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2020 MAR -4 PM 2: 05

TOWN OF BELMONT
ZONING BOARD OF APPEALS

Decis

Case No. 20-02
Applicant: 125 trapelo Road LLC, Edward Burke, manager
Property Address: 125 Trapelo Road
Date of Public Hearing: February 3, 2020



2020 01854306
Bk: 00134 Pg: 50 Cert#: U24164
Doc: DECIS 09/25/2020 09:51 AM

Members Sitting: Nicholas Iannuzzi, Chair
James Zarkadas
Andrew Plunkett
Casey Williams (Associate Member)
Andrew Kelley (Associate Member)
Teresa MacNutt (Associate Member)

*LOTS
see doc*

Members Voting: Nicholas Iannuzzi, Chair
James Zarkadas
Andrew Plunkett
Casey Williams (Associate Member)
Andrew Kelley (Associate Member)

This matter came before the Board of Appeals (the "Board") of the Town of Belmont (the "Town") acting as Special Permit and Variance Granting Authority under the Zoning By-Law of the Town of Belmont, Massachusetts (the "By-Law") and Chapter 40A of the Massachusetts General Law (the "Zoning Act"). The applicant 125 Trapelo Road LLC, Edward Burke, manager ("Applicant"), seek One Special Permit under Section 1.5.2 of the Zoning By-Laws to add a unit to an existing non-conforming 40 unit apartment building at 125 Trapelo Road located in a Local Business I (LBI) Zoning District. The Special Permit requested:

1.- §1.5.2 of the By-Law allows changes and extensions of nonconforming uses by a Special Permit granted by the Board of Appeals. The existing is a 40 unit apartment building, the proposed is to be 41 units.

The applicant's attorney, James Murphy presented the case to the Board. He explained that the building was constructed in the 1960s as a 40 unit apartment building. Since 2005 the building was converted to individual condominiums and that this 221 square feet unit which is located at the ground floor of the building has been remodeled and was being assessed as a residential unit by the Town.

In 2015, the current owner purchased 26 units in this building which included this ground floor unit labeled as unit 1A. Mr. Murphy added that certificates of Occupancy from recent years indicated that the building was 41 units, which per the Building Department were issued in error, the building did not have a building permit to add a kitchen or a bathroom, it did not have a 2nd means of egress as required by the building code or sufficient lighting or ventilation.

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0134-50

Case #: 20-02

Address: 125 Trapelo Road Unit 1A

On April 20, 2018, Mr. Glenn R. Clancy, P.E. Town of Belmont Building Commissioner writes to Josh Freeman, Director of Property Management and Leasing "Based on information I obtained from Town Counsel I have determined that the lack of a building permit to create Unit #1A results in it being illegal. A building that contains an illegal unit, and is subsequently converted to condominiums, is still a building with an illegal unit. A condominium conversion does not legalize the illegal unit. There is no grandfathering of the unit." He further writes, "If you feel aggrieved by this order you may appeal to the Town of Belmont Zoning Board of Appeals".


The applicant proposes, upon the Board's approval, to remodel the unit and make it in compliance with all the applicable codes.

No one spoke in favor or in opposition to the proposed additional unit at 125 Trapelo Road.

Accordingly, upon motion duly made by Casey Williams and seconded Nick Iannuzzi, the Board voted 5-0 to grant the Special Permit to add a unit on the ground floor as requested.

For the Board,

Dated: March 4, 2020


 Ara Yogurtian
 Assistant Director
 Office of Community Development

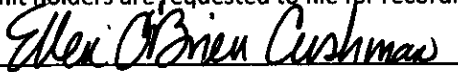
CERTIFICATION BY TOWN CLERK

I, Ellen O'Brien Cushman, hereby certify that twenty (20) days have elapsed after the decision was filed in the office of the Belmont Town Clerk on July 24, 2020, and further I certify that no appeal has been filed with regard to the granting of said One (1) Special Permit with Zero (0) conditions.

Statutory appeal periods, and thus the issuance of Certificates of No Appeal, have been temporarily affected by Court Standing Orders, available at www.mass.gov/guides/court-system-response-to-covid-19. Applicants, abutters and interested parties should consult the Standing Orders to determine their next actions. Any decision by a permit holder to proceed is at their own risk, and the permit holder is urged to consult their own legal counsel.

Under Section 17 of Chapter 53 of the Acts of 2020, the requirement to record permit decisions with the Registry is suspended for so long as the Registry is "closed or subject to rules and procedures restricting public in-person access." However, such recording will still be required upon the full reopening of the Registry. The Middlesex County Registry of Deeds continues to accept filings by postal mail during this period, and permit holders are requested to file for recording through this method to the extent possible.

September 17, 2020


 Ellen O'Brien Cushman, Town Clerk
 Belmont, MA

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Doc 01854306

Southern Middlesex Land Court
Registry District

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On: Sep 25, 2020 at 09:51A

Document Fee 105.00

Receipt Total: \$105.00

NOTED ON: CERT U 24164 BK 00134 PG 50

ALSO NOTED ON:

James W. Murphy
 NAME TEL
 STREET ADDRESS
 CITY OR TOWN ZIP