

Town of Westwood
Commonwealth of Massachusetts

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



ZONING BOARD OF APPEALS

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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 Petitioner, Christopher Alberg, his request for a Special Permit pursuant to the Westwood Zoning Bylaw, Section 4.4.3 [Accessory Apartments]. The application is a request to modify a Special Permit granted on March 20, 2006 by the Board. The requested modification would remove a condition placed on the Special Permit restricting use of the accessory apartment as a non-rental unit. The property is located in the Residential C Zoning District.

PROPERTY OWNER(S): Christopher Alberg and Nicholas Schiarizzi

LAND AFFECTED: 1364 High Street, Westwood, MA
Map 28 Lot 282

The signed decision for the petition was filed at the office of the Town Clerk on January 3, 2017.

Any appeal of this decision shall be made pursuant to the Massachusetts General Laws, Chapter 40A, Section 17 and a copy delivered to Office of the Town Clerk within twenty (20) days of the date that the decision was filed in the office of the Town Clerk.

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

PROPERTY OWNER(S): Nicholas Schiarizzi & Christopher Alberg 2017 JAN -3 P 1: 07

PETITIONER(S): Christopher Alberg
LAND AFFECTED: 1364 High Street
Westwood, Massachusetts 02090
Map 28, Lot 282

TOWN CLERK
TOWN OF WESTWOOD

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 Monday December 12, 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 Petitioner's request to modify a Special Permit previously granted on March 20, 2006 by the Board. The requested modification would remove a condition placed on the Special Permit restricting use of the accessory apartment as a non-rental unit. The property is located in the Residential C Zoning District.

BOARD MEMBERS: John F. Lally, Chairman
Douglas C. Stebbins
David M. Belcher

APPLICABLE SECTION OF THE WESTWOOD ZONING BYLAW

8.6 ACCESSORY APARTMENTS

8.6.1 **Purposes.** The purposes of this section are as follows:

8.6.1.1 to offer greater housing choice by allowing varied mixes of housing type, compatible with community character; and

8.6.1.2 to encourage preservation of community character through the continued ownership of existing residential properties and their surrounding landscapes.

8.6.2 **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.

8.6.3 **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.

8.6.4 **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.

8.6.5 General Requirements. An Accessory Apartment shall be subject to the following general requirements:

- 8.6.5.1 There shall be no more than one (1) Accessory Apartment per lot.
- 8.6.5.2 No Accessory Apartment shall be permitted on a property which also contains a Conversion of a One-family Dwelling pursuant to Section 8.1.
- 8.6.5.3 No Accessory Apartment shall be permitted on a property which also contains a boarding house.
- 8.6.5.4 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.
- 8.6.5.5 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.

8.6.6 Design Requirements. An Accessory Apartment shall be subject to the following design requirements:

- 8.6.6.1 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.
- 8.6.6.2 The floor area of the Accessory Apartment shall not be less than five hundred (500) square feet.
- 8.6.6.3 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.
- 8.6.6.4 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.

- 8.6.6.5 All stairways to upper stories shall be enclosed within the exterior walls of the building in which the Accessory Apartment is located.
- 8.6.7 **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.
- 8.6.8 **Parking Requirements.** An Accessory Apartment shall be subject to the following parking requirements:
- 8.6.8.1 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.
- 8.6.8.2 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.
- 8.6.8.3 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.
- 8.6.8.4 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.
- 8.6.9 **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.
- 8.6.10 **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 Board previously issued a Special Permit to the owners of the property on March 20, 2006 to allow the construction and use of an accessory apartment.
2. An accessory apartment at 1364 High Street was subsequently built to code and received all necessary permits for occupancy.
3. The Board amended the Town of Westwood's Zoning Bylaw in 2014 to remove former Section 4.4.3.16, which disallowed rental of accessory apartments. The Board no longer conditions Special Permits for accessory apartments to non-rental use.
4. Any adverse effects of the Petitioner's proposed modification 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 proposed modification 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.

DECISION and CONDITIONS

The Board of Appeals voted unanimously to grant the Petitioner's request for a Special Permit modification pursuant to Section 8.6 of the Westwood Zoning Bylaw.

1. The Special Permit approved on March 20, 2006 by the Board shall be amended to strike condition 2 of the Decision, which reads as follows: "The Accessory Apartment shall be restricted to a non-rental unit and shall at no time, either under current ownership or future ownership, be converted to a rental unit".
2. The Board shall further remove reference to former Section 4.4.3.16 of the Zoning Bylaw in the March 20, 2006 decision approving the Special Permit.
3. The memorandum from the Building Commissioner to the Board of Appeals dated December 12, 2016 shall be made part of this decision and the conditions of said letter shall be carried out as specified:

The Petitioner shall submit plans to the Building Department for an additional, private means of egress for the accessory apartment should the apartment be converted to rental use.

4. These modifications to the 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.

RECORD OF VOTE

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

The following members of the Board of Appeals voted in opposition to the modification 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.



John F. Lally - Chairman



Douglas C. Stebbins



David M. Belcher

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Date

1364 High Street- Alberg

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TOWN CLERK
TOWN OF WESTWOOD