

TOWN OF WESTWOOD
COMMONWEALTH of MASSACHUSETTS

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PLANNING BOARD

DECISION OF THE PLANNING BOARD
Amendment of Environmental Impact and Design Review
for Earth Material Movement
20 Wildwood Drive
June 28, 2022

APPLICANT & PROPERTY OWNER: Litao Chen
20 Wildwood Drive
Westwood, MA 02090

PROPERTY LOCUS: 20 Wildwood Drive
Assessor's Map 20, Lots 078

BACKGROUND AND PROJECT SUMMARY

The Applicant is proposing an amendment to the previous EMM EIDR application (#PB-21-46) dated February 1, 2022. The original project called for the re-grading of approximately 10,800 SF of land, the removal of 350 cubic yards of earth material, and the importing of approximately 160 cubic yards of loam to level the backyard for lawn area and a patio. The proposed project will include the removal of five (5) trees, the removal of existing ledge, the construction of a new retaining wall, and the installation of a fence around the backyard. The amendment also proposes the additional export of 25 cubic yards of earth material and the elimination of the previously approved retaining wall. The retaining wall will be replaced by a gentle slope, and the fence will be moved back from the top of the slope. In addition, a portion of an existing retaining wall which currently wraps around the garage will be removed and that existing wall will be extended to the north and west.

The proposed earth material movement for site work and regrading resulting in slopes greater than 15% and finished grades greater than five (5) feet above surrounding grades is subject to an Environmental Impact and Design Review (EIDR) approval for Earth Material Movement, pursuant to Sections 7.1 and 7.3 of the Westwood Zoning Bylaw.

STATEMENT OF FINDINGS

PROCEDURAL FINDINGS:

After having reviewed all the plans and reports filed by the Applicant and its representatives and having considered the technical analysis, supplemental information provided during the course of the public hearing, correspondence and testimony from representatives from various boards and commissions and departments within the Town of Westwood and from all other interested parties, the Town of Westwood Planning Board makes the following procedural findings and project findings:

1. On May 23, 2022, an application was filed by Litao Chen, pursuant to Section 7.1 [Earth Material Movement (EMM)] and Section 7.3 [Environmental Impact and Design Review (EIDR)] of the Westwood Zoning Bylaw with the Westwood Planning Board and the Westwood Town Clerk on June 2, 2022 to request an amendment of the Earth Material Movement Environmental Impact & Design Review (EMM-EIDR) Approval which was granted by the Planning Board on February 1, 2022 (hereinafter "Amendment Application").

2. Pursuant to M.G.L. Chapter 40A, Section 9 and 11 and the applicable provisions of the Westwood Zoning Bylaw and the Rules and Regulations of the Westwood Planning Board (hereinafter "Rules and Regulations"), the Planning Board caused notice of the public hearing to be published in the *Hometown Weekly*, a newspaper of general circulation in Westwood, on June 9, 2022 and June 16, 2022. Notice of the public hearing was posted in the Westwood Town Hall commencing on June 3, 2022, and continuing through the opening of the public hearing on June 28, 2022. Said notice of the public hearing was mailed postage prepaid to all Parties in Interest as defined in M.G.L. Chapter 40A, Section 11 on June 3, 2022.
3. The Planning Board provided copies of the Amendment Application to other Town of Westwood boards and commissions, departments and officials including, but not limited to, the Board of Health, Board of Selectmen, Building Commissioner, Conservation Commission, Department of Public Works, Fire Chief, Police Chief, and Town Engineer on June 1, 2022.
4. After notice and publication was provided pursuant to M.G.L. Chapter 40A, Section 9 and 11, the public hearing on the Amendment Application commenced on June 28, 2022 via Zoom Webinar and filmed live by Westwood Media Center on Westwood Media's YouTube Channel and Comcast Channel 12 and Verizon Channel 42. The hearing was held in accordance with the Governor's March 12, 2020 Order suspending certain provisions of the Open Meeting Law (MGL C. 30A §18) and extended on June 16, 2021 through April 1, 2022, and further extended on February 15, 2022 through July 15, 2022.
5. The Planning Board met remotely via Zoom Webinar where public comments were offered by live time audio via Zoom and through the Question and Answer function. The opportunity for written comments to be submitted was also offered. On June 28, 2022, public comments were taken, and the Planning Board offered public comments, and voted to close the public hearing.
6. Westwood Planning Board Members Christopher A. Pfaff, Ellen Larkin Rollings, Kathleen Wynne, Joshua C. Ames and Philip M. Giordano deliberated on the Amendment Application at a duly authorized meeting on June 28, 2022.

