

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

**PROPERTY OWNER(S):** Stephen and Meghan Powell

**PETITIONER(S):** Stephen and Meghan Powell  
1665 High Street no longer viable  
Westwood MA, 02090

**LAND AFFECTED:** 1665 High Street  
Map 34, Lot 8

**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 19th, at 7:00 PM via remote participation to consider the Petitioners' request for a Special Permit pursuant to the Westwood Zoning Bylaw Section §4.5.2.2 [Special Permit Required for Alteration to Nonconforming Use]. The Petitioners propose to replace an existing 1,218 square foot single-family residential structure and detached garage with a new 2,627 square foot single-family residential structure with an attached garage. The property is located in the Local Business District A (LBA) Zoning District. The existing residential structure is a non-conforming use in the LBA District.

**BOARD MEMBERS:** John Lally  
Michael McCusker  
Danielle Button

**APPLICABLE SECTIONS OF THE WESTWOOD ZONING BYLAW**

**4.5 NONCONFORMING USES AND STRUCTURES**

**4.5.1 Applicability.** Nonconforming uses and structures, as defined in Section 2.0 of this Bylaw, may continue. Any alteration of a nonconforming use, or any alteration of a nonconforming structure, shall require authorization in accordance with this section. An alteration of a structure is a modification, structural change, extension, or reconstruction of the structure.

**4.5.2 Nonconforming Uses.**

**4.5.2.1 Permitted Alterations of Nonconforming Uses.** A structure that conforms dimensionally to current zoning regulations while its use no longer conforms can be altered without needing a special permit if the Building Commissioner determines that the proposed alteration falls under any of the following circumstances:

4.5.2.1.1 There is no extension or expansion of the exterior of the structure.

4.5.2.1.2 There is no interior expansion that would intensify the use.

4.5.2.1.3 The alteration is made for the purposes of conforming to the building code for health and safety purposes.

**4.5.2.2 Special Permit Required for Alteration to Nonconforming Use.** The Board of Appeals may grant a special permit to modify, alter or extend a nonconforming use in accordance with this Section only if it determines that such modification, alteration or extension shall not be substantially more detrimental than the existing nonconforming use to the neighborhood and the town. To be considered insubstantial, the Board must find that the proposed use reflects the nature and purpose of the prior use, there is no difference in the quality, character or degree of the proposed use and the proposed use is not different in its effect on the neighborhood.

### **FINDINGS**

In consideration of all the testimony, exhibits, and documents submitted before the Board, the Board makes the following finding of fact:

1. The Subject Property is located at 1665 High Street, Westwood MA, within the Local Business District A (LBA) Zoning District.
2. The property contains a 1,218 square foot single-family residential structure and detached garage. The Building Commissioner has determined that these structures represent a pre-existing nonconforming residential use in the LBA District.
3. The Petitioners seek to replace the existing single-family residential structure and detached garage with a new 2,627 square feet single-family residential structure with an attached garage. The proposed structure will have an average building height of 25 feet.
4. Relief is requested in the form of a Special Permit pursuant to Section §4.5.2.2 [Special Permit Required for Alteration to Nonconforming Use]. The Board of Appeals is the Special Permit Granting Authority.
5. 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.
6. 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.
7. 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 §4.5.2.2 of the Westwood Zoning Bylaw subject to the following conditions:

1. The project shall be constructed in full conformity with the submitted site plan titled, "Proposed House Relocation Plan No. 1665 High Street in Westwood, MA", prepared by Professional Land Surveyor Craig Cygawnoski of RIM Engineering Co., Inc., P.O. Box 32, Mansfield, MA 02048, dated June 8, 2021, and revised thru November 9, 2021, consisting of (3) three sheets, and with the design plans titled "Powell

Residence, 1665 High Street, Westwood, MA 02090”, prepared by National Design & Drafting, office@nidd.email, dated November 9, 2021, consisting of seven (7) sheets, including G000, S100, S101, A100, A200, A201, and A300.

2. The Petitioner shall pursue the completion of the project with reasonable diligence and continuity.
3. 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.
4. **The persons exercising rights under a duly appealed special permit do so at the risk that a court will reverse the permit and any construction performed under the permit may be ordered to be undone.**
5. 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 Petitioners 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.

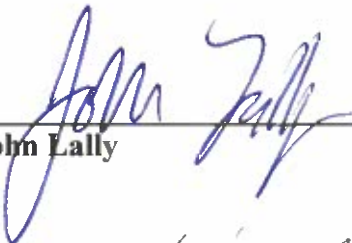
#### **RECORD OF VOTE**

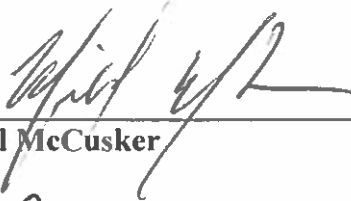
The following members of the Board of Appeals voted in favor of the Petitioners’ request for a Special Permit: John Lally, Michael McCusker, and Danielle Button.

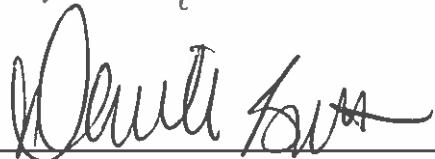
The following members of the Board of Appeals voted in opposition to the Petitioners’ request for a Special Permit: None.



**WESTWOOD ZONING BOARD OF APPEALS**

  
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**John Lally**

  
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**Michael McCusker**

  
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**Danielle Button**

2/8/22  
Date

1665 High Street