

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

PROPERTY OWNERS: Gregory and Lorraine Randolph

PETITIONER: Carl J. Swahn
Jancon Exteriors
PO Box F
20 Grove Street, Suite 3
Franklin, MA 02038

LAND AFFECTED: 200 Burgess Avenue
Westwood, Massachusetts 02090
Map 27 Lot 060

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 §4.5.3.2.3 [Special Permit Alterations of Nonconforming Structures]. Petitioner proposes to remove a front porch from the existing single-family residence and construct a new larger covered porch in its place. The construction of the covered porch is at 33.6' from the front lot line where 40' is required. The existing lot and structure are both nonconforming. The lot lacks sufficient frontage and area. The existing structure is located 18.5' from each side setback while 20' is required, and 35.6' from the front lot line where 40' is required. The property is located in the Single Residence C (SRC) 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:

4.5.3.2.1 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.

- 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.
- 4.5.3.2.3** Construction of an overhang, porch, portico, or similar decorative feature, which extends no further than four (4) additional feet into a required setback area, provided that the Board of Appeals makes a positive finding that the proposed design element is de minimis in nature and improves the aesthetic quality of the property.

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 200 Burgess Avenue. The existing house sits on a nonconforming lot due to a lack of frontage and area. The existing structure is nonconforming due to violations of the front setback and both side setbacks.
2. The Petitioner is proposing to remove a front porch from the existing single-family residence and construct a new larger covered porch in its place. The construction of the covered porch is at 33.6' from the front lot line where 40' is required. Relief in the form of a Special Permit pursuant to Section §4.5.3.2.3 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 4.5.3.2.3 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 of Land at 200 Burgess Avenue in Westwood, MASS" prepared by Norwood Engineering Company, Inc. 1410 Boston-Providence Highway (Route 1), Norwood, MASS. 02062" dated August 9, 2022, and design plans titled: "Renovations and Alterations to 200 Burgess Avenue Westwood, MA" prepared by Andrew Fyffe and Structural Engineer Ram Satyaprasad, dated July 19, 2022, consisting of three (3) pages titled: General Notes, A1.0 and A2.0.
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, 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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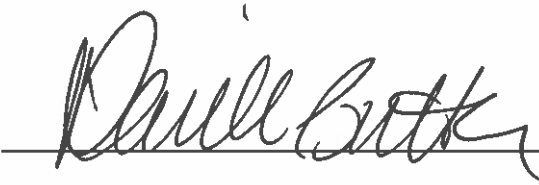
WESTWOOD ZONING BOARD OF APPEALS



John F. Lally, Chairman



Linda Walsh



Danielle Button

5/4/23
Date

200 Burgess Avenue