

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

PROPERTY OWNERS: Annie Chow & Theodore Gerontidis

PETITIONER: Annie Chow
15 Dean Avenue
Westwood, MA 02090

LAND AFFECTED: 15 Dean Avenue
Westwood, Massachusetts 02090
Map 23 Lot 206

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 May 18, 2022 at 7:00 P.M. via remote participation to consider the Petitioner's request for a special permit pursuant to the Westwood Zoning Bylaw Section §4.5.3.2.2 [Special Permit Alterations of Nonconforming Structures – Vertical Extension]. The application proposes to construct a second story addition that increases the height of the building in the setback. The northeast side setback is 8'7" at the front of the building and 10'5" to the rear, where the 15' is required. The subject property has insufficient frontage and lot area. The existing structure violates both the side and front setbacks. The property is located in the General Residence (GR) zoning district.

BOARD MEMBERS: John Lally, Chairman
Michael McCusker
Linda Walsh

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:

4.5.3.2.2 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.

FINDINGS

In consideration of all of 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 15 Dean Avenue. The existing house sits on a nonconforming lot due to a lack of frontage and insufficient lot area. The structure is nonconforming due to violations of the front setback and side setback.
2. The Petitioner is proposing to construct a second story addition that increases the height of the building in the setback. The existing structure violates both the side and front setbacks. The subject property has insufficient frontage and lot area. The existing structure violates both the side and front setbacks. Relief in the form of a Special Permit pursuant to Section §4.5.3.2.2 was requested. The Board of Appeals is the Special Permit Granting Authority.
3. Any adverse effects of the Petitioner's 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.
4. The Petitioner's 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.
5. The Petitioner has met all the requirements for a Special Permit pursuant to the Westwood Zoning Bylaw.

WAIVER

The Board of Appeals voted unanimously to grant the Petitioner's request for a waiver to the following certified plot plans notation requirements listed in the Westwood Zoning Board of Appeals Rules and Regulations for the plan titled ""Proposed Addition 15 Dean Avenue Westwood, MA 02090" prepared by GLM Engineering Consultants, Inc., 19 Exchange Street, Holliston, MA 01746, dated March 21, 2022: owner of record, map & lot and new or proposed structure(s) delineated in red.

DECISION and CONDITIONS

The Board of Appeals voted unanimously to grant the Petitioner's request for a Special Permit pursuant to Section 4.5.3.2.2 of the Westwood Zoning Bylaw and upon the following conditions:

1. The Project shall be constructed in conformity with the submitted site plan titled "Proposed Addition 15 Dean Avenue Westwood, MA 02090" prepared by GLM Engineering Consultants, Inc., 19 Exchange Street, Holliston, MA 01746, dated March 21, 2022 and construction plans titled" 15 Dean Avenue Westwood, MA Permit Set" prepared by The Wooley Bean Company P.O. Box 1040, Westwood MA

02090 consisting of seventeen (17) sheets titled: Cover, X1.0, X2.0, A1.0, A1.1, A1.2, A1.3, A2.0, A2.1, A2.2, A3.0, A3.1, A3.2, S0.0, S1.0, S1.1 and S1.2.

2. The Petitioners shall install plantings on the west side of the addition to make the area more visually appealing to the neighboring properties, but said plantings are not expected to fully screen the property. Said plantings shall be continuously maintained by the property owner and any dead or dying plantings shall be replaced in kind.
3. The Petitioner shall pursue completion of the Project with reasonable diligence and continuity.
4. 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.
5. **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.**
6. 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 Petitioner 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, Michael McCusker and Linda Walsh.

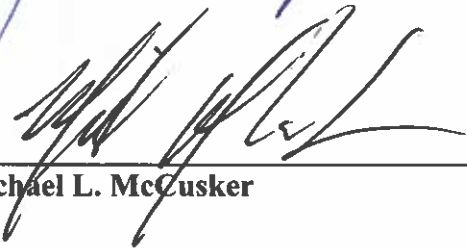
The following members of the Board of Appeals voted in opposition to the grant of the Special Permit: None.



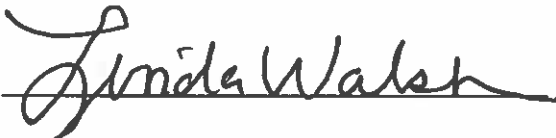
WESTWOOD ZONING BOARD OF APPEALS



John F. Lally, Chairman



Michael L. McCusker



Linda Walsh

8/1/22
Date

15 Dean Avenue