

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

PROPERTY OWNER(S): Eric Dana
PETITIONER(S): Eric Dana
790 High Street
Westwood, MA 02090
LAND AFFECTED: 790 High Street
Map 14, Lot 138

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 19, 2022, at 7:00 PM via remote participation to consider the Petitioner’s request for a Variance pursuant to Westwood Zoning Bylaw Sections §4.3.3.7 [Accessory Uses – Storage of Recreational Vehicle Less Than 30’ in Length] and §10.4 [Variances]. The Petitioner proposes to store a recreational vehicle and trailer that is less than 30 feet in length in the right side yard of a residential property where Section §4.3.3.7 permits storage of a recreational vehicle in the rear yard and in a manner not substantially visible from the street. The property is located in the Single Residential C (SRC) zoning district.

BOARD MEMBERS: John Lally
Michael McCusker
Danielle Button

APPLICABLE SECTIONS IF THE WESTWOOD ZONING BYLAW

ACCESSORY USE	DISTRICTS											
	SRA	SRB	SRC	SRD	SRE	GR	SR	LBA	LOB	HB	IO	ARO
4.3.3 ACCESSORY USES IN RESIDENTIAL DISTRICTS, CONTINUED												
§3.3.7 Parking or storage area, for use by the occupant of the dwelling, for the purpose of parking or storing in the rear of the yard and not substantially visible from the street one of the following: one (1) unoccupied recreational vehicle of less than thirty (30) feet length; one (1) imperative passenger vehicle which has not been partially or wholly dismantled.	Y	Y	Y	Y	Y	Y	Y	N	N	N	N	N

10.4 VARIANCES

- 10.4.1 **Permit Granting Authority.** Variances from the specific requirements of this Bylaw may be authorized by the Board of Appeals, except that variances authorizing a use not otherwise permitted in a particular zoning district shall not be granted.
- 10.4.2 **Application.** A petition for a variance shall be filed with the Town Clerk, who shall forthwith transmit it to the Board of Appeals. The Board of Appeals shall hold a public hearing within sixty-five (65) days of the receipt of the petition from the Town Clerk and shall render a decision within one hundred (100) days from the date of filing. Failure by the Board of Appeals to take final action within the one hundred (100)-day period shall be deemed to be a grant of the variance.
- 10.4.3 **Findings.** Before granting a variance from the requirements of this Bylaw, the Board of Appeals must specifically find that owing to circumstances relating to soil conditions, shape or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of this Bylaw would involve substantial hardship, financial or otherwise, to the Applicant and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of this Bylaw.
- 10.4.4 **Procedures.** An application for a variance shall be filed in accordance with the rules and regulations of the Board of Appeals.
- 10.4.5 **Conditions.** Variances may be granted with such reasonable conditions, safeguards or limitations on time or use, including performance guarantees, as the Board of Appeals may deem necessary to serve the purposes of this Bylaw.
- 10.4.6 **Plans.** An Applicant for a variance shall submit a plan in substantial conformance with the requirements of the Board of Appeals.
- 10.4.7 **Regulations.** The Board of Appeals may adopt rules and regulations for the administration of this Section.
- 10.4.8 **Fees.** The Board of Appeals may adopt reasonable administrative fees and technical review fees for applications for variances.
- 10.4.9 **Lapse.** Any rights authorized by a variance which are not exercised within one (1) year from the date of grant of such variance shall lapse. The Board of Appeals, in its discretion and upon the written application of the Applicant, may extend the time for exercise of the variance for a period not to exceed six (6) months provided that the application for such extension is filed with the Board of Appeals prior to the expiration of

the one (1) year period. If the request for an extension is not granted, the variance may be reestablished only after notice and new hearing pursuant to M.G.L. Chapter 40A, Section 10.

FINDINGS

In consideration of all 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 790 High Street, within the Single Residential C (SRC) zoning district.
2. On October 26, 2021, the Building Commission issued a Violation Notice to Property Owner Eric Dana for the unauthorized storage of a recreational vehicle in a side yard.
3. Storage of a recreational vehicle is allowed in the Single Residential C (SRC) in accordance with Section §4.3.3.7, which section permits storage of a recreational vehicle in the rear yard of a residential property in a manner not substantially visible from the street.
4. The Petitioner requested a Variance from Section §4.3.3.7 to allow him to park a recreational vehicle and trailer that is less than 30 feet in length in the right side yard of the residential property. o. The Petitioner proposed to locate the recreational vehicle to the right of an existing garage and to construct a 7-foot high fence to conceal the recreational vehicle from public view. The Board of Appeals is the Variance Granting Authority.
5. The Petitioner was advised, in the course of the initial hearing session on January 19, 2022, that the Board was unlikely to grant the requested Variance due to the Petitioner's inability to demonstrate the "uniqueness" of the property that is required pursuant to Section §10.4. The Board continued the hearing to February 16, 2022 to allow the Petitioner additional time to demonstrate "uniqueness" or to revise the project plans to comply with Section §4.3.3.7.
6. The members of the Board of Appeals in attendance at the January 19, 2022 public hearing were John Lally, Michael McCusker, and Danielle Button. The members of the Board of Appeals in attendance at the February 16, 2022 hearing were John Lally, Michael McCusker, and Linda Walsh. Prior to attending the February 16th public hearing, Linda Walsh reviewed the video recording of the January 19, 2002 public hearing and submitted a signed Confirmation of Evidential Review form, which form was recorded in the Office of the Town Clerk at 4:24 pm on February 16, 2022, with copy provided to the Board of Appeals Chair.

7. In the course of the Board of Appeals meeting on February 16, 2022, following testimony and prior to a vote by the Board, the Petitioner requested to withdraw the application without prejudice.

DECISION

At a meeting of the Board of Appeals on Wednesday February 16, 2022, the Board voted unanimously via roll call to grant the Petitioner's request for leave without prejudice.

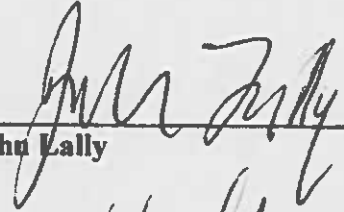
RECORD OF VOTE

The following members of the Board of Appeals voted in favor of the Petitioner's request for leave without prejudice: John Lally, Michael McCusker, and Linda Walsh.

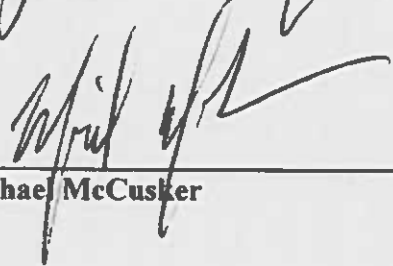
The following members of the Board of Appeals voted in opposition to the Petitioner's request for leave without prejudice: None



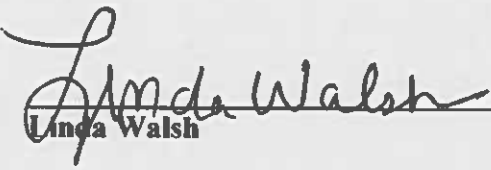
WESTWOOD ZONING BOARD OF APPEALS



John Lally



Michael McCusker



Linda Walsh

3/8/22
Date

790 High Street