

**Town of Westwood
Zoning Board of Appeals
Remote Participation, Zoom Video Conference Call
Meeting Minutes – January 19, 2022**

Members Present: Chairman John Lally, Danielle Button, Michael McCusker

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

The meeting was called to order by Ch. Lally at 7:14 PM. Ch. Lally 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. Ch. Lally explained that the order for the evening would be 1665 High Street, 790 High Street, 21 Edgewood Drive, 346 Gay Street, and 19 Pear Tree Ave.

Applications

Address: 1665 High Street

Petitioner: Stephen M. Powell

Project: Application for a Special Permit pursuant to the Westwood Zoning Bylaw Section §4.5.2.2 [Special Permit Required for Alteration to Nonconforming Use]

Ch. Lally read the legal notice into the record. He stated that the application proposes to replace an existing 1,218 square foot single-family home and detached garage with a new 2,627 square foot single-family home with an attached garage. The property is located within Local Business District A (LBA). In the LBA district, the existing residential structure is non-conforming.

Stephen Powell presented his Petition to the Board. Mr. Powell explained that he bought the home in 2017 and that his family has outgrown the 1,200 square feet home. Mr. Powell consulted with three architects concerning the possibility of expanding the home, but it was determined that it would not be practical to expand the existing structure, so they designed a new home. Mr. Powell said that he worked with the Building Commissioner to improve the setbacks while adhering to the style of the other homes in the neighborhood. Builder Richard Homer noted that the house was moved forward 53-feet, and it would meet all setback requirements and was designed to fit into the neighborhood.

Ch. Lally stated that he agreed with the idea to pull the house forward, keep it centered and maintain the setback in the front. Ch. Lally confirmed that the proposed new house will have an average height of 25 feet.

Ch. Lally asked Ms. Button if she had any comments or questions. Ms. Button stated that she agreed with the points made by Ch. Lally. She said that her only concern is that the home stays within the average building height requirement.

Ch. Lally asked Mr. McCusker if he had any comments or questions. He did not.

Ch. Lally asked if there were any comments from participating abutters. Ms. Ramirez stated that there were no raised hands among the attendees and no comments in the Question & Answer queue. Ch. Lally declared the hearing closed.

Ms. Button moved that the Westwood Zoning Board of Appeals grant the Petitioner's request for a Special Permit pursuant to Westwood Zoning Bylaw Sections § 4.5.2.2. The Motion was seconded by Mr. McCusker. Ch. Lally called a roll call vote; the Board voted unanimously via roll call to grant the Petitioner's request for a Special Permit.

Address: 790 High Street

Petitioner: Eric Dana

**Project: Application for a Variance pursuant to the Westwood Zoning Bylaw Section §4.3.3.7
[Accessory Uses – Storage of Recreational Vehicle Less Than 30' in Length]**

Ch. Lally read the legal notice into the record. He stated that the application requested permission to store a recreational vehicle in the right side yard of a residential property where Section §4.3.3.7 permits storage of a recreational vehicle by right 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.

Eric Dana presented his Petition to the Board. He explained that he has a recreational vehicle and trailer parked on an asphalt pad on the side of his home. He said that he received a notice of Violation from the Building Commissioner stating that the Zoning Bylaw requires a Special Permit for the storage of recreational vehicles and requires that they be stored in the rear yard only. Mr. Dana explained that the problem with putting the RV in the rear of the house is that there are five large oak trees, at least 70 feet tall, and a natural buffer of trees and bushes that act as a natural barrier between 790 High Street and 798 High Street, which would have to be removed to fit the recreational vehicle and trailer. He said that the removal of these trees would negatively affect the privacy of the abutters and the aesthetics of the landscape. In addition, Mr. Dana said that if he tries to back in, he may have to drive on the neighbor's property to park the RV in his rear yard. He said that he is requesting a Variance to park the RV in his side yard and to install a fence from the right front corner of the house, across to the property line, and then 30 feet down the property line, to screen the RV. Mr. Dana said that he requested a Building Permit for an 8' high fence, but Building Commissioner Joe Doyle advised that he would also need a Special Permit for an 8' high fence, so they are asking for a 7' high fence. Mr. Dana said that parking the RV on the right side of the home, behind the fence, would keep it from being seen by neighbors, while removing trees and parking the RV in the rear yard would make it more visible and detrimental to the neighborhood.

