

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

PROPERTY OWNERS: John McGinnis and Georgia McGinnis

PETITIONER: John McGinnis
42 Glen Road
Westwood, MA 02090

LAND AFFECTED: 42 Glen Road
Westwood, Massachusetts 02090
Map 35 Lot 147

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 August 17, 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-floor addition to an existing nonconforming residential structure on a nonconforming lot. The lot is nonconforming due to insufficient frontage and lot area. The existing structure is nonconforming due to violations of the rear and both side setbacks. The proposed second floor addition would raise the height of the structure in all setbacks. The property is within in the Single Residence C (SRC) 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 42 Glen Road. The existing house sits on a nonconforming lot due to a lack of lot area and lot frontage. The structure is nonconforming due to violations of the rear setback and both side setbacks.
2. The Petitioner is proposing to construct a second story addition that would extend the existing rear and side walls vertically at the same distance from the lot line as the existing walls. 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.

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 "42 Glen Road Westwood, MA" prepared by Feldman Geospatial 152 Hampden Street, Boston, MA 02119, dated June 14, 2022 last revised June 17, 2022, and construction plans titled "42 Glen Road Westwood, MA", prepared by Blackbird Architecture, 333 Ricciutti Drive, Quincy MA 02169, dated February 7, 2022 consisting of consisting of five (4) sheets titled: D1.0, A1.0, A1.1, A2.0 and A2.1
2. The Petitioner shall pursue completion of the Project with reasonable diligence and continuity.
3. 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.

4. **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.**
5. 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

8/31/22

Date

42 Glen Road