

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

**PROPERTY OWNER(S):** Garrett M. Traylor & Sarah E. Taggart

**PETITIONER(S):** Casey Dowgiert on behalf of Property Owners  
Garrett M. Traylor & Sarah E. Taggart  
21 Wells Avenue  
Westwood, MA 02090

**LAND AFFECTED:** 21 Wells Avenue  
Westwood, MA 02090  
Map 29, Lot 015

**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, October 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 Section §4.5.3.2.2 [Special Permit Alterations of Nonconforming Structures – Vertical Extension]. The application proposes to alter an existing nonconforming residential structure on a nonconforming lot. The lot is nonconforming due to insufficient lot area, insufficient frontage, and insufficient lot width. The application proposes to construct a second floor addition that would raise the height of the structure within the side yard setback. The property is located in the Single Residential D (SRD) zoning district.

**BOARD MEMBERS:** John Lally, Chairman  
Michael McCusker  
Linda Walsh

**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.

### **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 21 Wells Avenue within the Single Residential D (SRD) zoning district. The lot is nonconforming due to insufficient lot area (7536 SF where 15,000 SF is required), insufficient frontage (75.26' where 90' is required), and insufficient lot width (75.26' where 90' is required).
2. The Petitioners propose to construct a second floor addition that would raise the height of the structure within the side yard setback. The proposed addition will raise the eastern (side) and southern (rear) walls of the existing structure. Both of these existing walls violate the required setbacks; 7.9' at the side where 15' is required and 21.8' in the rear where 30' is required. The resulting structure would comply with the height limitations in the bylaw, with an average height of 23' 8 1/2" (where a maximum height of 25' is allowed), and not encroach further into either setback. Relief is required in the form of a Special Permit pursuant to Westwood Zoning Bylaw Section §4.5.3.2.2. The Board of Appeals is the Special Permit Granting Authority.
3. The Petitioners also propose to construct a detached garage which will be 20' by 12' with a side setback of 4.3' and a rear setback of 4.5'. The proposed detached garage exceeds the minimum setback requirements for a detached accessory structure set forth in Table 5.2 of the bylaw.

4. Any adverse effects of the Petitioners' proposed 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.
5. The Petitioners' proposal will not have a material adverse effect on the value of the land and buildings in the neighborhood, or on the amenities thereof, or be detrimental to the normal use of the adjacent property, and it will not be injurious or dangerous to the public health or hazardous because of traffic congestion, or other reason, and any adverse effects of the proposed use do not outweigh its beneficial aspects, all in view of the particular characteristics of the site and of the proposal in relation to that site.
6. 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 4.5.3.2.2 of the Westwood Zoning Bylaw and upon the following conditions:

1. The Project shall be constructed in conformity with the submitted site plan titled "Plot Plan of Land in Westwood, MA", prepared by Paul J. Finocchio, PLS of PJF & Associates, 4 Highland Ave., Wakefield, MA, dated August 13, 2021, and revised on October 13, 2021, and with the design plans titled "Zoning Board of Appeals – Special Permit, The Traynor & Taggart Residence, 21 Wells Ave, Westwood, MA", prepared by Casey Dowgiert of Architects 3, 7 Hyde Park Circle, Londonderry, NH 03053, dated August 16, 2021 and consisting of thirteen (13) sheets numbered AG1.0, AE1.0, AE2.0, AD1.0, AD2.0, A1.0, A1.1, A2.0, A3.0, A5.0, A5.1, A1.0 (garage), and G2.0.
2. The Petitioner shall pursue completion of the Project with reasonable diligence and continuity.
3. A revised deed reflecting the extent of the property as shown on the site plan titled "Plot Plan of Land in Westwood, MA", prepared by Paul J. Finocchio of PJF & Associates, 4 Highland Ave., Wakefield, MA, dated August 13, 2021, and revised on October 13, 2021, shall be recorded at the Norfolk County Registry of Deeds prior to the issuance of a Building Permit.
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 Petitioner 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 for the above mentioned project: John Lally, Michael McCusker, and Linda Walsh.


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

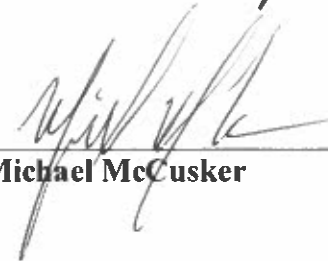



**RECEIVED**

By Town Clerk at 2:55 pm, Nov 17, 2021

**WESTWOOD ZONING BOARD OF APPEALS**

  
\_\_\_\_\_  
John Lally - Chairman

  
\_\_\_\_\_  
Michael McCusker

  
\_\_\_\_\_  
Linda Walsh

11/17/2021  
Date

21 Wells Ave