Mr. Dana noted that his property is located in an area with a high water table. He said that 798 High Street has experienced flooding on several occasions. Mr. Dana said that his basement is higher, but it still sweats during heavy rain. He said that removing the mature oak trees could be problematic because they absorb a lot of rainwater.

Ch. Lally pointed out that the homeowners are requesting a Variance, which is a greater hurdle than a Special Permit. He asked if there is something unique about the land that does not allow Mr. Dana to park in the back yard. Mr. Dana explained that five 70-foot-high oak trees would have to be removed and if the trailer is parked at the rear of the house, both neighbors will see it.

Ch. Lally asked Mr. McCusker if he had any questions for the applicant. Mr. McCusker asked how high the RV was. Mr. Dana replied that the RV is 10 feet 11 inches high from the ground to the highest point. He said the trailer is 8 feet wide and 22 feet long, plus a hitch just under 3 feet long. Mr. McCusker

asked whether they had considered getting the RV around the north side of the house. Mr. Dana explained that this would mean having to fully pave the front yard, since the trailer weighs 3 plus tons and cannot be driven over grass without sinking. Ms. Dana stated that they would also have to remove oak trees in this area.

Ch. Lally asked Ms. Button if she had any questions for the applicant. Ms. Button said that since the RV trailer is 10 feet 11 inches off the ground, a 7-foot high fence would leave 4 feet of the RV exposed. Mr. Dana acknowledged that the RV will not be totally hidden, the bylaw requires it to be substantially hidden, not totally hidden. Ms. Button stated that she understands that the oak trees and their arrangement make it challenging to push an RV straight back, but wondered if there might be enough clearance if the RV was maneuvered around the oak tree. Mr. Dana said there is no way to get the RV to the rear without driving on their neighbors' lawn.

Ch. Lally asked if it would be possible to push this trailer back five or ten feet from where it is now. Mr. Dana stated that the RV can be pulled back, but it will still be on the side yard rather than in the rear yard. Ch. Lally said the RV would be more secluded this way, as it would be farther from the front area and closer to the oak trees. Ms. Dana said that the distance from the pavement to the oak trees is approximately 15 feet, so the vehicle could be pushed back a bit. Mr. Dana stated that they would need to add additional pavement.

Mr. McCusker stated that he has seen quantum huts in other areas where the whole trailer can be parked inside of them. He said he sees nothing unique about the property that would warrant a Variance. Mr. McCusker suggested that Mr. Dana talk to the Building Commissioner to see if there could be some sort of covering or temporary garage that could solve this issue.

Ch. Lally suggested that Mr. Dana could place crushed stone leading to the oak trees, so the RV could be parked further back from the street, making the RV more secluded, and then plant some shrubbery towards the street in front, which would help camouflage the RV a bit more. He said the RV would then be more in the rear yard rather than the side yard.

Ch. Lally asked if Danielle had any further questions. Ms. Button agreed with Ch. Lally's idea of extending the driveway, but she questioned if it would be deemed far enough behind the house to meet the bylaw requirements. Ch. Lally asked Mr. McCusker if he was receptive to the proposal of adding shrubbery and extending the driveway. Mr. McCusker said he would support any proposal that does not require a Variance.

Ch. Lally asked if there were any comments from participating abutters. Ms. Ramirez stated that there were no raised hands among the attendees and no comments in the Question & Answer queue.

Ch. Lally moved that the Westwood Zoning Board of Appeals continue the hearing for 790 High Street for a Variance in accordance with Westwood Zoning Bylaw Sections § 4.3.3.7 until February 16, 2022, at 7 PM via Zoom, in order to allow time for the Petitioner to work with the Building Commissioner to confirm if extending the driveway and planting shrubs would meet the requirement for a Special Permit pursuant to Section §4.3.3.7. The Motion was seconded by Ms. Button. Ch. Lally called a roll call vote; the Board voted unanimously via roll call to continue the hearing until the next scheduled hearing February 16, 2022, at 7 PM via Zoom.

