

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

PROPERTY OWNERS: Brian and Wendy Sue Ash

PETITIONER: Tim Fiorillo
Progressive Contracting Corp.
5 Julie Dawn Drive
Franklin, MA 02038

LAND AFFECTED: 62 Windsor Road
Westwood, Massachusetts 02090
Map 14 Lot 035

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 November 16, 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 §4.5.3.2.1 [Special Permit Alterations of Nonconforming Structures – Horizontal Extension]. The application proposes to construct a covered front porch addition that will extend out along the same distance from the front lot line as the existing house at 34.6' where 40' is required. The lot is nonconforming as it lacks in area, frontage and width. The property is within in the SRC (Single Residence C) zoning district.

BOARD MEMBERS: Michael McCusker, Chairman
Linda Walsh
Keith Flanders

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.

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 62 Windsor Road. The existing house sits on a nonconforming lot due to a lack of frontage, insufficient lot area and width. The structure is nonconforming due to a violation of the front setback.
2. The Petitioner is proposing to construct a covered front porch addition that will extend out along the same distance from the front lot line as the existing house at 34.6' where 40' is required. Relief in the form of a Special Permit pursuant to Section §4.5.3.2.1 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 4.5.3.2.1 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 at 62 Windsor Road, Westwood, MA" prepared by Continental Land Survey, 105 Beaver Street, Franklin, MA 02038 dated March 30, 2022 and construction plans titled "Ash Residence Additions & Renovations 62 Windsor Road", prepared by Gary Moyer Architects, Inc. 28 Linwood Road, Uxbridge, MA, dated March 20, 2022, consisting of nine (9) sheets titled: A1, A2, A3, A4, A5, A6, A7, A8 and A9.
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: Michael McCusker, Linda Walsh and Keith Flanders.

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



WESTWOOD ZONING BOARD OF APPEALS

Michael L. McCusker, Chairman

Linda Walsh

Keith Flanders

11/28/22
Date

62 Windsor Road