

**Town of Westwood
Zoning Board of Appeals
Remote Participation, Zoom Video Conference Call
Meeting Minutes – November 17, 2021**

Members present: Acting Chair Michael McCusker, Danielle Button, and Sean Coffey.

Staff Members Present: Housing & Zoning Agent Iliana Ramirez, and Director of Community & Economic Development Nora Loughnane.

The meeting was called to order by Acting Chair Michael McCusker at 7:05 pm. Mr. McCusker gave a brief description of the proceedings, including a description of instruction for remote participation by the public. All those present for the meeting who anticipated giving testimony were sworn in. Mr. McCusker explained that the order of the applications for the evening would be 420 Providence Hwy, 82 Lakeshore Drive, 140 Burgess Avenue and, 5 Highview Street.

Applications

Address: 420 Providence Highway

Petitioner: Joseph Geary on behalf of GPI MA-FM, Inc. /dba/ Ira Mazda

Project: Application for Special Permit pursuant to Westwood Zoning Bylaw Sections §4.1.5.8 [Motor Vehicle Sales] and §4.1.5.9 [Motor Vehicle General Repairs]

Mr. McCusker read the legal notice into the record. He stated that the new special permit order if granted, will be issued to GPI MA-FM, Inc., dba IRA MAZDA to allow for the continued operation of the dealership on that property under the new ownership.

Joseph Geary, a representative of GPI MA-FM, Inc., explained that the ownership of the dealership has recently changed, and the new owner, Group One, has requested a new Special Permit consistent with all of the terms of the existing Special Permit. He stated no changes to the current operations are anticipated at this time.

Ms. Loughnane explained the original Special Permit was issued to Clair International, Inc. in 2005. She said that this Special Permit was then amended several times throughout the years as the dealership transferred ownership to AMR Holdings PA, LLC, and various operational changes were made at the dealership. Ms. Loughnane noted that the most recent amendment to the Special Permit was granted by the Board last February when the Special Permit was modified to allow the dealership to change from Porsche/Audi to Mazda. She added that Mr. Geary has requested a new Special Permit, rather than another amendment of the original Special Permit issued in 2005. She stated that this new Special Permit could contain the same conditions as the original Special Permit, which have been carried forward with each amendment.

Mr. McCusker asked Mr. Geary if Group One would be able to operate within these conditions? Mr. Geary responded that they would. Mr. McCusker then asked if there were going to be any changes to the existing signage? Mr. Geary explained there is no change in signage at the present moment, but that he would eventually submit an application to change signage from "Prime Mazda" to "Ira Mazda".

Ms. Loughnane explained that earlier this year, the Board separated the signage and operational elements of the original Special Permit and issued two separate Special Permits, with a Special Permit for the signage granted by the Board in May of this year. She noted that, while the operational Special Permit is specific to the owner of the dealership, the signage Special Permit runs with the land and does not need to be modified until the dealership wishes to implement signage changes.

Mr. McCusker asked Ms. Button and Mr. Coffey if either had any questions or comments. They did not.

Mr. McCusker opened the hearing to the public for comment. Ms. Ramirez stated that there are no raised hands among the attendees and no comments in the Question & Answer queue. Mr. McCusker declared the hearing closed.

Mr. McCusker moved that the Westwood Zoning Board of Appeals grant the Petitioner's request for a Special Permit pursuant to Westwood Zoning Bylaw Sections §4.1.5.8 [Motor Vehicle Sales] and §4.1.5.9 [Motor Vehicle General Repairs]. The Motion was seconded by Mr. Coffey. Mr. McCusker called a roll call vote; the Board voted unanimously via roll call to grant the Petitioner's request for a Special Permit.

Address: 82 Lakeshore Drive

Petitioner: Barry Crimmins on behalf of Thomas and Allison Demers

Project: Application for Variance pursuant to Westwood Zoning Bylaw Section §4.5.3.3 [Variance required for new or expansion of non-conformity]

Mr. McCusker read the legal notice into the record.

Property owners Allison and Thomas Demers, Architect Noreen O'Toole, and Attorney Barry Crimmins presented the request for a Variance to replace an existing 94 square foot three-season porch with a new 145 square feet dining room addition that would encroach on the side setback to a greater extent than the current non-conforming structure, leaving a side yard setback of 3.9 feet where 20 feet is required and where the existing setback is 7.4 feet.