Address: 21 Edgewood Road

Petitioner: Matthew Scaffidi

**Project: Application for a Variance pursuant to the Westwood Zoning Bylaw Section §5.2.3
[Dimensional Requirements]**

Ch. Lally read the legal notice into the record. He stated that the application proposes the construction of a portico that would extend 5.5' further into the non-conforming front setback, reducing that setback to 19.8' where a minimum of 40' is required and 25.3' exists. The property is located in the Single Residential C (SRC) zoning district.

Attorney Jim Juliano presented the application to the Board. Mr. Juliano stated that this home complies with all setback requirements except for the front setback. He said that there is a stair that extends to within 19.8 feet of the front lot line, and that the application proposes to keep the stairs and build a portico with beams, a roof, and an overhang on the left side of the property. Mr. Juliano said that the Building Inspector denied the project due to a protruding portico and canopy. He explained that a canopy on the left-hand side will protrude less than four feet into the non-conforming front yard, but the front canopy will protrude 5.7 feet into the front setback. Mr. Juliano stated that Section § 4.5.3.3 requires a Variance for a protrusion of more than 4 feet.

Ch. Lally asked if the house was constructed in the 1950s and was reconstructed in 2013, if it remained on the same footprint and if all permits and sign-offs were obtained. Mr. Juliano replied that the owner bought the house in 2013, added a second level over the existing footprint and renovated the home. Mr. Juliano explained that the subject property is located on a nonconforming corner lot. He said that corner lots are rare in the neighborhood. He also noted that there are many porticos in the Edgewood/Glen/Pond area. Mr. Juliano maintained that granting relief would not be detrimental to the neighborhood, the public, or the town of Westwood.

Ch. Lally noted that the steps closest to the street were rebuilt in roughly 2013-2014, and what is being proposed is to add a portico because of rain and weather elements. Mr. Juliano said that the portico was suggested both architecturally and to protect those coming to the door against the elements of snow and rain. Ch. Lally suggested reducing the depth of the proposed portico and two columns to 4 feet. Mr. Juliano explained that the portico would need to cover the full 5.7 depth of the staircase to achieve its purpose.

Ch. Lally asked Mr. McCusker if he had any questions or comments. Mr. McCusker asked why the protrusion into the setback was not flagged when the steps were built in 2013-2014. Ms. Loughnane explained that the steps alone do not constitute a structure, and thus were permitted within the setback; only when the steps are covered do they constitute a structure. She confirmed that constructing a portico which extends more than 4 feet into the existing nonconforming setback will require a Variance.

Mr. McCusker explained that the Petitioner has to convince the board of the uniqueness of the lot in order to obtain a Variance, and short of this, the Board can only grant a Special Permit for a portico that extends no more than 4 feet. Mr. Juliano said that the tapered shape of the lot, and the angle of the existing structure as it sits on the lot, constitute uniqueness. He added that the proposed portico would

not be detrimental to the neighborhood, public, or town of Westwood. He also noted that the proposed plan mimics the characteristics of the other homes in the neighborhood.

Ch. Lally asked Ms. Button if she had any further questions. She did not.

Ch. Lally asked if there were any comments from participating abutters. Ms. Ramirez stated that there were no raised hands among the attendees and no comments in the Question & Answer queue.

Ch. Lally explained that he is in favor of granting the Variance to 21 Edgewood. He explained that because the steps are already there, and the proposal is just a cover for the steps, he does not see it as detrimental to the neighborhood or the public. Ms. Button said that since the portico will provide increased safety, and is being proposed over existing steps, and does not infringe upon Westwood Zoning Bylaws, she would also support a Variance.

Mr. McCusker said that he would not vote to grant a Variance when a Special Permit option is available and when the petitioners had not demonstrated uniqueness of the property. He said that he would have to make his decision in line with past decisions made by the Board. Mr. McCusker said he was willing to grant a Special Permit but not a Variance.

