

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

PROPERTY OWNER(S): SLD University Station LLC
25 Dartmouth Street
Westwood, MA 02090

PETITIONER(S): B2 Tech LLC d/b/a 5 Tool Performance
88 Randolph Road
Chestnut Hill, MA 02090

LAND AFFECTED: 200 University Avenue
Westwood, Massachusetts 02090
Map 38 Lot 001

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 15, 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 §4.1.5.28. The petitioner proposes to operate an indoor baseball training center in an existing commercial building. The proposed Commercial Recreation, Indoor facility use is permitted by Special Permit from the Zoning Board of Appeals. The property is located in the Industrial (I) zoning district.

BOARD MEMBERS: John Lally, Chairman
Michael McCusker
Linda Walsh

APPLICABLE SECTIONS OF THE WESTWOOD ZONING BYLAW

SECTION 4.0 USE REGULATIONS

4.1 PRINCIPAL USES

- 4.1.1 **General.** No building or structure shall be constructed, and no building, structure or land shall be used, in whole or in part, for any purpose other than for one or more of the uses herein set forth as permitted in the district in which said building, structure or land is located, or set forth as permissible by special permit in said district, and so authorized. In the case of lots lying partly within the Industrial District or Highway Business District of the Town of Westwood and partly within another abutting municipality, that portion of the lot lying outside of the Town of Westwood may be used to meet the zoning requirements of this Bylaw, and such lot may have effective access through such abutting

municipality. However, in all other cases, no building or structure shall be constructed or used on a lot lying only partly within the Town of Westwood unless the Westwood portion of the lot shall meet the zoning requirements herein set forth, and the lot shall have effective access to the Town of Westwood. There shall be no more than one non-agricultural principal use for each lot in a Residential District, except as may otherwise be provided herein.

4.1.2 **Table of Principal Uses.** The Table of Principal Uses designates which Principal Uses are allowed in each zoning district.

A Use is permitted by right in any district under which it is denoted by the letter “Y”.

A Use is prohibited in any district under which it is denoted by the letter “N”.

A Use may be permitted by special permit from the Board of Appeals in any district under which is denoted by the letters “BA”.

A Use may be permitted by special permit from the Planning Board in any district under which is denoted by the letters “PB”.

PRINCIPAL USE

	SRA	SRB	SRC	SRD	SRE	GR	SR	LBA	LBB	HB	I	IO	ARO
4.1.3 RESIDENTIAL USES													
4.1.3.1 Single-Family Dwelling	Y	Y	Y	Y	Y	Y	Y	N	N	N	N	N	N
4.1.3.2 Conversion of One-Family Dwelling to Two-Family Dwelling per Section 8.1	BA	BA	BA	BA	BA	BA	BA	N	N	N	N	N	N
4.1.3.3 Two-Family Dwelling per Section 8.2	N	N	N	N	N	BA	N	N	N	N	N	N	N
4.1.3.4 Senior Residential Development per Section 8.3	PB	PB	PB	PB	PB	PB	PB	N	N	N	N	N	N
4.1.3.5 Residential Retirement Community per Section 8.4	N	N	N	N	N	N	N	N	N	N	N	N	BA
4.1.3.6 Nursing or Convalescent Home	N	N	N	N	N	N	N	N	N	N	N	N	BA ¹
4.1.3.7 Assisted Living Residence	N	N	N	N	N	N	N	N	N	N	N	N	BA ¹
4.1.3.8 Open Space Residential Development in accordance with Section 8.3 ²	N	Y	Y	N	Y	N	N	N	N	N	N	N	N
4.1.4 EXEMPT AND INSTITUTIONAL USES													
4.1.4.1 Use of land or structures for religious purposes	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
4.1.4.2 Use of land or structures for educational purposes on land owned or leased by the commonwealth or any of its agencies, subdivisions or bodies politic or by a religious sect or denomination, or by a nonprofit educational corporation	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
4.1.4.3 Child Care Facility in new building	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA
4.1.4.4 Child Care Facility in existing building	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
4.1.4.5 Agricultural Use, Exempt	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
4.1.4.6 Farm Stand, Exempt	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
4.1.4.7 Municipal Facilities	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
4.1.4.8 Essential Services	BA	BA	BA	BA	BA	BA	BA	Y	Y	Y	Y	Y	BA
4.1.4.9 Extension of existing cemetery	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
4.1.4.10 Public Utility	N	N	N	N	N	N	N	Y	Y	Y	Y	Y	BA

