

**Town of Westwood**  
Commonwealth of Massachusetts

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



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2017 AUG -3 P 3 31  
TOWN CLERK  
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 Petitioner, Joy Colby, her request for a Variance pursuant to the Westwood Zoning Bylaw, Section 5 entitled Dimensional Requirements to allow a previously constructed shed to remain within the setbacks.

**PROPERTY OWNER(S):** Joy Frances Colby

**LAND AFFECTED:** 18 Buckmaster Road, Westwood, MA  
Map 28, Lot 161

The signed decision for the petition was filed at the office of the Town Clerk on August 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.

2017 AUG -3 P 3 B

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

TOWN CLERK  
TOWN OF WESTWOOD **PROPERTY OWNER(S): Joy Frances Colby**

**PETITIONER:** Joy Colby  
18 Buckmaster Road  
Westwood, MA 02090

**LAND AFFECTED:** 18 Buckmaster Road  
Westwood, MA 02090  
Map 28, Lot 161

**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, May 17, 2017 at 7:00 P.M. in the Champagne Meeting Room at the Carby Street Municipal Building, 50 Carby Street, Westwood, MA 02090, continued to Wednesday, June 21, 2017 at 7:00 P.M. in the Champagne Meeting Room at the Carby Street Municipal Building, 50 Carby Street, Westwood, MA 02090 and continued again to Wednesday, July 19 2017 at 7:00 P.M. in the Champagne Meeting Room at the Carby Street Municipal Building, 50 Carby Street, Westwood, MA 02090 to consider the Petitioner's request for a Variance from Section 5.0 of the Westwood Zoning Bylaw to allow a previously constructed shed to remain within the setbacks. Property located in Single Residential Zoning District C.

**BOARD MEMBERS:** David W. Krumsiek, Chairman  
John F. Lally  
David M. Belcher

**APPLICABLE SECTION OF THE WESTWOOD ZONING BYLAW**

**SECTION 5.0 DIMENSIONAL REQUIREMENTS**

**5.1 GENERAL**

In all Districts, no building or structure, except a one-story accessory building or structure of accessory use, shall be constructed on a lot unless said building or structure and lot are in conformance with the "Dimensional Requirements" specified in the table of

Dimensional Requirements set forth herein for the district in which said building or structure and lot are located and no more than one building or structure constructed as a dwelling, or so used, shall be located on each such lot except as may otherwise be provided herein. In all Districts, no building or structure (except for a flag, utility or light pole) or swimming pool shall be constructed so as to be nearer to the street line or nearer to the side lines or rear line of its lot unless its location is in conformance with said Table. Nothing herein shall prevent the projection of eaves, chimneys or cornices not exceeding eighteen (18) inches in width, or of uncovered steps, window sills or belt courses into any minimum setback distances or other open space.

In the case of an Open Space Residential Development project proposed under sub-article 8.3 in this bylaw, the dimensional and density requirements established therein shall take precedence over those established in Section 5.2, TABLE OF DIMENSIONAL REQUIREMENTS for purposes of increased design flexibility and enhanced open space preservation.

2017 AUG - 3 P 3 3  
TOWN CLERK  
TOWN OF WESTWOOD

Section 5.2 TABLE OF DIMENSIONAL REQUIREMENTS

	Minimum Lot Area (sq ft)	Minimum Lot Frontage (feet)	Minimum Lot Width (feet)	Minimum Nonwetland Area <sup>2</sup> (sq ft)	Minimum Front Setback <sup>1</sup> (feet)	Minimum Side Yard Setback <sup>3</sup> (feet)	Minimum Rear Yard Setback <sup>4</sup> (feet)	Maximum Building Coverage (%)	Maximum Impervious Surface (%)
5.2.1	12,000	90	90	12,000	25	15'	30'	25	50
5.2.2	20,000	90	90	15,000	25	15'	30'	25	30
5.2.3	40,000	125	125	30,000	40	20'	30'	25	50
5.2.4	15,000	90	90	12,000	25	15'	30'	25	50
5.2.5	80,000	175	175	60,000	40	20'	30'	25	50
5.2.6	12,000	90	90	12,000	25	15'	30'	25	50
5.2.7	80,000	175	175	60,000	40	20'	30'	25	50
5.2.8	4,000	40	40	4,000	10	15'	15	25	80
5.2.9	4,000	40	40	4,000	0	15'	15	25	80
5.2.10	10,000	100	100	10,000	50	15	15	50	80
5.2.11	40,000	200	200	12,000	50	15 <sup>18</sup>	15 <sup>11</sup>	50	80
5.2.12	40,000	200	200	12,000	50	15 <sup>18</sup>	15 <sup>11</sup>	50	80
5.2.13	80,000	175	175	60,000	50	30 <sup>12</sup>	30	30	50