Ch. Lally stated that under section § 4.5.3.3.3 the petitioner has the right to extend the portico 4 ft. over the landing. He said that a Variance could not be granted without a unanimous vote.

Mr. Juliano requested that the hearing be continued to February 16, 2022 to allow his client to consider a reduced depth portico. Ms. Loughnane pointed out that the Planning Board will be reviewing zoning amendments at a public hearing on February 1st. She noted that one of those zoning amendments would change the bylaw to not require a variance for de minimis extensions of non-conforming structures. Ms. Loughnane noted that if the proposed zoning amendment is approved by Town Meeting in May, it would not become effective until the fall. She said that the petitioner might want to have these two options in mind: 1) ask the Board to consider a Special Permit for a 4-foot deep portico, or 2) delay the project until the Zoning Bylaw is amended to allow consideration of de minimis alterations by Special Permit.

Ms. Button moved that the Westwood Zoning Board of Appeals continue the hearing for 21 Edgewood Rd, to February 16, 2022, at 7 P.M via Zoom, in order to allow time for the Petitioner to consider further options. The Motion was seconded by Mr. McCusker. Ch. Lally called a roll call vote; the Board voted unanimously via roll call to continue the hearing until the next scheduled hearing February 16, 2022, at 7 PM via Zoom.

Address: 346 Gay Street

Petitioner: Mike Dwyer on behalf of Property Owner Robert Forrester

Project: Application for a Special Permit pursuant to Westwood Zoning Bylaw Sections §4.3.3.2 [Accessory Uses – Motor Vehicle Storage], §4.3.3.12 [Accessory Uses – Accessory Apartments], and §8.5 [Accessory Apartments]

Ch. Lally read the legal notice into the record. He stated that the application proposes to demolish one of three garage bays in the existing detached garage and to construct an addition that would result in a

total of five garage bays on the ground level with an Accessory Apartment on the upper level of the structure. This property is located in the Single Residential E (SRE) zoning district.

Property owners Robert and Rebecca Forrester, and John Rufo, one of the architects for the project, appeared before the Board. Mr. Forrester stated that he has lived in Westwood for 20 years and raised his family here. He said the home was originally built in 1930, and the house includes a garage which is not in the best condition at the moment, so repairs are necessary. Mr. Forrester said he has old cars that he would like to store in the garage with the cold climate in New England and the proposal would add an art studio above the garage.

Mr. Rufo said that the property is over 11 acres and the setback will be 213 feet. He walked the Board through the project plans and pointed out that the garage and the proposed addition are located right in the middle of the parcel. Mr. Rufo explained that one existing garage bay will be torn down, two will remain, and three more will be added. He said the new driveway, on the left-hand side of the proposed garage, will extend from the existing driveway. He noted that the existing residence is to the right of the driveway and said that a fence and a wall separate the house and garage from the backyard starting in the upper right corner of the plan. Mr. Rufo explained the proposed accessory apartment will be 899 square feet, where up to 900 sq. feet is allowed. He stated that the addition to the existing garage will be designed to be as attractive as the rest of the house. Mr. Rufo said the proposed structure will have a height of 24.7 feet.

Ch. Lally asked if the water and sewer lines were connected to the public street. Mr. Rufo said the house was connected to sewer 20 years ago and is also on town water. Ch. Lally asked if there would be any dangerous material in large quantities that the Board should be aware of. Mr. Forrester answered said there would be nothing like that in the garage.

Ch. Lally asked Mr. McCusker if he had any questions. Mr. McCusker had no additional questions.

Ch. Lally asked Ms. Button if she had any questions. Ms. Button asked if two vehicles could be parked back-to-back in the garage due to the depth of the garage. Mr. Forrester said that there would not be room for two cars, end-to-end, and added that lawnmowers and gardening tools would be stored in the additional space.

Ch. Lally asked if there were any comments from participating abutters. Ms. Ramirez stated that there were no raised hands among the attendees and no comments in the Question & Answer queue. Ch. Lally declared the hearing closed.

