

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

**PROPERTY OWNERS &
PETITIONERS:**

Scott Klebanoff and Mary Jenkins
16 Hillview Terrace
Westwood, MA 02090

LAND AFFECTED:

16 Hillview Terrace
Westwood, Massachusetts 02090
Map 16 Lot 083

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 April 26, 2023 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 to an existing single-family home. The existing structure is nonconforming as it violates the rear and both side setbacks. At the rear the house located 19.1' from the lot line where 30' is required. The south side set back is 14.8' and the north side setback is 11.3', where both require 15'. The lot is nonconforming as it lacks frontage, area and width. The foot print of the structure will remain the same. The property is located in the General Residence (GR) zoning.

BOARD MEMBERS:

John Lally, Chairman
Linda Walsh
Danielle Button

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 16 Hillview Terrace. The existing house sits on a nonconforming lot due to a lack of frontage, area and lot width. The structure is nonconforming due to violations of the rear setback and both side setbacks. A pre-existing nonconforming detached shed structure is also located on the subject property prior to the current residents. The rear left corner of the detached shed is slightly over the side property line.
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. The Board has directed the Zoning Agent to have the Building Department further review the submitted site plan titled “Plan Showing Proposed Roof Lines 16 Hillview Terrace”, prepared by D. O’Brien Land Surveying, dated March 20, 2023, and existing conditions shed photographs, for the pre-existing nonconforming detached shed location.
4. 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.
5. 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.
6. 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 substantial conformity with the submitted site plan titled “Plan Showing Proposed Roof Lines 16 Hillview Terrace, Westwood, MA”, prepared by D. O’Brien Land Surveying, 480 West Central Street, Franklin MA, 02038”, dated March 20, 2023 and design plans titled “Klebanoff/Jenkins Residence 16 Hillview Terrace Westwood, MA prepared by David Sharff Architect, P.C., of 16 Pound Street, Medfield MA 02052 dated July 18, 2022, last revised December 13, 2022 consisting of thirteen (13) sheets titled: C1.1, C1.3, EX1.1, EX1.2, D1.1, D2.1, S1.1, A1.1, A1.2, A2.1, A3.1, S1.1 and S1.2

2. In response to the Zoning Board of Appeals request, the Building Department reviewed the submitted site plan titled “Plan Showing Proposed Roof Lines 16 Hillview Terrace”, prepared by D. O’Brien Land Surveying, dated March 20, 2023, and existing conditions shed photographs, for the pre-existing nonconforming detached shed location, and has determined that the pre-existing detached shed at the subject property would most likely not survive a move due to its age. The Building Department will notify the property owners of 50 Hillview Terrace that the shed’s rear corner is slightly over the property line and ask that the property owners come to a private agreement. Should the existing shed be allowed to stay in the current location by the owner of 50 Hill View Terrace, any future replacement of the structure shall not be placed in the same location and shall meet Town of Westwood Zoning bylaws section 5.3 Table of Dimensional Requirements.
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, Linda Walsh and Danielle Button.

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

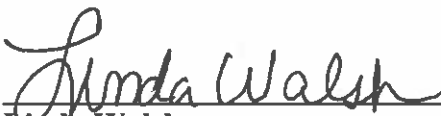


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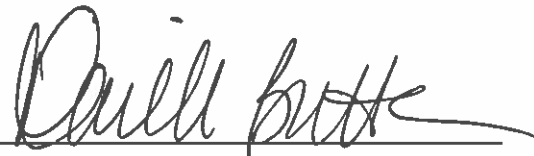
WESTWOOD ZONING BOARD OF APPEALS



John F. Lally, Chairman



Linda Walsh



Danielle Button

5/4/23
Date

16 Hillview Terrace