

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

PROPERTY OWNER(S): Westwood Brookside LLC

PETITIONER(S): Westwood Brookside LLC
Stephen Gladstone
PO Box 920730
Needham, MA 02492

LAND AFFECTED: 405 Washington Street
Westwood, MA 02090
Map 23 Lot 027

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, July 15, 2020 at 7:00 PM via remote participation to consider the Petitioners' request for a Special Permit pursuant to the Westwood Zoning Bylaw Section §4.5.2.2 [Special Permit Required for Alteration to Nonconforming Use] to add an additional residential unit within the existing multifamily building. Property is located in the General Residential District.

BOARD MEMBERS: John Lally, Chairman
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 Petitioner proposes to convert existing utility space to create an additional residential unit to a preexisting nonconforming multifamily building, requiring relief in the form of a Special Permit. The Board of Appeals is the Special Permit Granting Authority.
2. Multifamily housing is not currently permitted by right in the General Residential District. The existing multifamily property at the Subject Parcel contains nine (9) 2-bedroom housing units. The proposal would result in ten (10) total 2-bedroom housing units.
3. Multifamily residential development, when permitted by Special Permit in accordance with the Bylaw, requires compliance with an affordability requirement wherein a percentage of market rate units are required to be deed restricted as affordable to income qualified households at or below 80% of the Area Median Income (AMI). A 10 unit development would typically require 2 units of deed restricted affordable housing.
4. Westwood's recently adopted Housing Production Plan (HPP) identifies clear needs for increased diversity of housing type and deed-restricted affordable housing. New residential development that does not address these needs has the potential to intensify the severity of Westwood's shortage of affordable housing options for residents. This potential adverse effect would be sufficiently mitigated through the successful deed restriction of at least one unit of affordable housing.
5. The proposed use reflects the nature and purpose of the prior use to provide workforce multifamily housing in a transit-oriented location, and there is no difference in the quality, character or degree of the proposed use. 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 Petitioners' construction, and having particular expertise in said local conditions, have taken a view that any adverse effects of the Petitioners' construction 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 Petitioners have 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 pursuant to Section 4.5.3.2 of the Westwood Zoning Bylaw and upon the following conditions:

1. The Project shall be constructed in conformity with the submitted plot plan consisting of one (1) page, prepared by Marc Nyberg Associates, 501 Great Road, Unit 104, North Smithfield, RI 02896, dated November 20, 2017 and stamped by Marc Nyberg, P.L.S., and with the submitted plans consisting of four (4) pages, prepared by Lowe Associates Architects, 643 VFW Parkway, Suite 200, Chestnut Hill, MA dated March 17, 2020. The Applicant shall pursue completion of the Project with reasonable diligence and continuity.
2. The Applicant shall designate one two-bedroom unit at 405 Washington Street as affordable as defined in the Town of Westwood Zoning Bylaw and by DHCD's Local Action Unit program. The unit shall be affordable in perpetuity, shall count toward the Town's requirements under M.G.L. Chapter 40B Sections 20-23, and shall be listed by DHCD on the Subsidized Housing Inventory. The Applicant shall work with the Housing Agent to develop and submit a Local Action Unit application to DHCD in accordance with state regulations. Proof of eligibility for the affordable unit shall be submitted to the Housing Agent prior to occupancy of the new residential unit. Occupancy shall not be granted for the new residential unit until the Regulatory Agreement for the newly designated affordable unit is fully executed by the property owner, Town, and state.
3. The Applicant shall submit to the Planning Board application for Environmental Impact and Design Review (EIDR), pursuant to Section 7.3 of the Zoning Bylaw.
4. 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.
5. **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.**
6. 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.

**Received on August 4, 2020 @ 12:23pm
Westwood Town Clerk**

RECORD OF VOTE

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

Received on August 4, 2020 @ 12:23pm
Westwood Town Clerk



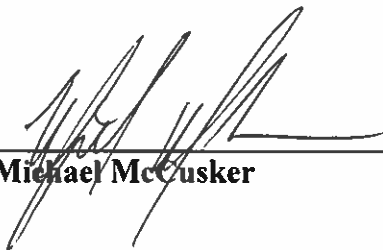
WESTWOOD ZONING BOARD OF APPEALS



John Lally -Chairman



Douglas Stebbins, Clerk



Michael McCusker

8/4/2020
Date

405 Washington Street