Michael McCusker moved that the Westwood Zoning Board of Appeals grant the Petitioner's request for a Special Permit pursuant to Westwood Zoning Bylaw Sections § 4.3.3.2, 4.3.3.12, and 8. for 346 Gay Street. The Motion was seconded by Danielle Button. Ch. Lally called a roll call vote; the Board voted unanimously via roll call to grant the Petitioner's request for a Special Permit. Special permit granted to 346 Gay Street.

Address: 19 Pear Tree Drive

Petitioner: Kevin Cloutier on behalf of property owners Bob Van Leeuwen and Maithili Rage

Project: Application for a Special Permit and Variance pursuant to the Westwood Zoning Bylaw Sections §4.3.3.12 [Accessory Uses – Accessory Apartments], §8.5 [Accessory Apartments] and 8.5.6.3 [Design Requirements]

Ch. Lally read the legal notice into the record. He stated that the application proposes a Special Permit and Variance pursuant to the Westwood Zoning Bylaw Section §8.5.6.3 [Design Requirements], 4.3.3.12 [Accessory Uses – Accessory Apartments], and §8.5 [Accessory Apartments] to allow for an Accessory Apartment which exceeds the maximum size requirements. He explained that, in response to a Notice of Violation dated December 9, 2019, Petitioner, Mr. Cloutier, proposes to legalize an unauthorized apartment within an existing single-family residential structure. The unauthorized apartment has approximately 1,668 square feet of floor space, while the maximum size permitted by Section § 8.5.6.3 is 900 square feet. The unauthorized apartment constitutes 34% of the total floor area of the residential building, in contrast with Section § 8.5.7.3, which permits a maximum of 33%. The property is zoned Single Residential C (SRC).

Kevin Cloutier, the attorney representing Bob Van Leeuwen and Maithili Rage, presented a petition to the Board. Mr. Cloutier stated that the home was built in 1978 and the apartment is a pre-existing nonconforming use. He said that the previous owner provided an affidavit that the apartment existed when she purchased the home, and that the town was aware of the apartment since permits had been pulled for work but no final inspections were performed. Ch. Lally asked if building permits from 1993 were for the main kitchen or for the kitchen in the apartment. Mr. Cloutier said that the previous owner indicated that the 1993 permits were for the kitchen in the apartment.

Mr. Cloutier stated that granting the Variance and Special Permit will not adversely affect the neighborhood. He said there will be no difference for the neighborhood, as it will maintain the look and feel of the neighborhood since the late 1970s. He noted that the owners of several neighboring properties support the application. Mr. Cloutier stated that the current homeowners believed the home was a legal accessory apartment when they purchased it in 2019. He said that they now face a substantial hardship due to the cost to reduce the size of the apartment to bring it into compliance with the Special Permit requirements or to eliminate the apartment. Mr. Cloutier noted that the owners purchased the home because of the apartment and Mr. Leeuwen's mother-in-law traveled from abroad to move into the apartment to assist in caring for his children. He said the family will suffer many hardships if relief is not extended, while the Variance and Special Permit, if granted, will cause no detrimental harm to the neighborhood.

Mr. Leeuwen explained that they had previously lived in an 1,100 square foot home in Dedham. He said that he and his wife fell in love with Westwood and were thrilled when they found this home that would have enough space for the whole family to live comfortably. Mr. Leeuwen said that his mother-in-law appreciated having her own space and the children have enough room to run and play. He said that they made a few minor renovations in the apartment, and during the process of working with the Building Division to get staircases signed off, they were notified of the Violation. Mr. Leeuwen said that the family is seeking to legalize the apartment, so the house can be what they thought they purchased – a house with an accessory apartment.

Ch. Lally asked Mr. Cloutier if the apartment was in place when the house was initially built in 1978. Mr. Cloutier replied that he cannot prove that the house included an apartment when initially built in 1978, but he pointed to the 1967 plan, and noted that the building envelope is the same on that plan as it is

today. The affidavit signed by the previous owner confirms that the accessory apartment was in the house when she purchased it.

