

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

PROPERTY OWNER(S): Bizan & Roya Rostamnezhad

PETITIONER(S): Isaksen Solar
18 Pocasset Street Box 11A
Fall River, Massachusetts 02721

LAND AFFECTED: 493 Gay Street
Westwood, Massachusetts 02090
Map 22, Lot 070

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, January 20, 2021 at 7:00 P.M. via remote participation to consider the Petitioner's request for a special permit pursuant to the Westwood Zoning Bylaw Sections §4.3.2.7 [Accessory Uses – Ground Mounted Solar]. At that time, the hearing was continued to February 24, 2021 at 7:00 PM via remote participation, at which time the hearing was continued to March 17, 2021 at 7:00 PM via remote participation at which time the hearing was continued to April 13, 2021 at 7:00 via remote participation. The application proposes to install a ground mounted solar array on the north side yard of the single family residential subject parcel. The property is located in the SRE (Single Residential E) zoning district.

BOARD MEMBERS: John Lally, Chairman
Douglas Stebbins, Clerk
David Belcher

ACCESSORY USE

4.3.2 ACCESSORY USES IN ALL DISTRICTS

4.3.2.1 Any use allowed in that district as a Principal Use.

4.4.3.2.2 Any use allowed in that district by special permit as a Principal Use, subject to the same conditions as a Principal Use.

4.3.2.3 Uses, whether or not on the same premises as uses permitted as of right, accessory to uses permitted as of right, which are necessary in connection with scientific research or scientific development or related production.

4.3.2.4 When associated with otherwise permitted agricultural operations on a lot with not more than five (5) acres, the following: (1) kennel, (2) salesroom or stand, (3) any building or structure devoted to productive agricultural use which, together with any other such buildings or structures on the premises, covers more than five hundred (500) square feet or contains more than five thousand (5,000) cubic feet.

4.3.2.5 Commercial Outdoor Seating in association with permitted commercial uses pursuant to Section 4.4.2.

4.3.2.6 Roof-mounted Solar³

4.3.2.7 Ground Mounted & Other Solar³

4.3.3 ACCESSORY USES IN RESIDENTIAL DISTRICTS

4.3.3.1 Private garage for not more than three (3) motor vehicles including not more than one (1) commercial vehicle with a gross vehicle weight of less than 26,000 pounds.

[illegible]

4.3.3.12 Accessory apartment consisting of a second dwelling unit located within a detached one-family dwelling or a building accessory thereto, subject to the conditions in Section 8.5.

4.3.3.13 Family Day Care, Large

4.3.3.14 Family Day Care, Small

4.3.3.15 Adult Day Care Facility for no more than twenty (20) adult clients and operated by the owner of the premises

4.3.4 ACCESSORY USES IN ALL NONRESIDENTIAL DISTRICTS

4.3.4.1 Living quarters for necessary caretakers and watchmen

4.3.4.2 Transient accommodations for business visitors to the premises

4.3.4.3 Retail Take-out Counter

4.3.5 ACCESSORY USES IN INDUSTRIAL, HIGHWAY BUSINESS AND ARO DISTRICTS

4.3.5.1 Retail uses, such as cafeterias, snack bars, gift shops and vending machines dispensing food, soft drinks and incidental merchandise items; provided that any such uses shall be conducted primarily for the convenience of employees and the clientele of the principal use of the premises and shall be wholly within a building and have no exterior advertising display.

4.3.5.2 Display and sale of products of manufacturing activities conducted on the premises.

4.3.5.3 Operations required to maintain or support any uses permitted in the Industrial District, if conducted on the same lot as the permitted use, such as maintenance and machine shops, power plants and keeping of animals.

4.3.5.4 Parking Garage²

[illegible]

4.4 NOTES FOR TABLE OF ACCESSORY USES

- ¹ Provided that any such uses shall be conducted primarily for the convenience of employees and the clientele of the principal use of the premises and shall be wholly within a building and have no exterior advertising display.
- ² The total square feet of floor space within a parking garage as an accessory use shall not be included in the calculation of Floor Area Ratio.
- ³ All solar arrays, facilities, and solar photovoltaic installations must comply with applicable setbacks as required by Section 5.0 [DIMENSIONAL REQUIREMENTS], 5.2 [TABLE OF DIMENSIONAL REQUIREMENTS], and 5.4 [HEIGHT REGULATIONS].

