



TOWN OF WESTWOOD

Commonwealth of Massachusetts

2016 AUG -9 P 2: 53

Louise C. Rossi, Zoning Administrator

David W. Krumsiek, Chairman

John F. Lally

Douglas C. Stebbins

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TOWN OF WESTWOOD

ZONING BOARD OF APPEALS

NOTICE OF DECISION

In compliance with Chapter 40A of the General Laws of the Commonwealth of Massachusetts, you are hereby notified that the Board of Appeals has unanimously voted to **grant** the Petitioners, Mr. & Mrs. Haralambos Kariotis their request for a Special Permit pursuant to the Westwood Zoning Bylaw, Section 4.5.6 entitled Special Permit in order to add a second floor to their home to contain three bedrooms and two baths.

PROPERTY OWNER(S): Mr. and Mrs. Haralambos Kariotis

LAND AFFECTED: 94 Washington Street, Westwood, MA
Map 16, Lot 116
Zoning District General Residence

Appeals, if any, shall be filed within twenty days after the date of this notice in the office of the Town Clerk.

John F. Lally, Clerk
Zoning Board of Appeals

DATED

8/9/14

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

PROPERTY OWNER(S): Mr. & Mrs. Haralambos Kariotis

PETITIONER: Mr. & Mrs. Haralambos Kariotis
94 Washington Street
Westwood, Massachusetts 02090

LAND AFFECTED: 94 Washington Street
Westwood, Massachusetts 02090
Map 16, Lot 116

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 20, 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 4.5.6 of the Westwood Zoning Bylaw, entitled Special Permit, in order to add a second floor to their home to contain three bedrooms and two bathrooms. Property located in the General Residential District.

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

APPLICABLE SECTION OF THE WESTWOOD ZONING BYLAW

4.5 NONCONFORMING USES AND STRUCTURES

4.5.1 **Applicability.** This Section shall not apply to structures or uses lawfully in existence or lawfully begun, or to a building or special permit issued before the first publication of notice of the public hearing required by M.G.L. Chapter 40A, Section 5 at which this Bylaw, or any relevant part thereof, was adopted. Such prior, lawfully existing nonconforming uses and structures may continue, provided that no modification of the use or structure is accomplished, unless authorized hereunder.

4.5.2 **Nonconforming Uses.** The Board of Appeals may grant a special permit to change a nonconforming use in accordance with this Section only if it determines that such change or extension shall not be substantially more detrimental than the existing nonconforming use to the neighborhood. The following types of changes to nonconforming uses may be considered by the Board of Appeals:

4.5.2.1 Change or substantial extension of the use.

4.5.3 **Nonconforming Structures.** The Board of Appeals may grant a special permit to reconstruct, extend, alter or change a nonconforming structure in accordance with this Section only if it determines that such reconstruction, extension, alteration or change shall not be substantially more detrimental than the existing nonconforming structure to the neighborhood. The following types of changes to

nonconforming structures may be considered by the Board of Appeals:

- 4.5.3.1 Reconstructed, extended or structurally changed.
- 4.5.3.2 Altered to provide for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent.
- 4.5.4 **New or Expansion of Nonconformity.** The reconstruction, extension or structural change of a nonconforming structure in such a manner as to increase an existing nonconformity, or create a new nonconformity, including the extension of an exterior wall at or along the same nonconforming distance within a required setback, shall require the issuance of a special permit from the Board of Appeals.
- 4.5.5 **Nonconforming Single and Two-Family Residential Structures.** Nonconforming single and two-family residential structures may be reconstructed, extended, altered or structurally changed upon a determination by the Building Commissioner that such proposed reconstruction, extension, alteration or change does not increase the nonconforming nature of said structure. The following circumstances shall not be deemed to increase the nonconforming
 - 4.5.5.1 Alteration to a structure which complies with all current setback, yard, building coverage and building height requirements but is located on a lot with insufficient lot area, where the alteration will also comply with all of said current requirements.
 - 4.5.5.2 Alteration to a structure which complies with all current setback, yard, building coverage and building height requirements but is located on a lot with insufficient lot frontage, where the alteration will also comply with all of said current requirements.
 - 4.5.5.3 Alteration to a structure which encroaches upon one (1) or more required setback areas, where the alteration will comply with all current setback, yard, building coverage and building height requirements regardless of whether the lot complies with current lot area and lot frontage requirements.
 - 4.5.5.4 Alteration to the side or face of a structure which encroaches upon a required setback area, where the alteration will not encroach upon such area to a distance greater than the existing structure regardless of whether the lot complies with current lot area and lot frontage requirements.
 - 4.5.5.5 Alteration to a nonconforming structure which will not increase the footprint of the existing structure provided that existing height restrictions shall not be exceeded.
- 4.5.6 **Special Permit.** In the event that the Building Commissioner determines that the nonconforming nature of such structure would be increased by the proposed reconstruction, extension, alteration or change, the Board of Appeals may, by special permit, allow such reconstruction, extension, alteration or change where it determines that the proposed modification will not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

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 adding a second floor to the existing building. The project will require a Special Permit pursuant to Section 4.5.6 as the lot is non-conforming as to area and frontage. The Board of Appeals is the Special Permit granting authority.

2. The subject lot is 9,370 SF where 12,000 SF is required and the existing building violates the side and rear setbacks.
3. The addition will increase the height in the setback but not over the average maximum allowed height of 25'.
4. Due to a growing family, the addition will provide additional necessary bedroom and bath space.
5. The addition will encompass the main portion of the roof and not expand over two existing eaves.
6. The completed addition will modify the exterior of the home from a bungalow style to a craftsman style colonial.
7. The Board of Health issued a memorandum dated July 20, 2016 outlining requirements of the Health Department prior to construction.
8. 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.
9. 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.
10. 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 Petitioners' request for a Special Permit pursuant to Section 4.5.6 of the Westwood Zoning Bylaw.

1. The Project shall be constructed in conformity with the submitted plan entitled "Kariotis Residence Renovations", consisting of nineteen (19) pages, dated April 25, 2016 and October 12, 2015 and the submitted plot plan prepared by Field Resources, Inc., 281 Chestnut Street, Needham, MA dated April 26, 2016. The Applicants 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 relative to construction requirements shall be made a part of this decision.
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 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.**
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 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.

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

8/9/14

Date

TOWN CLERK
TOWN OF WESTWOOD

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94 Washington Street - Kariotis

