

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

PROPERTY OWNER(S): Shamus Downey & Kelly Bodio

PETITIONER(S): Shamus Downey
104 Beechnut Road
Westwood, MA 02090

LAND AFFECTED: 104 Beechnut Road
Westwood, Massachusetts 02090
Map 34, Lot 165

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, April 15 2020 at 7:00 PM via remote participation at which time testimony was received and the hearing continued to Wednesday, May 20 2020 at 7:00 PM via remote participation. The Board convened to consider the Petitioner's request for a Special Permit pursuant to Westwood Zoning Bylaw Section §8.5 [Accessory Apartments] to construct an accessory apartment within the existing single family home. Property is located in the Single Residential C District.

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

APPLICABLE SECTION OF THE WESTWOOD ZONING BYLAW

8.5 ACCESSORY APARTMENTS

8.5.1 Purposes. The purposes of this section are as follows:

- 8.5.1.1 to offer greater housing choice by allowing varied mixes of housing type, compatible with community character; and
- 8.5.1.2 to encourage preservation of community character through the continued ownership of existing residential properties and their surrounding landscapes.

8.5.2 Special Permit Required. An Accessory Apartment shall require the issuance of a special permit by the Board of Appeals in compliance with the provisions of this Section.

8.5.3 Applicability. The principal dwelling or accessory building or structure to be altered or constructed to contain an Accessory Apartment shall be a single-family dwelling or building accessory thereto.

8.5.4 Limited Number of Special Permits. The maximum number of special permits to be issued and in effect shall not exceed two percent (2%) of the current number of single-family and

two-family dwelling units in Town. All applications for a special permit pursuant to this Section shall be acted upon in the order in which they are filed.

8.5.5 General Requirements. An Accessory Apartment shall be subject to the following general requirements:

- 8.5.5.1 There shall be no more than one (1) Accessory Apartment per lot.
- 8.5.5.2 No Accessory Apartment shall be permitted on a property which also contains a Conversion of a One-family Dwelling pursuant to Section 8.1.
- 8.5.5.3 No Accessory Apartment shall be permitted on a property which also contains a boarding house.
- 8.5.5.4 The owner of the premises within which the Accessory Apartment is located shall occupy either the principal dwelling or the Accessory Apartment. For purposes of this Section, the owner shall be one or more individuals who constitute a family, who holds title to the premises, and for whom the premises is the primary residence for voting and tax purposes. An affidavit certifying owner occupancy shall be filed with the Building Commissioner upon initial occupancy and every four years thereafter.
- 8.5.5.5 Adequate provision shall be made for the disposal of sewage, waste and drainage to be generated by the occupancy of the Accessory Apartment, in accordance with the requirements of the Board of Health.

8.5.6 Design Requirements. An Accessory Apartment shall be subject to the following design requirements:

- 8.5.6.1 The exterior character of the property containing an Accessory Apartment within a principal or accessory building or structure shall maintain the appearance of a single-family property.
- 8.5.6.2 The floor area of the Accessory Apartment shall not be less than five hundred (500) square feet.
- 8.5.6.3 The floor area of the Accessory Apartment shall not exceed the lesser of nine hundred (900) square feet, or thirty-three percent (33%) of the floor area of the combined dwelling or dwellings if the footprint of the principal dwelling remains unchanged, or twenty-four percent (24%) of the floor area of the combined dwelling if the footprint of the principal dwelling is enlarged.
- 8.5.6.4 Adequate provision shall be made for direct ingress and egress to and from the Accessory Apartment without passage through any other portion of the principal structure, except that passage to and from the Accessory Apartment shall be permitted through a garage or breezeway connected to the principal structure.
- 8.5.6.5 All stairways to upper stories shall be enclosed within the exterior walls of the building in which the Accessory Apartment is located.

- 8.5.7 **Alterations, Relocations, or Additions.** The Board of Appeals may allow for the alteration or relocation of a structure proposed for conversion under this section, and may allow for the construction of one or more additions to said structure, if in the Board's determination, the proposed alteration, relocation, or addition does not significantly change the exterior character of the property.
- 8.5.8 **Parking Requirements.** An Accessory Apartment shall be subject to the following parking requirements:
- 8.5.8.1 Off-street parking shall be provided for each automobile used by an occupant of the Accessory Apartment. Said parking shall be in addition to the number of parking spaces required pursuant to Section 6.1.3.1 of this Bylaw.
 - 8.5.8.2 Each parking space and the driveway leading thereto shall be paved or shall have an all-weather gravel surface. No motor vehicle shall be regularly parked on the premises other than in such a parking space. No parking space shall be located within a street right-of-way.
 - 8.5.8.3 If a total of more than four (4) parking spaces are required to serve the principle dwelling and the Accessory Apartment, the provision of such additional spaces shall require a special permit pursuant to Section 4.3.3.2 of this Bylaw.
 - 8.5.8.4 Where there are more than four (4) outdoor parking spaces associated with the principal dwelling and the Accessory Apartment, said parking spaces shall be screened with evergreen or dense deciduous plantings, walls or fences, or a combination thereof acceptable to the Zoning Board of Appeals. Said screening shall be sufficient to minimize the visual impact on abutters and to maintain the single-family appearance of the neighborhood.
- 8.5.9 **Building Permit and Certificate of Occupancy Required.** No accessory apartment shall be constructed without the issuance of a building permit by the Building Commissioner. No use of an Accessory Apartment shall be permitted unless a certificate of occupancy therefor, issued by the Building Commissioner, shall be in effect. A certificate of occupancy shall not be issued unless the Building Commissioner determines that the accessory apartment is in conformity with the provisions of this Section and any special permit issued therefor.
- 8.5.10 **Expiration of Special Permit.** A special permit issued pursuant to this Section shall automatically become null and void upon the expiration of ninety (90) days following such time as neither the principal dwelling nor the accessory apartment is occupied as the primary residence of the owner thereof for voting and tax purposes. Failure to provide recertification of owner occupancy pursuant to Section 8.5.5.4 shall be grounds for automatic expiration.

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 Subject Property is located at 104 Beechnut Road. Relief in the form of a Special Permit pursuant to Section §8.5 was requested. The Board of Appeals is the Special Permit Granting Authority.
2. The Board duly posted and opened the public hearing on April 15, 2020 at which time it received testimony and continued the hearing to May 20, 2020 at which time it received a verbal request from the Petitioner to withdraw the application for a Special Permit without prejudice.

DECISION and CONDITIONS

At a meeting of the Board of Appeals on Wednesday May 20 2020, the Board voted to grant the Petitioner's request for Leave to Withdraw Without Prejudice relative to the Variance requested for 104 Beechnut Road pursuant to Section §4.5.3.3 of the Westwood Zoning Bylaw.

RECORD OF VOTE

The following members of the Board of Appeals voted to grant the Petitioners' request for the Leave to Withdraw Without Prejudice: John Lally, Douglas Stebbins, and Michael McCusker.

The following members of the Board of Appeals voted in opposition to the Leave to Withdraw Without Prejudice: None.



RECEIVED
By Town Clerk at 12:54 pm, May 29, 2020

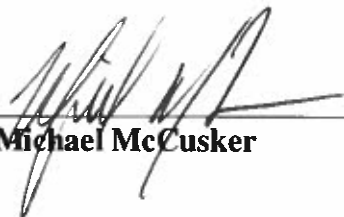
WESTWOOD ZONING BOARD OF APPEALS



John Lally - Chairman



Douglas Stebbins, Clerk



Michael McCusker

5/20/2020
Date

104 Beechnut Road