

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

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By Town Clerk at 12:27 pm, May 01, 2024

PROPERTY OWNERS: Joseph and Melanie McNally

PETITIONER: Joseph McNally
379 Washington Street
Westwood, MA 02090

LAND AFFECTED: 379 Washington Street
Westwood, Massachusetts 02090
Map 23 Lot 031

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 24, 2024 at 7:00 P.M. via remote participation to consider the Petitioner’s request for a special permit pursuant to the Westwood Zoning Bylaw Sections §4.5.3.2.3 [Alterations of Nonconforming Structures]. The Petitioner proposes to remove an existing front porch attached to a single-family residence and construct a new larger covered porch in its place. The existing structure is non-conforming as it is 19.8’ from the front lot line, where 25’ is required. The proposed porch will extend into the front setback at 19.2’. The existing structure also violates the right-side setback at 7.7’ where 15’ is required. The lot is nonconforming as it lacks frontage. The property is located in the General Residence (GR) zoning district.

BOARD MEMBERS: John Lally, Chair
Michael McCusker
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 379 Washington Street. The existing house sits on a nonconforming lot due to a lack of frontage. The existing structure is nonconforming due to violations of the front setback and right-side setback.
2. The Petitioner is proposing to demolish an existing front porch attached to a single-family residence and construct a new larger covered porch in its place. The proposed porch will extend into the front setback at 19.2', less than the existing at 19.8'. The existing structure violates the right-side setback at 7.7' where 15' is required. The proposed structure will not encroach any further into the side setback.
3. Relief in the form of a Special Permit pursuant to Sections §4.5.3.2.3 was requested. The Board of Appeals is the Special Permit Granting Authority.
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 §4.5.3.2.3 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 Showing Proposed Additions 379 Washington Street Westwood, MA” prepared by D. O’Brien Land Surveying, 480 West Central Street, Franklin , MA 02038, dated February 27, 2024 and last revised April 16, 2024 and design plans titled “Alteration to the McNally Residence 379 Washington Street Westwood, MA” prepared by Harold McGonagle Architect, 103 Keystone Street, West Roxbury, MA 02138, dated February 9, 2024 consisting of 4 sheets titled: A-1, A-2, A-3 and A-4.
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 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 Lally, Chair

Michael McCusker

Danielle Button

5/1/24

Date

379 Washington Street