

**DECISION OF THE ZONING BOARD OF APPEALS
of the
TOWN OF WESTWOOD**

2019 APR -5 A 11: 05

PROPERTY OWNER(S): 264 Canton Street Realty Trust

TOWN CLERK
TOWN OF WESTWOOD

APPLICANT(S): Paul Sciaba, Trustee
180 Porter Street
Westwood, MA 02090

LAND AFFECTED: 264 Canton Street
Westwood, Massachusetts 02090
Map 25, Lot 090

HEARING:

The Board of Appeals for the Town of Westwood held a Public Hearing according to the General Laws of the Commonwealth of Massachusetts on Wednesday, March 20, 2019 at 7:00 PM in the Champagne Meeting Room of the Carby Municipal Building, 50 Carby Street, Westwood, MA 02090 to consider the Applicant's request for a Variance pursuant to Section 5.4.1.1 [Building Height in Single Residence District] to construct a single family home that exceeds the maximum building height of 25 feet. Property is located in the Single Residential C District.

BOARD MEMBERS: David Krumsiek, Chairman
Douglas Stebbins
Danielle Button

APPLICABLE SECTION OF THE WESTWOOD ZONING BYLAW

SECTION 5.0 DIMENSIONAL REQUIREMENTS

5.1 GENERAL

In all Districts, no building or structure, except a one-story accessory building or structure of accessory use, shall be constructed on a lot unless said building or structure and lot are in conformance with the "Dimensional Requirements" specified in the table of Dimensional Requirements set forth herein for the district in which said building or structure and lot are located and no more than one building or structure constructed as a dwelling, or so used, shall be located on each such lot except as may otherwise be provided herein. In all Districts, no building or structure (except for a flag, utility or light pole) or swimming pool shall be constructed so as to be nearer to the street line or nearer to the side lines or rear line of its lot unless its location is in conformance with said Table. Nothing herein shall prevent the projection of eaves, chimneys or cornices not exceeding eighteen (18) inches in width, or of uncovered steps, window sills or belt courses into any minimum setback distances or other open space.

In the case of an Open Space Residential Development project proposed under sub-article 8.3 in this bylaw, the dimensional and density requirements established therein shall take precedence over those established in Section 5.2, TABLE OF DIMENSIONAL REQUIREMENTS for purposes of increased design flexibility and enhanced open space preservation.

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5.2 TABLE OF DIMENSIONAL REQUIREMENTS¹

DISTRICTS

DIMENSIONAL REQUIREMENTS

	Minimum Lot Area (sq ft)	Minimum Lot Frontage (feet)	Minimum Lot Width (feet)	Minimum Nonwetland Area ² (sq ft)	Minimum Front Setback ³ (feet)	Minimum Side Yard Setback ⁴ (feet)	Minimum Rear Yard Setback ⁴ (feet)	Maximum Building Coverage (%)	Maximum Impervious Surface (%)
5.2.1 SRA	12,000	90	90	12,000	25	15 ⁵	30 ⁶	25	50
5.2.2 SRB ¹³	20,000	90	90	15,000	25	15 ⁵	30 ⁶	25	50
5.2.3 SRC ¹³	40,000	125	125	30,000	40	20 ⁷	30 ⁸	25	50
5.2.4 SRD	15,000	90	90	12,000	25	15 ⁵	30 ⁶	25	50
5.2.5 SRE ¹³	80,000	175	175	60,000	40	20 ⁷	30 ⁸	25	50
5.2.6 GR	12,000	90	90	12,000	25	15 ⁵	30 ⁶	25	50
5.2.7 SR	80,000	175	175	60,000	40	20 ⁷	30 ⁸	25	50
5.2.8 LBA	4,000	40	40	4,000	10	15 ⁹	15	25	80
5.2.9 LBB	4,000	40	40	4,000	0	15 ⁹	15	25	80
5.2.10 HB	10,000	100	100	10,000	50	15	15	50	80
5.2.11 I	40,000	200	200	12,000	50	15 ¹⁰	15 ¹¹	50	80
5.2.12 IO	40,000	200	200	12,000	50	15 ¹⁰	15 ¹¹	50	80
5.2.13 ARO	80,000	175	175	60,000	50	30 ¹²	30	30	50

