4.6.
5. The proposed construction will not make the structure substantially more detrimental to the neighborhood and will not place the structure in violation of any dimensional, parking or intensity regulation with which the structure was theretofore in conformity. The issuance of a Special Permit is consistent with the criteria of Section 7.5.2.2.

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 applicants a Special Permit under Section 1.4.6 of the By-Law to allow the reconstruction of the first floor and the addition of a second floor and other revisions as shown on the plans submitted with the application, provided that (a) the construction does not create any new or increase any non-conformity, and (b) the infiltration system is approved by the Town Engineer.

SIGNATORY PAGE - 43 BRACKETT STREET.



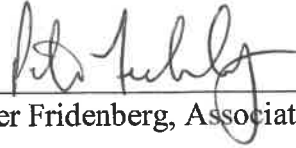
John D. Schneider, Chair

SIGNATORY PAGE – 43 BRACKETT STREET



Howard Goldman, Member

SIGNATORY PAGE – 43 BRACKETT STREET

A handwritten signature in dark ink, appearing to read "Peter Fridenberg", written over a horizontal line.

Peter Fridenberg, Associate Member