Ch. Lally stated that the Accessory Apartment section of the Zoning Bylaw was not adopted until the 1990s. He said that if the apartment existed in 1978, the home would have been considered a two-family house, and two-family houses were not allowed in the SRC district in 1978 and are now allowed in the SRC district today. Ch. Lally explained that he understood the current dilemma of the homeowners. He noted that between the first floor and the second floor, there is roughly 1600 of living space in the apartment, which is well in excess of the 900 square feet requirement in Westwood's Zoning Bylaw.

Ch. Lally asks Mr. McCusker if he had any questions or comments. Mr. McCusker stated that the applicant has not presented anything that would warrant issuing a Variance. He said that a Special Permit might be possible if they built a wall and/or removed the stairs so as to return some space from the apartment to the main dwelling. He said that would reduce the floor area enough to meet the Accessory Apartment requirements. Mr. Cloutier said that this would require a significant renovation that would cause financial hardship.

Ch. Lally asks Ms. Button if she had any questions or comments. Ms. Button said this is a tough decision because the dwelling has been in use for so long. Mr. Cloutier said that the board can consider this as a nonconforming use and can grant the relief being requested. He said the other option would be for the homeowners to appeal the Board's decision to the Supreme court if the requested relief is not granted.

Ch. Lally stated that the Board could not grant a Variance without first finding something unique about the structure or the lot. Mr. Cloutier stated that a unique characteristic is that the home was purchased this way. He said there would be a financial hardship to make the home comply with the bylaw.

Mr. McCusker stated that he cannot grant a Variance because there is no demonstrated uniqueness, and that he would not vote in favor of a Special Permit because of the excessive floor area.

Ch. Lally asked if the homeowners had considered eliminating the entire second floor. He explained that if the petitioner just had the first floor, eliminated the stairway, and blocked off some walls, then the petitioners could comply with the 900 square foot maximum floor area and might receive a Special Permit. Ch. Lally stated that he sees nothing unique about the structure to grant a Variance. He asked if the petitioners would like a continuance to consider this option. Mr. Cloutier stated that he would like to be given a denial instead of requesting more time to review the application.

Ch. Lally asked if there were any comments from participating abutters. Ms. Ramirez stated that there were no raised hands among the attendees and no comments in the Question & Answer queue. Ch. Lally declared the hearing closed.

Ch. Lally moved that the Westwood Zoning Board of Appeals deny the Petitioner's request for a Special Permit and a Variance pursuant to Westwood Zoning Bylaw Sections § 4.3.3.12, 8.5 and 8.5.6.3. The Motion was seconded by Mr. McCusker. Ch. Lally called a roll call vote; the Board voted unanimously via roll call to deny the Petitioner's request for a Special Permit and a Variance.

Meeting Minutes

Ms. Ramirez stated that the minutes for December 15, 2021 meeting are ready to be reviewed and accepted by the Board. She stated that minutes for the October 22, 2021 meeting would be available for review at the February meeting.

Ch. Lally said that he had not seen the December meeting minutes. Ms. Ramirez stated that they were sent to the Board by email. Mr. McCusker and Ms. Button stated that they had each received and read the minutes. Ms. Loughnane commented that Ms. Button was not at the December meeting. She suggested that the Board defer approval of the December minutes until the next meeting when more than one member would be able to vote. Ch. Lally agrees that the consideration of the December 15, 2021 meeting minutes should be held until the February meeting.

Vote to Adjourn Hearing

On a motion by Ch. Lally, seconded by Ms. Walsh, the Committee voted unanimously on a roll call vote to adjourn the meeting at 9:16 PM.

List of Documents:

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| 1665 High Street |
| • Zoning Board Application, and Plans |
| 790 High Street |
| • Zoning Board Application, and Plans |
| 21 Edgewood Road |
| • Zoning Board Application, and Plans |
| 346 Gay Street |
| • Zoning Board Application, and Plans |
| 19 Pear Tree Drive |
| • Zoning Board Application, and Plans |