4.4.1 **Home Occupations.** Home Occupations may be permitted subject to the conditions below:

- 4.4.1 Not more than two (2) persons other than the residents of the premises shall be regularly employed thereon in connection with such use;
- 4.4.2 No stock in trade shall be regularly maintained except for products of the occupation itself, or for goods or materials customarily used incidental to its performance;
- 4.4.3 Such use shall not produce noise or other effects observable at the lot lines in amounts exceeding those normal to residential property;
- 4.4.4 No external change shall be made which alters the residential appearance of the buildings or structures on the premises; and
- 4.4.5 There shall be no exterior display or other outward evidence that the premises are being used for any purpose other than residential (except for a sign as herein permitted).

4.4.2 **Commercial Outdoor Seating.** Outdoor seating for restaurants, fast order food establishments, coffee shops, ice cream parlors, retail take-out counters, professional service establishments, research and development facilities, or other similar allowed use may be permitted upon review and approval, subject to the conditions in Sections 4.4.2.1 through 4.4.2.7 below. Residential uses are exempt and not regulated under this section.

- 4.4.2.1 Plans for all proposed outdoor seating must be approved by the Town Planner, in writing, in advance of implementation.
- 4.4.2.2 In all cases, sufficient clearance of at least six (6) feet shall be maintained for safe and efficient public access along sidewalks, access drives, and roadways.
- 4.4.2.3 Outdoor seating areas shall be appropriately separated from streets and sidewalks by means of fencing, plantings, or other similar measures, and where necessary, shall be protected from vehicles by means of curbing, curb stops, bollards, or other similar buffering and protection measures.

- 4.4.2.4 Outdoor seating areas shall at all times comply with the requirements of Section 6.6 [Noise] and Section 6.4 [Exterior Lighting] of this Bylaw.
- 4.4.2.5 A sufficient number of off-street parking spaces shall be provided to meet the minimum parking requirements for the associated business, including parking spaces related to the outdoor seats.
- 4.4.2.6 Outdoor seating areas shall be maintained in a neat and orderly condition at all times and shall be managed in such a manner as to not negatively affect any adjacent properties.
- 4.4.2.7 Once implemented, outdoor seating areas shall be reconfigured upon the order of the Building Commissioner, as the Building Commissioner deems necessary to address public safety, convenience, order, or appearance.

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 493 Gay Street. Relief in the form of a Special Permit pursuant to Section §4.3.2.7 was requested. The Board of Appeals is the Special Permit Granting Authority.
2. The Petitioner has proposed to install a ground mounted solar array consisting of 45 solar panels generating a total of 14.40 kW.
3. The proposed solar array is intended to supply electricity to the Petitioner's residence for home use.
4. The Petitioner's proposed construction would not be injurious or dangerous to the public health or hazardous due to traffic congestions or the effects of lighting, odors, smoke, noise, sewage, refuse materials.
5. The proposed location of the array is along the frontage of the subject property between the home and Gay Street which the Board found would be visible through seasonal vegetative screening from the street and adjacent parcels.
6. The proposed array and its use are inconsistent with the residential nature and appearance of the neighborhood and would interfere with the rural character of the district.
7. The Board has given full consideration to the local conditions that affect and may be affected by the Petitioners' proposed solar array, and having particular expertise in said local conditions, have taken a view that the adverse effects of the Petitioners' proposed construction will outweigh its beneficial impact to the neighborhood, in view of the particular characteristics of the site and the proposal in relation to that site. The use would not be in an appropriate location, would be detrimental to the neighborhood and would significantly alter the character of the zoning district.
8. The Petitioner has not met all the requirements for a Special Permit pursuant to the Westwood Zoning

DECISION and CONDITIONS

The Board of Appeals voted unanimously via roll call to deny the Petitioner's request for a Special Permit pursuant to Section §4.3.2.7.

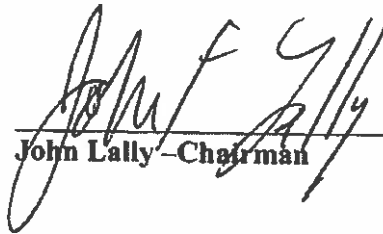
RECORD OF VOTE

The following members of the Board of Appeals voted to deny the Petitioners' request for a Special Permit pursuant to Section §4.3.2.7: John Lally, Douglas Stebbins, and David Belcher.

The following members of the Board of Appeals voted in favor of the Petitioners' request for a Special Permit pursuant to Section §4.3.2.7: None.



WESTWOOD ZONING BOARD OF APPEALS



John Lally - Chairman



Douglas Stebbins, Clerk

4/22/21
Date

493 Gay Street



WESTWOOD ZONING BOARD OF APPEALS

David Belcher

4/22/21
Date

493 Gay Street