PROJECT FINDINGS:

1. The subject property consists of approximately 19,239 sq. ft. located at 20 Wildwood Drive and is shown as Map 20, Lot 078 on the Westwood Board of Assessors' Map (hereinafter "Project Site" or "Property").
2. Presently, the site consists of an existing single family home, garage, and driveway.
3. The Project Site is located within the Single Residence C (SRC) zoning district. The re-grading and import and export of earth material is subject to an Earth Material Movement (EMM) Environmental Impact and Design Review (EIDR), pursuant to Sections 7.1 and 7.3 of the Westwood Zoning Bylaw.
4. The Conservation Commission issued Order of Conditions #338-0730 for the original project on February 15, 2022 and issued a modification of the Order of Conditions to accept the proposed plan revisions on June 8, 2022.
5. The Project, as modified by the Conditions of this Decision, will not be detrimental to the Town or the general character or visual appearance of the surrounding properties and will be consistent with all applicable standards set forth in Sections 7.1 and 7.3 of the Westwood Zoning Bylaw.

APPLICATION AND PLANS

The Planning Board evaluated the Application filed by or on behalf of the Applicants in the Planning Office on June 1, 2022 and in the Office of the Town Clerk on June 2, 2022 and all material submitted through the close of the public hearing on June 28, 2022. All of the following plans and materials are hereby incorporated by reference and made part of this Decision.

1. Application, project description, existing conditions photographs, waiver requests submitted by Litao Chen on November 10, 2021, received by the Town Clerk and Planning Department on November 15, 2021
2. Plan entitled "Certified Plot Plan located at 20 wildwood Drive Westwood, MA", prepared by Continental Land Survey, LLC dated November 10, 2021.
3. Memorandum from Dan Hammerberg and Philip Paradis of BETA Group, to Todd Korchin DPW Director, dated December 2, 2021.
4. Staff review comments from View Permit PB-21-46 dated December 9, 2021.
5. Project Engineer Daniel J. Merrikin response to comments from Legacy Engineering to the Planning Board dated January 17, 2022.
6. Memorandum from Sami El Khatbi and Philip Paradis of BETA Group, to Todd Korchin DPW Director, Subject: 20 Wildwood Drive EMM EIDR Review, dated January 24, 2022.
7. Applicant response from Daniel Merrikin, P.E. of Legacy Engineering LLC to Planning Board dated January 31, 2022.
8. Amendment Application, project description, existing conditions photographs, and waiver request submitted by Litao Chen on May 23, 2022, received by the Planning Department on June 1, 2022 and by the Town Clerk on June 2, 2022.
9. Plan entitled "20 Wildwood Drive Site Plan of Land in Westwood, MA", prepared by Legacy Engineers, digitally stamped by Daniel J. Merrikin, P.E., dated January 17, 2022, and revised through May 20, 2022, consisting of one (1) sheet.
10. Memorandum from Philip F. Paradis, Jr. PE of BETA Group, to Todd Korchin, DPW Director, Subject: 20 Wildwood Drive Modified EMM EIDR Review, dated June 24, 2022, consisting of one page.
11. Staff review comments from View Permit PB-22-26 dated June 23, 2022.

WAIVERS:

The Planning Board considered requests for the specific waiver listed below, and determined that such waiver, in addition to those waivers granted by the Board and contained in the Board's February 1, 2022 EMM-EIDR Approval decision, will result in a substantially improved project; that such project will otherwise meet the performance and design standards set forth in this Section; and that such waivers will pose no substantial detriment to any adjacent property or proximate neighborhood, and will not nullify or substantially derogate from the intent or purpose of the Westwood Zoning Bylaw. The following waiver from standard EIDR application submittal requirements is hereby granted by the

Planning Board upon a determination that the waived requirement is not relevant for an earth material movement application for regrading work for a single-family residence:

1. Partial waiver of the Application Fee to reduce that fee from the required \$750 to a fee of \$250 for this Amendment Application.

