

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

PROPERTY OWNERS: Patrick and HollyMarie Moran

PETITIONER: Shawn Young
16 LaCivita Drive
Walpole, MA 02081

LAND AFFECTED: 165 Nahatan Street
Westwood, Massachusetts 02090
Map 21 Lot 071

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 July 17, 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 Section §4.5.3.2.2 [Special Permit Alterations of Nonconforming Structures – Vertical Extension]. The Petitioner proposes to construct a second-floor addition to an existing single-family structure. At the front, the house is located 18.3' from the lot line, where 25' is required. The east side is 7.9' at its closest from the side lot line where 15' is required. The proposed addition will extend this side of the house vertically within the required setback. The subject the lot is nonconforming as it is lacking size, frontage and lot width. The property is located in the Single Residence D (SRD) zoning district

BOARD MEMBERS: Michael McCusker, Chairman
Linda Walsh
Mark Callahan

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

By: Westwood Town Clerk

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 165 Nahatan Street and is located within the Single Residence D (SRD) zoning district.
2. The Subject Parcel is nonconforming due to a lack of size, frontage and lot width. The existing structure is nonconforming due to violations of the front and side setback.
3. The Petitioner proposes to construct a second-floor addition to an existing single-family structure. The proposed addition will further extend the exterior wall vertically within the setback.
4. 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.
5. 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.
6. 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.
7. 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 "Proposed House Addition at No. 165 Nahatan Street Westwood, MA" prepared by RIM Engineering Co., Inc., P.O. Box 32 Mansfield, MA 02048 dated June 6, 2024 and design plans titled "Moran Residence-Residential Addition, 165 Nahatan Street Westwood, MA 02090 prepared by Blackbird Architecture, dated April 15, 2024 consisting of eleven (11) sheets.
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 Mark Callahan

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



Received July 22, 2024 @ 12:00PM
By: Westwood Town Clerk

WESTWOOD ZONING BOARD OF APPEALS

Michael McCusker

Linda Walsh

Mark Callahan

7/22/24
Date

165 Nahatan Street