PRINCIPAL USE	DISTRICTS												
	SRA	SRB	SRC	SRD	SRE	GR	SR	LBA	LBB	HB	I	IO	ARO
4.1.5 COMMERCIAL USES													
4.1.5.1 Agricultural Use, Non-exempt	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
4.1.5.2 Farm Stand, Non-exempt ³	BA	BA	BA	BA	BA	BA	BA	N	N	N	N	N	N
4.1.5.3 Animal Hospital or Animal Clinic	N	N	N	N	N	N	N	BA	BA	Y	BA	BA	N
4.1.5.4 Funeral Home	N	N	N	N	N	N	N	BA	BA	BA	N	N	BA
4.1.5.5 Motel or Hotel on five (5) acres or more	N	N	N	N	N	N	N	N	N	N	BA	BA	N
4.1.5.6 Retail sales and services, less than 10,000 square feet	N	N	N	N	N	N	N	Y	Y	Y ⁴	Y	Y	N
4.1.5.7 Retail sales and services, 10,000 square feet or more	N	N	N	N	N	N	N	N	N ⁵	Y ⁴	BA ⁶	BA ⁶	N
4.1.5.8 Motor Vehicle Sales and Rental; other open air sales	N	N	N	N	N	N	N	N	N	BA	N	N	N
4.1.5.9 Motor Vehicle General Repairs and Body Repair	N	N	N	N	N	N	N	N	N	BA	BA	BA	N
4.1.5.10 Motor Vehicle Light Service	N	N	N	N	N	N	N	BA	BA	BA	N	N	N
4.1.5.11 Car Wash	N	N	N	N	N	N	N	N	N	BA	N	N	N
4.1.5.12 Restaurant without entertainment, less than 10,000 square feet	N	N	N	N	N	N	N	Y	Y	Y	Y	Y	N
4.1.5.13 Restaurant without entertainment, 10,000 square feet or more	N	N	N	N	N	N	N	PB	PB	Y	PB	PB	N
4.1.5.14 Restaurant with entertainment	N	N	N	N	N	N	N	PB	PB	PB	N	N	N
4.1.5.15 Fast Order Food Establishment	N	N	N	N	N	N	N	N	N	BA ⁷	N	N	N
4.1.5.16 Coffee Shop	N	N	N	N	N	N	N	Y	Y	Y	Y	Y	N
4.1.5.17 Ice Cream Parlor	N	N	N	N	N	N	N	Y	Y	Y	Y	Y	N
4.1.5.18 Pet Care facility	N	N	N	N	N	N	N	Y	Y	Y	BA	BA	N
4.1.5.19 Commercial boarding or training kennel; Commercial breeder kennel; Veterinary kennel	N	N	N	N	N	N	N	N	N	Y	BA	BA	N
4.1.5.20 Professional Services Establishment	N	N	N	N	N	N	N	Y	Y	Y	Y	Y	Y
4.1.5.21 Business Services Establishment	N	N	N	N	N	N	N	Y	Y	Y	Y	Y	Y