DECISION:

The Planning Board evaluated the Application in relation to the above Findings, and as the approving authority, on a roll call vote by a vote of five (5) in favor and none (0) opposed, hereby **grants** an Amendment of the previously granted Earth Material Movement Environmental Impact and Design Review **Approval** pursuant to Sections 7.1 and 7.3 of the Westwood Zoning Bylaw for the Project as described above and in the application therefor filed in the office of the Town Clerk on June 2, 2022 and all material through the close of the public hearing on June 28, 2022, subject to the Conditions stated herein, all of which are an integral part hereof:

CONDITIONS OF APPROVAL:

1. The Project shall be constructed in full conformity with the Amendment Application, and all submitted plans and materials. The Applicant shall pursue completion of the Project with reasonable diligence and continuity. All conditions of the original EMM-EIDR Approval shall remain in full force and effect. (Said conditions have been repeated below for convenience.)
2. The existing pavement on Wildwood Drive shall be protected from damage from loading and unloading of material and/or equipment related to the proposed construction.
3. There shall be no substandard or hazardous fill material used with this project. Applicant shall submit certification from the company providing the loam that the material does not contain any hazardous material to the Town Planner and Building Commissioner prior to bringing any fill on the property.
4. All project related construction such as ledge removal and earth material movement shall comply with the Town's General Bylaws Chapter 292, for Noise and Construction, which are between the hours of 7:00 a.m. and 7:00 p.m. Monday through Saturday, and 12:00 p.m. to 7:00 p.m. on Sundays.
5. All trucks carrying earth material to or from 20 Wildwood Drive shall be required to access 20 Wildwood Drive via Hartford Street directly from High Street/Route 109.
6. If project involves blasting to remove the ledge, a blasting permit from the Fire Department is required. A pre-blast survey of the abutting and nearby properties is required prior to any blasting.
7. If the Project, or any Condition imposed in this Decision, requires permit, license, or other approval from any other board, committee, or agency of the Town of Westwood or other regulatory agency of the Commonwealth or the federal government, the Applicant shall make an appropriate application for the same.
8. Any alterations, modifications, deletions or changes to the EIDR Approval shall be requested in writing to the Town Planner and Building Commissioner prior to implementation. Changes considered de minimis by the Building Commissioner may be accepted as a note to the file, changes considered minor by the Building Commissioner pursuant to Section 7.3 of the Zoning Bylaw may be required to file an Administrative EIDR pursuant to Section 7.3.6 of the Zoning

Bylaw or return to the Planning Board as a request for a Minor Modification at a publically posted Planning Board meeting. Alterations determined to be major by the Building Commissioner or the Planning Board, shall return to the Planning Board as a formal Amendment and will require a new public hearing with the Planning Board.

9. Applicant shall promptly repair any damage which Applicant causes to sidewalks, street pavement, signs or other fixtures or features within the public right of way, after obtaining permission from the Town Department of Public Works. Such repairs shall be performed to Town of Westwood standards.
10. A copy of this Decision and the Project Plans shall be kept on the Project Site at all times during construction.
11. This Amendment of the February 1, 2022 EMM-EIDR Approval shall lapse if a substantial use thereof or construction thereunder has not begun, except for good cause, within two (2) years following the grant thereof. The Planning Board may extend such approval, for good cause, upon the written request of the Applicant. In the case of the Amendment of the previously granted EMM-EIDR Approval, the term "substantial use thereof or construction thereunder" shall mean the commencement and substantial progress of the approved activity.

RECORD OF VOTE

The following members of the Planning Board voted on June 28, 2022 on a roll call vote to grant an Amendment of the February 1, 2022 EMM-EIDR Approval for the abovementioned Project: Christopher A. Pfaff, Ellen Larkin Rollings, Katherine Wynne, Joshua C. Ames, and Philip M. Giordano.

The following members of the Planning Board voted in opposition to the Amendment of the February 1, 2022 -EMM-EIDR Approval for the abovementioned Project: None.



John M. Charbonneau, Town Planner

June 30, 2022