

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

PROPERTY OWNER(S): Kyle and Crosby Piche

PETITIONER(S): Michael Terry on behalf of Kyle and Crosby Piche
Petrini & Associates, P.C.
372 Union Avenue
Framingham, MA 01702

LAND AFFECTED: 115 Greenacre Road
Westwood, MA 02090
Map 28, Lot 287

HEARING:

The Board of Appeals for the Town of Westwood held a Public Hearing according to the General Laws of Massachusetts on Wednesday, March 16, 2022, at 7:00 pm via remote participation, to consider the Petitioners' request for a Special Permit pursuant to Westwood Zoning Bylaw Section §4.5.3.2.3 [Construction of an overhang, porch, portico]. The application proposes to construct a portico on a new residential structure which replaces a previous nonconforming structure, where said portico would extend 4 feet into the nonconforming front setback. The property is located in the Single Residential C (SRC) zoning district.

BOARD MEMBERS: John Lally, Chairman
Linda Walsh
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.

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- 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 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 115 Greenacre Road, within in the Single Residence C (SRC) zoning district. The lot is nonconforming due to insufficient lot area (18,660 SF where 40,000 SF is required), insufficient frontage (99.44' where 125' is required), insufficient lot width (112.2' where 125' is required), and insufficient front setback (31.1' where 40' is required).
2. The existing 1-1/2-story house with attached garage is a non-conforming structure with respect to the front setback of 31.1' where a minimum of 40' is required.
3. The Petitioners propose to replace the existing nonconforming structure with a new structure that will be constructed primarily on the existing structure's footprint, with additions and modifications that respect current dimensional requirements, with the exception of a portico on the front of the structure that will extend 4' further into the front setback. The new front setback will be 27.1' where a minimum of 40' is required.
4. The average height of the proposed structure will be 24'8" where a maximum average height of 25' is permitted.
5. Relief is required in the form of a Special Permit pursuant to Westwood Zoning Bylaw Section §4.5.3.2.3. The Board of Appeals is the Special Permit Granting Authority
6. 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.
7. 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.

8. 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 Petitioners' request for a Special Permit pursuant to current Section §4.5.3.2.3 of the Westwood Zoning Bylaw and upon the following conditions:

1. The Project shall be constructed in conformity with the submitted site plan titled "Certified Plot Plan, Located at 115 Greenacre Road, Assessor's Parcel #28-287, Westwood, MA, Norfolk County", prepared by Christopher C. Charlton, PLS, of Continental Land Survey, LLC, 105 Beaver Street, Franklin, MA, dated June 14, 2021, and with the design plans titled "Additions & Renovations to 115 Greenacre, Westwood, Massachusetts", prepared by On the Roads Design, 649 Massachusetts Ave. #8B, Cambridge, MA 02139, dated June 28, 2021, and consisting of sheets A.0, A.1, A.2, A.3, A.4, A.5, A.6, A.7, A.8, and A.9. The Petitioners shall pursue completion of the Project with reasonable diligence and continuity.
2. 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.
3. **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.**
4. 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 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.

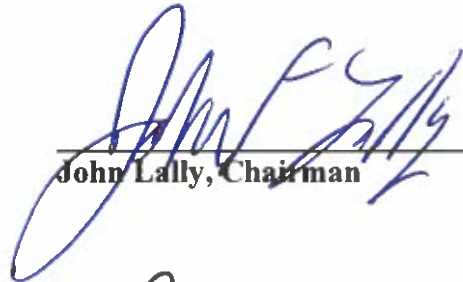
RECORD OF VOTE

The following members of the Board of Appeals voted to grant the Special Permit for the above mentioned project: John Lally, Linda Walsh, and Sean Coffey.

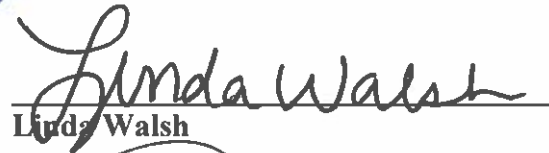
The following members of the Board of Appeals voted in opposition to the grant of the Special Permit: None.



WESTWOOD ZONING BOARD OF APPEALS



John Lally, Chairman



Linda Walsh



Sean Coffey

4/11/22
Date

115 Greenacre Road