PRINCIPAL USE	DISTRICTS												
	SRA	SRB	SRC	SRD	SRE	GR	SR	LBA	LBB	HB	I	IO	ARO
4.1.5 COMMERCIAL USES, CONTINUED													

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4.1.5.22 Office of Health Care Professional	N	N	N	N	N	BA	N	Y	Y	Y	Y	Y	Y
4.1.5.23 Medical Center or Clinic	N	N	N	N	N	N	N	N	N	N	N ¹⁰	N	N
4.1.5.24 Hospital	N	N	N	N	N	N	N	N	N	N	N	N	N
4.1.5.25 Substance Rehabilitation or Treatment Facility	N	N	N	N	N	N	N	N	N	N ¹¹	N	N	N
4.1.5.26 Bank, Financial Institution	N	N	N	N	N	N	N	Y	Y	Y	Y	Y	N
4.1.5.27 Commercial Recreation, Outdoor	N	N	N	N	N	N	N	N	N	BA	N	N	N
4.1.5.28 Commercial Recreation, Indoor	N	N	N	N	N	N	N	BA	BA	BA	BA	BA	BA

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 University Avenue. An existing vacant commercial building is currently located on the property.
2. The Subject property is located in the Industrial (I) zoning district.
3. The Petitioner is proposing to operate an indoor baseball training facility in the existing warehouse. The Commercial Recreation, Indoor use is permitted in the Industrial (I) Zoning district by Special Permit. The Board of Appeals is the Special Permit Granting Authority.
4. The petitioner's proposal indicates five different areas within the building to focus on different elements of baseball skills training and a welcome area. Limited interior renovations are planned and consist of the installation of turf, netting and baseball cages. No exterior renovations are proposed.
5. The Petitioner is proposing to have a maximum six (6) employees and thirty-five (35) clients on site at any given time.
6. An Administrative Environmental Impact and Design Review (Admin EIDR) decision was issued by the Town Planner on November 6, 2023 for the change of use. On site parking was determined to be adequate for the Commercial Recreation, Indoor use.
7. 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.
8. 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 §4.1.5.28 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 "#200 University Ave, AS-Built plan of Land" prepared by Hancock Associates, 185 Centre Street, Danvers, MA, 01923, dated February 17, 2023, exterior elevations titled "Security Lock Dist. Renovation 200 University Avenue Westwood Ma 02090", prepared by Planners, Designers, Architects, Inc, 16 Huron Drive, Natick, MA 01760 dated December 9, 2019, last revised September 28, 2020, and Floorplans titled "5 Tolls Baseball Facility Westwood, MA Preliminary Layout" prepared by 78 Sports LLC, no address given, dated October 10, 2023, consisting of three (3) pages.

2. Approval of this Special Permit shall be subject to such conditions set forth by the Town Planner's Administrative Environmental Impact and Design Review (Admin EIDR) decision issued November 6, 2023.
3. If the Project, or any Condition imposed in this Decision, requires permit, license, or other approval from any other board, committee, or agency of the Town of Westwood or other regulatory agency of the Commonwealth or the federal government, the Applicant shall make an appropriate application for the same, and shall obtain all required approvals prior to the start of any work.
4. The Applicant shall pursue completion of the Project with reasonable diligence and continuity.
5. 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.
6. **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.**
7. 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 Applicant 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

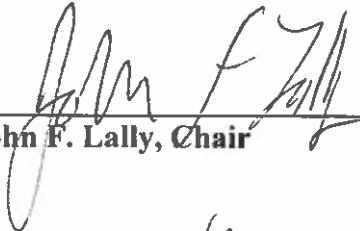
The following members of the Board of Appeals voted to grant the Special Permit for the above-mentioned project: John Lally, Michael McCusker and Linda Walsh.

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

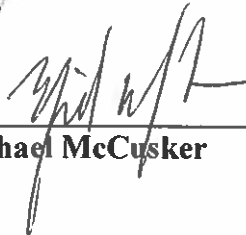


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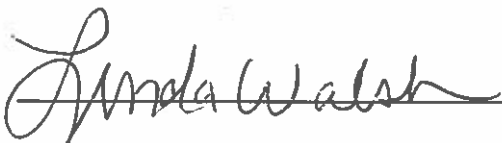
WESTWOOD ZONING BOARD OF APPEALS



John F. Lally, Chair



Michael McCusker



Linda Walsh

11/21/23
Date

200 University Avenue