Mr. Crimmins stated that the family has been living at the property since last June. He said that they are outgrowing the home which has a living area of only 1,200 sq. ft. He explained that the Demers wish to remove an existing three-season porch which is approximately 14 ½ ft. deep and 6 ½ feet wide, with an existing setback of; approximately 7 ½ ft. He said that they wished to replace that porch with an addition that would provide additional living space for the family. Mr. Crimmins said that the addition will maintain the existing depth of 14 ½ feet but will increase the width from 6 ½ ft. to approximately 10 feet, thereby decreasing the side yard setback from approximately 7 ½ feet to 3.9 feet. He stated that the Demers are requesting a Variance for this addition to the existing non-conforming structure.

Ms. Demers explained that her family is unable to sit together for dinner due to the lack of space in the house. She said that the three-season porch is too narrow to accommodate a dining table. Ms. Demers said that the proposed addition was designed with enough space to serve as a dining room. She stated that her direct neighbor on the side of the house nearest the proposed addition, Ms. Jome, supports the proposed addition. Ms. Jome stated that she doesn't feel as though the Demers' proposed addition would be detrimental to the neighborhood.

Mr. McCusker explained that to issue a variance, the Board must first make a finding of uniqueness related to topography, lot shape, or soil condition. McCusker asked Mr. Crimmins to explain what is unique about this lot of land that might allow the Board to make the necessary findings for a Variance. Mr. Crimmins stated that the shape of the lot is not necessarily irregular, but the lot, when taken as a whole, is very narrow. He said that the frontage on Lakeshore Drive is only 55 feet wide and the property goes back about 140-145 ft. for a total lot area of 8,200 sq. ft. Mr. Crimmins explained that the lot shape makes it difficult to do anything with the property. He stated that the only place where the Demers could add this addition is where the existing 3 season porch is now. Due to the fact the lot is so narrow, Crimmins said he believes the Board could grant a Variance without it being detrimental to the public good, and without derogating from the purpose and intent of the Bylaw. Mr. Crimmins expressed his opinion that the application meets the criteria of both the Westwood Zoning Bylaw and M.G.L. Chapter 40 A, Section 10.

Mr. McCusker asked Ms. Button and Mr. Coffey if either had any questions or comments. Ms. Button referred to the plot plan and asked what is behind the home. Mr. Crimmins replied that there is a patio behind the home.

Ms. Button suggested that the addition could be made onto the back of the home without the need for any relief from the Zoning Bylaw requirements. Ms. Demers responded that the house would then have to be re-designed which would pose a financial hardship for the family. Ms. Demers said that she would like to repurpose the space they already have in the most economical way.

Ms. Button explained that the Board must maintain consistency in its findings and decisions. She asked Ms. Demers to speak to the point of the financial hardship. Mr. Crimmins replied that, if the family cannot live comfortably in the home, the only alternative would be to sell their current home. He said that the family just purchased the home for about \$600,000. If they were to move to a home that would be suitable in size, in Westwood, it would cost \$800,000 to \$900,000. He expressed the opinion that this would be a substantial expense compared to the modest addition the applicant is proposing.

Mr. McCusker opened the hearing to the public for comment. Ms. Ramirez stated that there are no raised hands among the attendees and no comments in the Question & Answer queue.

Mr. McCusker declared the hearing closed. He stated that, based on the requirements of the Westwood Zoning Bylaw, the Board must make findings of uniqueness and hardship before granting the requested Variance. He said that he does not feel that the Petitioners have met the burden of providing sufficient evidence for the Board to make the findings necessary for the grant of a Variance.

Mr. McCusker moved that the Westwood Zoning Board of Appeals deny the Petitioner's request for a Variance pursuant to Westwood Zoning Bylaw Section §4.5.3.3 [Variance required for new or expansion of non-conformity].

Before the motion could be seconded, Mr. Crimmins requested that the Board allows the Petitioners to withdraw the application without prejudice.

Mr. McCusker moved that the Board grant the Petitioners' request for leave without prejudice. The Motion was seconded by Ms. Button. Mr. McCusker called a roll call vote; the Board voted unanimously via roll call to grant the Petitioner's request for leave without prejudice.

Address: 140 Burgess Avenue

Petitioner: Maguire Fallon

Project: Application for Special Permit pursuant to Westwood Zoning Bylaw Section §4.5.3.2.2 [Special Permit Alterations of Nonconforming Structures – Vertical Extension]

Mr. McCusker read the legal notice into the record.

Maguire Fallon stated that she is seeking a Special Permit to build two second-story dormer additions which would raise the building height within the side setback. She stated that the existing home is located 12 feet off the south side lot line, where a setback of 20 feet is required. Ms. Fallon explained that the sidewall of the home will be extended vertically by more than 7 feet. She said that the proposed dormer at the front of the house will also raise the average height of the structure by more than 7 feet, but that the average height of the structure with the two new dormers will remain under the maximum allowed height of 25 feet.

