

**TOWN OF BELMONT  
ZONING BOARD OF APPEALS**

2023 JUL 31 AM 11:28

**CASE NO.** 23-05

**APPLICANT** 160 Beech Street L.L.C.; Paul L. Fountas

**PROPERTY:** 160-162 Beech Street

**DATE OF PUBLIC HEARING** March 6, 2023  
May 2, 2023

**MEMBERS SITTING** Nicholas A. Iannuzzi, Jr., Chair  
Casey Williams  
Andrew Kelley  
Teresa MacNutt  
Elliot Daniels, Associate Member

**MEMBERS VOTING** Nicholas A. Iannuzzi, Jr., Chair  
Casey Williams  
Andrew Kelley  
Teresa MacNutt  
Elliot Daniels, Associate Member

**Introduction**

This matter came before the Board of Appeals (the “Board”) of the Town of Belmont (the “Town”) acting as Variance and Special Permit 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, Paul L. Fountas (the “Applicant”), sought one (1) Special Permit under Section 4.2 of the By-Law to construct a driveway at 160-162 Beech Street located in a General Residence (GR) Zoning District. Special Permit:

1. §4.2 of the By-Law requires a minimum open space of 40%, the existing open space is 18.6% and the proposed open space is 20.5%.

**Proposal**

The Board held a duly noticed hybrid public hearing on March 6, 2023. At this hearing the Board voted to continue this case to a later hearing. The case was continued at the duly noticed hearing held on May 2, 2023, at which time the members sitting approved a decision.

Glenn R. Clancy, the Inspector of Buildings and Director of the Office of Community development distributed a highlighted version plot plan, which depicted the proposed open space. Mr. Clancy then addressed the Board and noted that there must be some accommodation for a driveway on this property, based on the conditions of the lot. Mr. Clancy said that the plans for the new driveway on the left side were adequate. If the Board approves the proposal for the driveway on the right side, the left side would be closed off by removing the left side curb cut.

The Applicant was represented at the hearing by his attorney, Michael Rosen.

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At the hearing Panfilo E. Rozzi, of 87 Clark Street, spoke in opposition and noted that there are blocks at the end of the fence. Mr. Rozzi owns the adjacent property at 164 Beech Street, he would like to have the blocks removed so that his tenant's children can play ball.

In response to Mr. Rozzi's comments, Mr. Clancy noted that the fence was set in by about 6" onto Mr. Rossi's property. Mr. Rosen, counsel for the Applicant, represented blocks would be removed and thereafter the Applicant would have a survey done to confirm the lot line.

William Dillon of 137 White Street, also made a public comment. Mr. Dillon asked who would be paying for the curb cut. Mr. Clancy noted that this would likely be paid for by the Applicant. Mr. Dillon asked if there could be a condition for the number of cars that could be parked in the driveway. Mr. Iannuzzi said that he should wait to see how many cars would be parked there.

**Decision**

MGL 40A §6 provides in pertinent part: "Pre-existing nonconforming structures or uses may be extended or altered, provided, that no such extension or alteration shall be permitted unless there is a finding by the permit granting authority by ordinance or by-law that such change, extension or alteration shall not be substantially more detrimental than the existing nonconforming use to the neighborhood."

On May 2, 2023 the Board deliberated on the Applicant's request for One Special Permit under section 4.2 of the By-Law to construct a driveway at 160-162 Beech Street located in a General Residence (GR) Zoning District. Special Permit: 1.-§4.2 of the By-Law requires a minimum open space of 40%, the existing open space is 18.6% and the proposed open space is 20.5%.

The Board found that the proposed request is not more detrimental to the neighborhood and is in keeping with the character of other houses in the vicinity.

**Conditions**

As stated herein and incorporated by reference, the subject cinder blocks are to be moved within seven (7) days, thereafter the Applicant shall have a surveyor verify the location of the pins. The Applicant will contact the Town of Belmont Department of Public Works to seek a street opening permit for the curb cut. The curb cut must be installed as it is depicted on the applicants plot plan.

**Accordingly, upon motion duly made by Chair Nicholas A. Iannuzzi, Jr. and seconded by Casey William, the Board voted 5-0 to grant the Applicant the Special Permit with the following conditions.**

For the Board:

Dated: July 31, 2023



Gabriel S. Distler  
Office of Community Development  
Staff Planner