

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

PROPERTY OWNER(S): Maguire Elizabeth Fallon

PETITIONER(S): Maguire Fallon
140 Burgess Ave.
Westwood, MA 02090

LAND AFFECTED: 140 Burgess Ave.
Westwood, MA 02090
Map 27, Lot 51

HEARING:

The Board of Appeals for the Town of Westwood held a Public Hearing according to the General Laws of Massachusetts on Wednesday, November 17, 2021, at 7:00 pm via remote participation, to consider the Petitioner's request for a Special Permit pursuant to Westwood Zoning Bylaw Section §4.5.3.2.2 [Special Permit Alterations of Nonconforming Structures – Vertical Extension]. The application proposes to construct second story dormer additions that would raise the height in the setbacks. The property is located in the Single Residential C (SRC) zoning district.

BOARD MEMBERS: Michael McCusker
Danielle Button
Sean Coffey

APPLICABLE SECTIONS 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.

4.5.3.2.1 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

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 Petitioner has 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 current 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, 140 Burgess Avenue, Westwood, MA 02090", prepared by Neil J. Murphy, RLS of Land Mapping Inc., 10 Andrew Square, Suite 201B, South Boston, MA 02127, dated October 1, 2021, and with the design plans titled "Maquire Fallon, 140 Burgess Avenue, Westwood, MA", prepared by Yusra Design + Build, www.yusradesign.com, dated May 9, 2021, and consisting of sheets T-1, A-1, A-2, A-3, and A-4.
2. The Applicant shall pursue completion of the Project with reasonable diligence and continuity.
3. The average building height shall not exceed 25'.
4. The 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 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.



Received 12/1/2021 @9:08AM
Westwood Town Clerk

WESTWOOD ZONING BOARD OF APPEALS

Michael McCusker

Danielle Button

Sean Coffey

12/1/21

Date

140 Burgess Ave