

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

PROPERTY OWNER(S): David Staaf & Lisa Krock Staaf

PETITIONER(S): Peter Zahka, Esq.
12 School Street
Dedham, MA 02026

David & Lisa Staaf
438 Pond Street
Westwood, MA 02090

LAND AFFECTED: 438 Pond Street
Westwood, Massachusetts 02090
Map 28, Lot 247

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, February 24, 2021 at 7:00 PM via remote participation to consider the Petitioner's request for a special permit pursuant to Section §4.5.3.2 [Special Permit Alterations to Nonconforming Structures] and variance pursuant to Section §4.5.3.3 [Variance Required for New or Expansion of Nonconformity] to demolish and construct a new single family residence within the front setback on a lot that is nonconforming on area Property located within the Single Residence C District (SRC).

BOARD MEMBERS: John Lally, Chair
Douglas Stebbins
David Belcher

APPLICABLE SECTION OF THE WESTWOOD ZONING BYLAW

4.5.3.2 Special Permit Alterations of Nonconforming Structures. In the event that the Building Commissioner determines that a proposed alteration to a nonconforming structure does not meet the requirements of Section 4.5.3.1, the Board of Appeals may grant a special permit to make alterations to a nonconforming structure in accordance with this Section only if it determines that such alteration does not substantially increase the nonconforming nature of said structure and would not be substantially more detrimental than the existing nonconforming structure to the neighborhood. The following types of alterations to nonconforming structures may be considered for a special permit by the Board of Appeals:

4.5.3.2.1 Horizontal extension of an exterior wall at or along the same nonconforming distance within a required setback as the existing wall, provided that existing height restrictions shall not be exceeded, regardless of whether the lot complies with current lot area and lot frontage requirements.

- 4.5.3.2.2 Vertical extension of an existing exterior wall at or along the same or greater distance from a lot line, provided that the structure has a building height of no more than twenty-five (25) feet, if constructed on a lot that does not comply with current lot area and/or lot frontage requirements, or a building height no greater than permitted by this Bylaw if constructed on a lot that complies with current lot area and/or lot frontage requirements.
- 4.5.3.2.3 Construction of an overhang, porch, portico, or similar decorative feature, which extends no further than four (4) additional feet into a required setback area, provided that the Board of Appeals makes a positive finding that the proposed design element is de minimis in nature and improves the aesthetic quality of the property.
- 4.5.3.3 **Variance Required for New or Expansion of Nonconformity.** In the event that the Building Commissioner determines that a proposed alteration to a nonconforming structure increases the nonconformity or results in a new nonconformity and does not meet the requirements of Section 4.5.3.1 nor of Section 4.5.3.2, a variance is required in accordance with Section 10.4 of this bylaw. If the nonconforming nature of a structure would be increased by the proposed alteration, a variance from Board of Appeals shall be required to allow such alteration. In addition, no nonconforming structure, commercial or residential, shall be altered to accommodate a substantially different use, or to accommodate the same use in a substantially different manner or to a substantially greater extent, unless a variance allowing said alteration is granted by the Board of Appeals.

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 Petitioners have requested zoning relief in the form of both special permit and variance under Bylaw section 4.5. The Zoning Board of Appeals is the Variance and Special Permit Granting Authority.
2. A public hearing was opened on February 24, 2021 at 7 pm via remote participation.
3. At the hearing, the Petitioners submitted verbal request to withdraw the application for zoning relief without prejudice.

DECISION

The Board of Appeals voted unanimously to grant the Petitioners' request for leave without prejudice.

RECORD OF VOTE

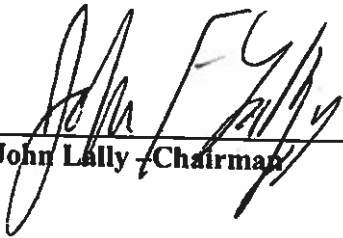
The following members of the Board of Appeals voted to grant the Petitioners' request for leave without prejudice: John Lally, Douglas Stebbins, David Belcher.

The following members of the Board of Appeals voted to deny the Petitioners' request for leave without prejudice: None.




RECEIVED
By Town Clerk at 9:57 am, Mar 19, 2021

WESTWOOD ZONING BOARD OF APPEALS



John Lally - Chairman



Douglas Stebbins, Clerk

3/15/21
Date

438 Pond Street



RECEIVED
By Town Clerk at 9:57 am, Mar 19, 2021

WESTWOOD ZONING BOARD OF APPEALS



David Belcher

3/15/21
Date

438 Pond Street