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**TOWN OF NEEDHAM
MASSACHUSETTS
BOARD OF APPEALS**

Special Permit

***Janet Carter Bernardo, owner
473 High Rock Street
Map 138, Parcel 84***

February 17, 2022

Janet Carter Bernardo, owner, 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 a lawful, pre-existing, non-conforming building to be altered, enlarged or reconstructed. This request is associated with the demolition and reconstruction of an existing detached single garage with a new detached single garage. The property is located at 473 High Rock Street, Needham, MA in the Single Residence B (SRB) District. A public hearing was held remotely on Zoom, on Thursday, February 17, 2022, at 7:30 p.m.

Documents of Record:

- Application for Hearing, Clerk stamped January 24, 2022.
- Plot Plan prepared by Horsley Witten Group, stamped by Daniel W. MacKenzie, professional land surveyor, dated December 20, 2021.
- Photos of existing front and left elevation of garage with existing conditions plot plan 1/2, stamped by Mark Gluesing, Registered Architect, dated August 23, 2021.
- Garage Reconstruction Plans 2/2 prepared and stamped by Mark Gluesing, Registered Architect.
- Residential Property Record Card, Needham Assessing Department.
- Photos of existing garage, January 21, 2022
- Proposed Plot Plan, prepared by Horsley Witten Group, stamped by Janet Carter Bernardo, Registered Professional Engineer, dated January 27, 2022.
- Building Permit #3849, Needham Building Department, July 29, 2060.
- Letter from Lee Newman, Director of Planning and Community Development, dated February 15, 2022.
- Letter from Dave Roche, Building Commissioner, dated February 8, 2022.
- Letter from Thomas A. Ryder, Assistant Town Engineer, dated February 4, 2022.

- Email from Chief Dennis Condon, Fire Department, dated February 1, 2022
- Email from Chief John Schlittler, Police Department, dated January 31, 2022.
- Email from Tara Gurge, Assistant Public Health Director, February 8, 2022.

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The Board included Jon D. Schneider, Chair; Jonathan D. Tamkin, Vice-Chair; Howard S. Goldman, Member. Also participating was Peter Freidenberg, Associate Member and Nik Ligris, Associate Member. Mr. Schneider opened the hearing at 7:20 p.m. by reading the public notice.

Janet Carter Bernardo, owner, reported that the house and garage were built in 1914 prior to the Zoning By-Law. The 12' by 24' garage is built of stucco. The garage has two legal pre-existing non-conformities 1) a south rear side setback of 8" from the property line and 2) a distance of 7'6" from the house. The By-Law requires a 5' setback from the property line and 10' from any building.

Ms. Bernardo is proposing to replace the garage with a new 12' by 24' single-car garage and to pivot the rear of the new garage to be parallel to the property line at the existing front side-setback at 3'12". She has a garden and a recently installed subsurface infiltration system for the roof runoff which she does not want disturbed.

Marc Jacobs, 461 High Rock Street, noted that there was a small discrepancy between the surveyors' plans; and he wanted to know if a Special Permit would preclude construction on his side of the property. Mr. Schneider responded that the project will be built in accordance to the plot plan from the certified registered surveyor; and he would be allowed to build on his property as long as it conforms to the By-Law. Mr. Jacobs had no objection to the proposal.

Comments received:

- Planning Board had no comment.
- Engineering Department had no objection.
- Building Department stated that if the Board is willing to provide relief, he was agreeable to move the back corner away from the lot line further than 3' and parallel to the lot line.
- The Fire Department had no issues or qualifications.
- The Police Department had no issue.
- The Health Department noted that the owner must apply for a Demolition review online and that a copy of a pest control report, asbestos sampling and removal report must be uploaded. Once a pest control is conducted prior to demolition, on-going pest control must be conducted during demolition and on-going during construction.

Mr. Goldman was satisfied with the application and of the owner being mindful of the Building Inspector's concerns.

Mr. Goldman moved to grant a Special Permit under Sections 1.4.6 of the By-Law to allow the demolition and reconstruction of a lawful pre-existing non-conforming single-car garage in accordance to the Proposed Plot Plan dated January 27, 2022. Mr. Tamkin seconded the motion. The motion was unanimously approved.

The meeting adjourned at 8:33 p.m.

Findings:

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

1. The property currently contains a two-story home and a single car detached garage, located in the single Residential B District on a lot containing 10,020 square feet.
2. The existing two-story dwelling and detached single car garage were originally built in 1914, when there was no side setback requirements and the distance between the house and the garage is 7.64' at its closet point and the detached garage is between 3.1' and .81' from the side lot line on the southeast corner.
3. When the setback requirements were added and the side setback became 5 feet and 10 feet became required between a detached garage and a house, the detached single car garage became a legally non-conforming structure.
4. The applicant proposes to demolish the detached single car garage and to reconstruct a new detached single car garage with the same dimensions of 12.2' by 22.2', parallel to the south east side lot and 3.12' therefrom, and 7.99' at the closet point to the house, and otherwise in compliance with the setback requirements of the By Laws.
5. Section 1.4.6 of the By-Law permits application for a change, extension, alteration, or enlargement of a lawful pre-existing non-conforming structure as long as the change does not create new non-conformities and the proposed new structure is not more detrimental to the neighborhood than the existing structure.
6. Based on the comments received from the other Town departments, the absence of any public objection on the proposed project, and the Board's consideration of the materials provided to it, the Board finds that the proposed project will not be substantially more detrimental to the neighborhood than the existing structure (for purposes of both the Zoning By-Law and M.G.L. c. 40A, sec. 6) and will not be in violation of any dimensional, parking or intensity regulation with which the structure was theretofore in conformity.
7. The issuance of this special permit is consistent with the provisions of Section 1.4.6 and Section 7.5.2 of the By-Law, as well as the provisions of M.G.L. c. 40A, Section 6.

Decision:

On the basis of the evidence presented at the hearing, 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 Zoning By-Law, to permit the

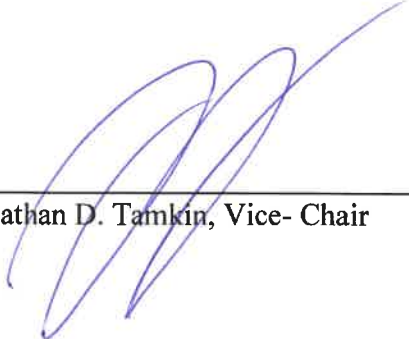
demolition and reconstruction of the lawful, preexisting, nonconforming single garage at 473 High Rock Street, Needham, MA in accordance with the plans presented at the hearing; and provided that the newly constructed garage is 3'+ feet from and parallel to the south east side lot line and no less than 7.99' feet from the house and that revised plans are submitted to the engineering department which comply with the soil erosions and stormwater mitigation requirements.

SIGNATORY PAGE - 473-HIGH ROCK STREET



Jon D. Schneider, Chair

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Jonathan D. Tamkin, Vice- Chair

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Howard S. Goldman, Member