

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

PROPERTY OWNER(S): Khalil Laham

2016 OCT 18 P 12:36

PETITIONER(S): Khalil Laham
17 Aran Road
Westwood, Massachusetts 02090

TOWN CLERK
TOWN OF WESTWOOD

LAND AFFECTED: 17 Aran Road
Westwood, Massachusetts 02090
Map 32, Lot 059

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, September 21, 2016 at 7:00 PM in the Champagne Meeting Room of the Carby Street Municipal Office Building, 50 Carby Street, Westwood, MA 02090 to consider the Petitioners' request for a Special Permit under Section 4.3.3.12 of the Westwood Zoning Bylaw, entitled Accessory Uses in Residential Districts and Section 8.5, entitled Accessory Apartments, for the purposes of creating a second dwelling unit located within a detached, one-family dwelling. Property located in Single Residence B (SRB) District.

BOARD MEMBERS: David W. Krumsiek, Chairman
Douglas C. Stebbins
John F. Lally

APPLICABLE SECTIONS OF THE WESTWOOD ZONING BYLAW

4.3.3.12 Accessory apartment consisting of a second dwelling unit located within a detached one-family dwelling, or a building accessory thereto, subject to the conditions in Section 8.6.

<u>SRA</u>	<u>SRB</u>	<u>SRC</u>	<u>SRE</u>	<u>GR</u>	<u>SR</u>	<u>LBA</u>	<u>LBB</u>	<u>HB</u>	<u>I</u>	<u>IO</u>	<u>ARO</u>
BA	BA	BA	BA	BA	BA	BA	N	N	N	N	N

8.5 ACCESSORY APARTMENTS

8.5.1 Purposes. The purposes of this section are as follows:

- 8.5.1.1 to offer greater housing choice by allowing varied mixes of housing type, compatible with community character; and
- 8.5.1.2 to encourage preservation of community character through the continued ownership of existing residential properties and their surrounding landscapes.

- 8.5.2 **Special Permit Required.** An Accessory Apartment shall require the issuance of a special permit by the Board of Appeals in compliance with the provisions of this Section.
- 8.5.3 **Applicability.** The principal dwelling or accessory building or structure to be altered or constructed to contain an Accessory Apartment shall be a single-family dwelling or building accessory thereto.
- 8.5.4 **Limited Number of Special Permits.** The maximum number of special permits to be issued and in effect shall not exceed one percent (1%) of the current number of single-family and two-family dwelling units in Town. All applications for a special permit pursuant to this Section shall be acted upon in the order in which they are filed.
- 8.5.5 **General Requirements.** An Accessory Apartment shall be subject to the following general requirements:
- 8.5.5.1 There shall be no more than one (1) Accessory Apartment per lot.
 - 8.5.5.2 No Accessory Apartment shall be permitted on a property which also contains a Conversion of a One-family Dwelling pursuant to Section 8.1.
 - 8.5.5.3 No Accessory Apartment shall be permitted on a property which also contains a boarding house.
 - 8.5.5.4 The owner of the premises within which the Accessory Apartment is located shall occupy either the principal dwelling or the Accessory Apartment. For purposes of this Section, the owner shall be one or more individuals who constitute a family, who holds title to the premises, and for whom the premises is the primary residence for voting and tax purposes. An affidavit certifying owner occupancy shall be filed with the Building Commissioner upon initial occupancy and every four years thereafter.
 - 8.5.5.5 Adequate provision shall be made for the disposal of sewage, waste and drainage to be generated by the occupancy of the Accessory Apartment, in accordance with the requirements of the Board of Health.
- 8.5.6 **Design Requirements.** An Accessory Apartment shall be subject to the following design requirements:
- 8.5.6.1 The exterior character of the property containing an Accessory Apartment within a principal or accessory building or structure shall maintain the appearance of a single-family property.
 - 8.5.6.2 The floor area of the Accessory Apartment shall not be less than five hundred (500) square feet.
 - 8.5.6.3 The floor area of the Accessory Apartment shall not exceed the lesser of nine hundred (900) square feet, or thirty-three percent (33%) of the floor

area of the combined dwelling or dwellings if the footprint of the principal dwelling remains unchanged, or twenty-four percent (24%) of the floor area of the combined dwelling if the footprint of the principal dwelling is enlarged.

8.5.6.4 Adequate provision shall be made for direct ingress and egress to and from the Accessory Apartment without passage through any other portion of the principal structure, except that passage to and from the Accessory Apartment shall be permitted through a garage or breezeway connected to the principal structure.

8.5.6.5 All stairways to upper stories shall be enclosed within the exterior walls of the building in which the Accessory Apartment is located.

8.5.7 **Alterations, Relocations, or Additions.** The Board of Appeals may allow for the alteration or relocation of a structure proposed for conversion under this section, and may allow for the construction of one or more additions to said structure, if in the Board's determination, the proposed alteration, relocation, or addition does not significantly change the exterior character of the property.