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5.3 NOTES FOR TABLE OF DIMENSIONAL REQUIREMENTS

- 1 Shall not apply to sewage pumping stations operated by the Town.
- 2 The term "Nonwetland Area" shall mean land other than the fresh water wetland as that term is defined in M.G.L. Chapter 131, Section 40. The Minimum Nonwetland Area shall be measured in contiguous square feet. The Minimum Nonwetland Area requirement of 12,000 square feet in all Residential Districts shall apply to all lots created prior to the date of adoption of this provision. M.G.L. Chapter 40A, Section 6 may also limit the requirements for certain other lots.
- 3 The minimum front setback distance shall be measured from the nearest street line; provided, however, that where the street has a right-of-way width of less than forty (40) feet, the setback distance shall be measured from a line on the lot twenty (20) feet from and parallel to the center line of said street.
- 4 The minimum side yard and rear yard setbacks shall be the minimum horizontal distance from the lot line to the nearest point of a building or structure.
- 5 Except that a portion of any building or structure not exceeding fifteen (15) feet in height shall be set back a minimum of ten (10) feet from the side lines of its lot, and a detached accessory building or structure having a height of less than fifteen (15) feet and a front setback of at least seventy-five (75) feet shall be set back a minimum of three (3) feet from the side lines of its lot.
- 6 Except that a detached accessory building or structure having a height of less than fifteen (15) feet shall be set back a minimum of three (3) feet from the rear line of its lot.
- 7 Except that a portion of any building or structure not exceeding fifteen (15) feet in height shall be set back a minimum of fifteen (15) feet from the side lines of its lot, and a detached accessory building or structure having a height of less than fifteen (15) feet and a front setback of at least one hundred (100) feet shall be set back a minimum of six (6) feet from the side lines of its lot.
- 8 Except that a detached accessory building or structure having a height of less than fifteen (15) feet shall be set back a minimum of six (6) feet from the rear line of its lot.
- 9 Unless the wall facing a side lot line is either a party wall or, if adjoining another lot in the same district, a wall with its outer face coincident with such line. The space between buildings or structures, if any, shall not be reduced to less than fifteen (15) feet.
- 10 Except that if the side yard abuts a railroad right-of-way, there shall be no minimum side yard setback.
- 11 Except that if the rear yard abuts a railroad right-of-way, there shall be no minimum rear yard setback.
- 12 Each side yard setback shall be increased by one (1) foot for each foot that the height of the building exceeds fifteen (15) feet; provided always that the side yards shall total not less than forty (40) percent of the lot width.
- 13 See Section 8.3 OPEN SPACE RESIDENTIAL DEVELOPMENT for density and dimensional requirements for OSRD.

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5.4 HEIGHT REGULATIONS

5.4.1 Building/Structure Heights. In all Districts, no building or structure shall be constructed so as to exceed in height the "Maximum Height" specified in the following table for the district in which said building is located.

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DISTRICT	MAXIMUM HEIGHT
5.4.1.1 Single Residence General Residence	Twenty-five (25) feet plus one (1) foot for each additional foot by which: (i) the front setback exceeds the minimum front setback distance, or (ii) the narrower side yard exceeds the minimum side yard setback distance, or (iii) the rear yard exceeds the minimum rear yard setback distance, whichever of the three additional distances is the smallest; provided the height shall not in any case exceed thirty-five (35) feet.
5.4.1.2 Special Residence	Thirty-five (35) feet and a maximum of two (2) stories unless the topography of the land permits three (3) stories provided that at least two (2) stories have entrances at ground level and all dwelling units have at least one (1) exterior wall entirely above ground level.
5.4.1.3 Local Business A and B	Thirty-six (36) feet.
5.4.1.4 Industrial	Seventy (70) feet and a maximum of five (5) stories; provided that the height shall not in any case exceed an elevation of one hundred seventy-eight and one-half (178½) feet above sea level.
5.4.1.5 Industrial-Office	Forty-two (42) feet and a maximum of three (3) stories unless a special permit authorizing a greater height is granted by the Planning Board; provided that no more than sixty percent (60%) of the building footprint shall be built upon to a height in excess of four (4) stories and in no event shall any building or other structure exceeding sixty-five (65) feet in height be authorized. Building footprints shall be measured at the building foundation, but shall exclude covered walkways connecting adjacent buildings. In determining whether to grant such a special permit, the Planning Board shall evaluate the proposed building or other structure in terms of the standards set forth in the decision

