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**TOWN OF MARBLEHEAD
DECISION OF
THE BOARD OF APPEALS**

**on
Application of
BRIAN L. HELMES
For a Special Permit
For 9 Arthur Avenue
Marblehead, MA**

Report of Facts, Findings, and Decision of the Board of Appeals on the petition of:

**Brian L. Helmes
(the "Petitioner")**

Requesting a Special Permit under the Zoning By-Laws approving the addition to the existing single family dwelling on a nonconforming lot with less than the required frontage, side yard setback and tandem parking, is located at **9 Arthur Avenue** in a **Single Residence District**.

All statutory requirements relating to publication and notice were duly complied with including timely publication in the Marblehead Reporter, a local newspaper. Notice to all persons deemed by the Board to be affected by the petition, as required by Section 17 of Chapter 40A of the General Laws of the Commonwealth and the provisions of the Marblehead Zoning By-Laws, was given.

The Public Hearing was called to order at or after 8:00 PM during a ZOOM CONFERENCE MEETING on October 27, 2020 Conferencing in accordance with the executive order of Governor Charles Baker, Commonwealth of Massachusetts. The Board Members present and sitting on the hearing were:

Acting Chairman: Alan Lipkind
Members: William Barlow
Benjamin LaBrecque
Leon Drachman
Bruce Krasker

The following documents were filed with the Petition and constitute a part of the permanent record of the Board:

The Plot Plan entitled "Plan of Land Prepared for Brian & Sara Helmes, 9 Arthur Avenue" dated July 14, 2020 prepared by Reid Land Surveyors. (the "Plan")

Architectural Plans and Renderings prepared by The Helmes Group; LLP dated 09/01/2020 scale 1/4" = 1'-0" consisting of the following sheets:

- 1 Proposed and existing site plans
- 2 Existing and Proposed Calculations
- 3 Existing and Proposed Basement and Foundation Plans
- 4 Existing and Proposed First Floor Plans
- 5 Existing and Proposed Second Floor Plans
- 6 Existing and Proposed Front Elevations
- 7 Existing and Proposed Right Elevations
- 8 Existing and Proposed Rear Elevations
- 9 Existing and Proposed Left Elevations.

The Petitioner by its attorney Paul M. Lynch explained the petition as follows:

The property, at 9 Arthur Avenue consists of a lot of 13,450 square feet and contains a single family dwelling of modest size for the area located in the Single Residence District.

The proposal is to expand the width of the existing one car garage on the left side of the dwelling to make it functional which would reduce the setback from 6. Feet to 5 feet and expand it to the rear for two car tandem parking which would be attached to the house with a breezeway.

A rear addition will be added which meets all the dimensional setbacks to accommodate a laundry room, renovated kitchen, and family room on the first floor and a second floor addition over the new garage and first floor expansion.

The height of the dwelling will remain the same at 27'6"

After the Petitioner's presentation, the Board opened the hearing to the public for comment.

A letter of support was presented to the Board by the abutters at 7 and 11 Arthur Avenue and 12 Everett Paine Boulevard

No one spoke in opposition to the application

Thereafter, upon motion duly made and seconded, the Board voted to close the public comment portion of the hearing. After discussion amongst the Board Members, the Board made the following findings and decision:

Findings of the Board

The Board made the following determinations and findings:

1. That all statutory requirements relating to publication and notice were duly complied with.
2. That all submitted plans and specifications meet the requirements of the Rules and Regulations of the Board.

3. That based upon the plans and specifications, and the information presented to the Board, the criteria set forth in ARTICLE IX, § 200-36B of the Marblehead Zoning By-Laws, consisting of the following, have been satisfied:
- a. The general purposes and intent of the By-Law are met; and
 - b. The specific site is an appropriate location for such use or building; and
 - c. The use as developed will not adversely affect the neighborhood; and,
 - d. There will be no nuisance or serious hazard to vehicles or pedestrians; and
 - e. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.

Decision

Whereupon the Board, after discussion and comments that the project met the Special Permit criteria, voted: To grant a Special Permit with the following conditions:

- This Special Permit is issued on the condition that there shall be no construction at any time following the vote of the Board of Appeals which either differs from the construction set forth on the drawings approved and stamped by the Board of Appeals by that vote, or which is inconsistent with this Decision and these conditions, without the Petitioner obtaining prior written approval from the Board of Appeals for such construction.
- This Special Permit is issued on the condition that no demolition, building or occupancy permit, whether temporary, conditional or permanent, shall issue for the proposed work approved by this Decision unless and until a copy of this four (4) page Decision, in its entirety, and not merely the conditions, bearing the certification of the Town Clerk that twenty (20) days have elapsed after the Decision has been filed in the office of the Town Clerk and either that no appeal has been filed, or that an appeal has been filed within such time, has been recorded in the Essex South District Registry of Deeds and indexed in the Grantor Index under the name of the owner of record or is filed for registration, if the land is registered, and noted on the Owner's Certificate of Title, all as required by Massachusetts General Laws Chapter 40A. The application for and/or issuance of any such permit prior to the recording of the endorsed copy of this Decision shall render the Special Permit granted herein null and void.
- This Special Permit is issued on the condition that no Certificate of Occupancy shall be issued by the office of the Building Inspector if any of the construction either differs from the construction set forth on the drawings approved and stamped by the Board of Appeals by that vote, or which is inconsistent with this Decision and these conditions, without the Petitioner obtaining prior written approval from the Board of Appeals for such construction.
- If the Petitioner shall exercise any rights of construction under a duly appealed Special Permit such rights shall be at the Petitioner's sole risk that a court will

reverse the Special Permit and that any construction performed under the Special Permit may be ordered undone.

- There shall be no future alterations, changes or additions whatsoever, including additions of less than 10%, to any structure, or any new structure constructed or placed on the property, except pursuant to a Special Permit granted by the Board of Appeals.

The votes by the Board Members granting the Special Permit were:

Acting Chairman:	Alan Lipkind
Members:	William Barlow
	Leon Drachman
	Benjamin LaBrecque
	Bruce Krasker

BOARD OF APPEALS
TOWN OF MARBLEHEAD

By: Alan Lipkind
Alan Lipkind, Acting Chairman

Decision filed with Town Clerk _____, on _____ at _____

**I hereby certify that twenty days
have elapsed since this decision has
been filed in the office of the
Town Clerk and no appeal has been
filed.**

Robin A. Michaud
Robin A. Michaud
Town Clerk-Marblehead

Robin A. Michaud
DEC 03 2020

DEC 03 2020 PM 4:06