8.5.8 **Parking Requirements.** An Accessory Apartment shall be subject to the following parking requirements:

8.5.8.1 Off-street parking shall be provided for each automobile used by an occupant of the Accessory Apartment. Said parking shall be in addition to the number of parking spaces required pursuant to Section 6.1.3.1 of this Bylaw.

8.5.8.2 Each parking space and the driveway leading thereto shall be paved or shall have an all-weather gravel surface. No motor vehicle shall be regularly parked on the premises other than in such a parking space. No parking space shall be located within a street right-of-way.

8.5.8.3 If a total of more than four (4) parking spaces are required to serve the principle dwelling and the Accessory Apartment, the provision of such additional spaces shall require a special permit pursuant to Section 4.3.3.2 of this Bylaw.

8.5.8.4 Where there are more than four (4) outdoor parking spaces associated with the principal dwelling and the Accessory Apartment, said parking spaces shall be screened with evergreen or dense deciduous plantings, walls or fences, or a combination thereof acceptable to the Zoning Board of Appeals. Said screening shall be sufficient to minimize the visual impact on abutters and to maintain the single-family appearance of the neighborhood.

8.5.9 **Building Permit and Certificate of Occupancy Required.** No accessory apartment shall be constructed without the issuance of a building permit by the Building Commissioner. No use of an Accessory Apartment shall be permitted unless a certificate of occupancy therefor, issued by the Building Commissioner, shall be in

effect. A certificate of occupancy shall not be issued unless the Building Commissioner determines that the accessory apartment is in conformity with the provisions of this Section and any special permit issued therefor.

- 8.5.10 Expiration of Special Permit.** A special permit issued pursuant to this Section shall automatically become null and void upon the expiration of ninety (90) days following such time as neither the principal dwelling nor the accessory apartment is occupied as the primary residence of the owner thereof for voting and tax purposes. Failure to provide recertification of owner occupancy pursuant to Section 8.6.5.4 shall be grounds for automatic expiration.

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 Petitioners propose to convert an existing guest suite on the on the west side of the single-family residence to an Accessory Apartment. The Project will require a Special Permit pursuant to Section 4.3.3.12 of the Westwood Zoning Bylaw [Accessory Uses in Residential Districts] and Section 8.5 [Accessory Apartments]. The Board of Appeals is the Special Permit Granting Authority.
2. The lot area of the Subject Property is 20,694 SF where 20,000 SF is required.
3. The existing detached, one-family structure, in which the proposed Accessory Apartment would be located, violates the side yard setback requirement. On the left side of the Property, a setback of 10.9' is provided where 15' is required.
4. A landscape plan dated 9/7/16, prepared by Christopher M. Kirby, PE was submitted as well as photographs of plantings which have been installed at 17 Aran Road.
5. The Board of Health issued a memorandum dated July 20, 2016 outlining requirements of the Health Department prior to construction.
6. Any adverse effects of the Petitioners' 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.
7. The Petitioners' proposed construction 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.
8. The Petitioners have 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 4.3.3.12 and Section 8.5 of the Westwood Zoning Bylaw.

1. The Project shall be constructed in conformity with the submitted architectural plan prepared by Christopher M. Kirby, PE, P.O. Box 291, Norwood Ma 0206, dated June 14, 2016, consisting of nine (9) sheets, and in conformity with the submitted plot plan prepared by Christopher L.

Charette, PLS, Charette Land Surveying, 315 Ware Street, Mansfield, MA, dated August 19, 2015, consisting of one (1) sheet. The Petitioner shall pursue completion of the Project with reasonable diligence and continuity.

2. The memorandum from the Board of Health to the Board of Appeals dated July 20, 2016 shall be made part of this decision and shall be carried out as specified.
3. This Special Permit was conditionally approved in full accordance with the submitted plans. If the Petitioner wishes to make any further changes, including changes to the width and/or location of the existing driveway and/or walkway at 17 Aran Road, the Petitioner shall submit a request for a modification of this Special Permit for consideration by the Zoning Board of Appeals.
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 persons exercising rights under a duly appealed special permit do 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 Applicants 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.
7. This Special Permit shall automatically become null and void upon the expiration of ninety (90) days following such time as neither the principal dwelling nor the Accessory Apartment is occupied as the primary residence of the owner thereof for voting and tax purposes. Failure to provide recertification of owner occupancy pursuant to Section 8.6.5.4 shall be grounds for automatic expiration.

RECORD OF VOTE

The following members of the Board of Appeals voted to grant the Special Permit for the above mentioned project: David W. Krumsiek, John F. Lally, and Douglas C. Stebbins.

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



WESTWOOD ZONING BOARD OF APPEALS

The Board of Appeals hereby certifies that the attached hereto is a true and complete copy of the Board's decision and that said decision and any plans referred to therein have been filed with the Board of Appeals.

David W. Krumsiek, Chairman

John F. Lally

Douglas C. Stebbins

10/18/16
Date

17 Aran Road - Laham