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5.4.1.6 Highway Business
Administrative-Research-Office
(except Residential Retirement
Community)

criteria for a Major Business Development in Section 7.2 of this Bylaw. Any additional height which is allowed in an Industrial District by special permit shall be designed to relate harmoniously to the terrain and to the use, scale and architecture of existing buildings and to mitigate the visual impacts on surrounding non-industrial uses. The project proposal shall incorporate aesthetically-conscious design which promotes environmentally compatible uses, pervious surfaces and landscaped areas in exchange for the additional building height.

Thirty-nine (39) feet unless a special permit authorizing a greater height is granted by the Board of Appeals; provided that in no event shall any building or other structure exceeding forty-five (45) feet in height be authorized. In determining whether to grant such a special permit, the Board of Appeals shall evaluate the proposed building or other structure in terms of the standards set forth in the decision criteria for a Major Business Development in Section 7.2 of this Bylaw.

5.4.2 Height Determination and Exceptions. In all Districts, the height of a building or structure shall be measured as set forth in the definition of "Building Height" contained in Section 2.0 of this Bylaw, except that in Residential Districts, the height of a building or other structure shall be measured from the highest finished ground elevation adjoining the structure at the exterior walls. The limitations of height shall not apply to chimneys, ventilators, skylights, tanks, bulkheads, penthouses, amateur radio antennas and other necessary features usually carried above the roof line, provided such features do not cover more than twenty-five percent (25%) of the area of the roof of the building or other structure and are not used in any way for human occupancy.



WESTWOOD ZONING BOARD OF APPEALS

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David Krumsiek -Chair

Douglas Stebbins

Danielle Button

4/5/19
Date

264 Canton Street

FINDINGS

In consideration of all of the testimony and exhibits and documents submitted before the Board, the Board makes the following findings of fact:

1. The Applicant has proposed to construct a new single family residence which would raise the height beyond the allowable dimensional requirements. The proposed construction will require a Variance pursuant to Section 5.4.1.1. The Board of Appeals is the Variance granting authority.
2. The lot area of the Subject Parcel contains a total of 40,780 sq. ft. where 40,000 are required.
3. The lot frontage of the Subject Parcel is conforming at 126' where 125' are required.
4. The proposed addition would increase the structure to above 15' in height, requiring a side setback of 20'.
5. The proposed single family structure's closest setback measurement is the left side setback, at 20.15' where 20' are required, granting no additional height allowance to the 25' stated in the Bylaw.
6. The proposed structure would measure an average height of 30'.
7. The Board has given full consideration to the local conditions that affect and may be affected by the Applicant's proposed construction, and having particular expertise in said local conditions, have taken a view that the requested relief may not be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent and purpose of the Bylaw, all in view of the particular characteristics of the site and of the proposal in relation to that site.
8. The Board finds that literal enforcement of the provisions of the Bylaw would not involve substantial hardship to the Applicant, owing to circumstances relating to soil conditions, shape or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district.
9. The Applicant has not met the requirements for a Variance pursuant to the Westwood Zoning Bylaw.

DECISION

The Board of Appeals voted unanimously to deny the Applicant's request for a Variance pursuant to Section 5.4.1.1 of the Westwood Zoning Bylaw.

RECORD OF VOTE

The following members of the Board of Appeals voted to deny the Variance for the above mentioned use: David Krumsiek, Douglas Stebbins and Danielle Button.

The following members of the Board of Appeals voted in opposition to the denial of the Variance: None.