Ms. Fallon explained that she currently lives with her daughter, and is caring for a sick parent. She said she is looking to raise the roof, and construct a formal master bedroom and an additional bathroom. She told the Board that she currently works from home and wishes to create a workspace within the home.

Mr. McCusker asked what would be the new average height of the structure. Ms. Fallon said that she did not see the height spelled out on the plans, but knew that it was under 25 feet. Ms. Loughnane explained that the denial of the Building Permit which instructed the Petitioner to file for the requested Special Permit noted that the proposed additions would not raise the height of the structure to more than 25 feet. She said that, if the board

chooses to approve the special permit, it could do so with a condition that the average height of the building does not exceed 25 feet.

Mr. McCusker asked Ms. Button and Mr. Coffey if either had any questions or comments. Ms. Button had no additional questions for the Petitioner. Mr. Coffey asked Ms. Fallon to clarify that the existing setback is 12 feet where the required setback is 20 feet and that the proposed construction would not extend further into that side setback. Ms. Fallon confirmed that there would be no construction outside of the existing footprint of the home. She said that the side setback would remain 12 feet.

Mr. McCusker opened the hearing to the public for comment. Ms. Ramirez confirmed there were no raised hands among the attendees and no comments in the Question & Answer queue.

Mr. McCusker declared the hearing closed.

Mr. McCusker moved that the Westwood Zoning Board of Appeals grant the Petitioner's request for a Special Permit pursuant to §4.5.3.2.2 [Special Permit Alterations of Nonconforming Structures – Vertical Extension] with the condition that the average building height shall not exceed 25 feet. The Motion was seconded by Ms. Button. Mr. McCusker called a roll call vote; the Board voted unanimously via roll call to grant the Petitioner's request for a Special Permit.

Address: 5 Highview Street

Petitioner: South Shore Habitat for Humanity

Project: Application for Minor Modification of Comprehensive Permit to modify the landscape plan for the approved single-family home

Ms. Loughnane explained that the Petitioner's representative, Noreen Browne of South Shore Habitat for Humanity, was attending another meeting and would not be able to join this meeting until after 8:00 pm. Ms. Loughnane offered to present Ms. Brown's request to the Board. She explained that South Shore Habitat to Humanity was granted a Comprehensive Permit by the Zoning Board of Appeals for 5 Highview Street in 2017. She stated that the Comprehensive Permit allowed for the construction of a single-family home on an under-sized parcel pursuant to a "friendly 40B application. Mr. Loughnane said that the home has now been constructed, with quite a bit of help from Westwood resident volunteers. She explained that one of the conditions of the 2017 Comprehensive Permit was that South Shore Habitat for Humanity was required to submit a landscape proposal to the Building Commissioner. She told the Board that the initial plan was limited to grass and few shrubs, but a generous donor from Westwood has since offered to fund a much more substantial landscape plan. Ms. Loughnane stated that South Shore Habitat for Humanity has now requested the Board's consideration of a Minor Modification of the 2017 Comprehensive Permit to allow for this more extensive landscape plan to be implemented.

Mr. McCusker expressed his opinion that the proposed landscape treatment is at least equivalent to that of other properties in the neighborhood and appropriate for the single-family home. He asked Ms. Button and Mr. Coffey if either had any questions or comments. They did not.

Mr. McCusker opened the hearing to the public for comment. Ms. Ramirez stated that there are no raised hands among the attendees and no comments in the Question & Answer queue.

Mr. McCusker moved that the Westwood Zoning Board of Appeals grant the Petitioner's request for a Minor Modification of the Comprehensive Permit for 5 Highview Street to allow for the landscape treatment shown on the submitted plan. The Motion was seconded by Ms. Button. Mr. McCusker called a roll call vote; the Board voted unanimously via roll call to grant the Petitioner's request for a Minor Modification of the Comprehensive Permit.

Vote to Approve Meeting Minutes

Ms. Ramirez stated that the minutes of the October 20, 2021 meeting were not yet ready for consideration. She said that she would provide draft minutes to the board before the December meeting.

Vote to Adjourn Hearing

On a motion by Mr. McCusker, seconded by Ms. Button, the Committee voted unanimously on a roll call vote to adjourn the meeting at 7:45 pm.

List of Documents:

420 Providence Highway

- Zoning Board application; plans and associated attachments

82 Lakeshore Drive

- Zoning Board application; plans and associated attachments

140 Burgess Avenue

- Zoning Board application; plans and associated attachments

5 Highview Street

- Zoning Board application; plans and associated attachments