

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

PROPERTY OWNER(S): NSTAR Gas Company d/b/a Eversource, Inc.

PETITIONER(S): NSTAR Gas Company d/b/a Eversource, Inc.
157 Cordaville Rd. Suite 3125
Southborough, MA 01772

LAND AFFECTED: 141 Woodland Road
Westwood, MA 02090
Map 13 Lot 003

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, December 18, 2019 at 7:00 PM in the Champagne Meeting Room of the Carby Municipal Building, 50 Carby Street, Westwood, MA 02090 which was continued to Thursday, February 13 2020 at 7:00 PM in the Jaillet Meeting Room, 588 High Street to consider the Petitioners' request for a Special Permit amendment. The special permit was originally granted by the Board on August 24, 1964 under previous Westwood Zoning Bylaw Section 6.B.2. The Applicant proposed to demolish the existing natural gas gate station building and construct two new prefabricated buildings, a filter station, and tie-in line. Additionally, the Applicant has requested to construct a fence around the perimeter of the proposed structures that does not exceed 8 feet in height. Property is located in the Single Residential C District.

Land affected: 141 Woodland Road
Map 13 Lot 003

BOARD MEMBERS: John Lally, Chair
Douglas Stebbins, Clerk
Michael McCusker

APPLICABLE SECTION OF THE WESTWOOD ZONING BYLAW

4.5 NONCONFORMING USES AND STRUCTURES

4.5.1 **Applicability.** Nonconforming uses and structures, as defined in Section 2.0 of this Bylaw, may continue. Any alteration of a nonconforming use, or any alteration of a nonconforming structure, shall require authorization in accordance with this section. An alteration of a structure is a modification, structural change, extension, or reconstruction of the structure.

4.5.2 **Nonconforming Uses.**

4.5.2.1 **Permitted Alterations of Nonconforming Uses.** A structure that conforms dimensionally to current zoning regulations while its use no longer conforms can be altered without needing a special permit if the Building Commissioner determines that the proposed alteration falls under any of the following circumstances:

- 4.5.2.1.1 There is no extension or expansion of the exterior of the structure.
- 4.5.2.1.2 There is no interior expansion that would intensify the use.
- 4.5.2.1.3 The alteration is made for the purposes of conforming to the building code for health and safety purposes.

4.5.2.2 Special Permit Required for Alteration to Nonconforming Use. The Board of Appeals may grant a special permit to modify, alter or extend a nonconforming use in accordance with this Section only if it determines that such modification, alteration or extension shall not be substantially more detrimental than the existing nonconforming use to the neighborhood and the town. To be considered insubstantial, the Board must find that the proposed use reflects the nature and purpose of the prior use, there is no difference in the quality, character or degree of the proposed use and the proposed use is not different in its effect on the neighborhood.

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 proposes to amend the original special permit for the property to expand/alter the existing nonconforming use in addition to construction of a fence not to exceed 8' in height. The Board of Appeals is the Special Permit Granting Authority.
2. The lot area of the Subject Parcel is 1.24 acres. The proposed structures would not encroach on any setbacks.
3. The proposed new construction includes two new prefabricated buildings, a filter station, and tie-in line in addition to natural screening and site improvements, security fencing, and panel fencing to provide a visual barrier to abutters.
4. The proposed new construction includes associated walkways, parking, landscaping, utilities and associated site work, including Earth Material Movement (EMM), subject to review by the Town of Westwood Planning Board. The Planning Board conducted an Environmental Impact and Design Review (EIDR) pursuant to Section 7.3 and 7.1 [Earth Material Movement] of the Bylaw via a public hearing that opened on December 10, 2019 and closed on January 21, 2020. A decision was issued by the Planning Board to grant EIDR Approval and EMM Approval on January 27, 2020.
5. The Board has given full consideration to the proposed use and finds that it reflects the nature and purpose of the prior use, there is no difference in the quality, character or degree of the proposed use and the proposed use is not different in its effect on the neighborhood.
6. The Board has given full consideration to the local conditions that affect and may be affected by the Applicant's proposed use, and having particular expertise in said local conditions, have taken a view that any adverse effects of the Applicant's use will not outweigh its beneficial impact to the Town, or the neighborhood, in view of the particular characteristics of the site and the proposal in relation to that site.

7. The Applicant has met all the requirements for a Special Permit pursuant to the Westwood Zoning Bylaw.

DECISION and CONDITIONS

The Board of Appeals voted unanimously to grant the Petitioner's request for a Special Permit amendment upon the following conditions:

1. The Project shall be constructed in conformity with the submitted design plans consisting of one hundred nineteen (119) pages by ODIN EPC, 2 Highwood Drive, Tewksbury, MA 01876, dated July 16, 2019, revised through February 11, 2020 and submitted to the Board of Appeals on February 12, 2020. The Applicant shall pursue completion of the Project with reasonable diligence and continuity.
2. The conditions established by the Planning Board in the Environmental Impact and Design Review (EIDR) and Earth Material Movement (EMM) Approvals issued by the Planning Board on January 27, 2020 shall be made part of this decision and approval shall be contingent upon successful completion of said conditions.
3. This Special Permit shall not take effect until a copy of the Decision, bearing the certification of the Town Clerk that twenty (20) days have elapsed after the filing of the decision and either that no appeal has been filed or that an appeal has been filed within such time period, is recorded in the Registry of Deeds and indexed under the name of the property owner of record and the parcel address. A copy of these recordings shall be provided to the Building Commissioner, Town Clerk and the Board of Appeals.
4. **The person exercising rights under a duly appealed special permit does so at risk that a court will reverse the permit and any construction performed under the permit may be ordered to be undone.**
5. This Special Permit shall lapse within a specified period of time, of not more than two (2) years, which shall not include such time required to pursue or await the determination of the appeal referred to in Chapter 40A, Section 17, from the grant thereof, if a substantial use thereof has not sooner commenced except for good cause or, in the case of a permit for construction, if construction has not begun by such date except for good cause. Prior to the expiration of the Special Permit, the Applicant may apply for an extension of the Special Permit for a period not to exceed one (1) year if the substantial construction or use thereof has not commenced for good cause.

RECORD OF VOTE

The following members of the Board of Appeals voted to grant the Special Permit amendment for the above mentioned project: John Lally, Douglas Stebbins, and Michael McCusker.

The following members of the Board of Appeals voted in opposition to the grant of the Special Permit amendment: None.




WESTWOOD ZONING BOARD OF APPEALS

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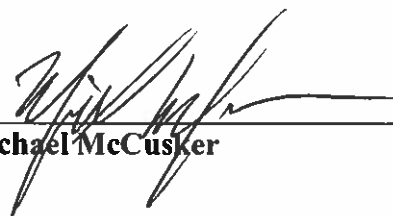
By Town Clerk at 11:31 am, Feb 28, 2020



John Lally – Chairman



Douglas Stebbins, Clerk



Michael McCusker

2/28/2020
Date

141 Woodland Road