2017 AUG -3 P 3 B.

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## 10.4 VARIANCES

2017 AUG - 3 P 3 3  
10.4.1 **Permit Granting Authority.** Variances from the specific requirements of this Bylaw may be authorized by the Board of Appeals, except that variances authorizing a use not otherwise permitted in a particular zoning district shall not be granted.

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10.4.2 **Application.** A petition for a variance shall be filed with the Town Clerk, who shall forthwith transmit it to the Board of Appeals. The Board of Appeals shall hold a public hearing within sixty-five (65) days of the receipt of the petition from the Town Clerk and shall render a decision within one hundred (100) days from the date of filing. Failure by the Board of Appeals to take final action within the one hundred (100)-day period shall be deemed to be a grant of the variance.

10.4.3 **Findings.** Before granting a variance from the requirements of this Bylaw, the Board of Appeals must specifically find that owing to circumstances relating to soil conditions, shape or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of this Bylaw would involve substantial hardship, financial or otherwise, to the Applicant and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of this Bylaw.

10.4.4 **Procedures.** An application for a variance shall be filed in accordance with the rules and regulations of the Board of Appeals.

10.4.5 **Conditions.** Variances may be granted with such reasonable conditions, safeguards or limitations on time or use, including performance guarantees, as the Board of Appeals may deem necessary to serve the purposes of this Bylaw.

10.4.6 **Plans.** An Applicant for a variance shall submit a plan in substantial conformance with the requirements of the Board of Appeals.

10.4.7 **Regulations.** The Board of Appeals may adopt rules and regulations for the administration of this Section.

10.4.8 **Fees.** The Board of Appeals may adopt reasonable administrative fees and technical review fees for applications for variances.

## FINDINGS

In consideration of all of the testimony and exhibits and documents submitted into the record **2017 AUG -3 P 3** before the Board, the Board makes the following findings of fact:

1. The Petitioner is requesting a variance from Section 5.0 to permit a previously constructed accessory structure to remain within the rear and side setbacks. The necessary zoning relief is in the form of a Variance. The Zoning Board of Appeals is the Variance granting authority.
2. The property is a nonconforming lot, providing 6,000 sq. ft. where 40,000 sq. ft. is required.
3. The Petitioner purchased the property in 1999, at which time an inground swimming pool was already installed in the backyard. A plot plan generated on April 26, 2006 shows an existing storage shed located 2' and 1.8' from the western side and rear lot lines, respectively.
4. The shed was demolished and rebuilt in 2007 in the same location. The current shed is located within the setbacks, which provide for 6' from the rear lot line and 15' from the side lot line. The shed provides necessary storage of pool chemicals, equipment and other lawn maintenance items.
5. Literal enforcement of the bylaw would locate the shed within the footprint of the swimming pool, which per building code is considered a preexisting structure on the property. Due to the unique circumstances of the pool and land associated with the property, there is no potential location for the shed that satisfies the dimensional requirements of Section 5.0 of the Zoning Bylaw.
6. The Petitioner cited substantial hardship relative to literal enforcement of the bylaw, involving both financial hardship relative to a potential move of the structure and the practical hardship of securing alternate storage solutions on the property in a manner that does not create a visual disturbance or negatively impact the aesthetic quality of the neighborhood.
7. The Board specifically finds that owing to circumstances relating to the shape, soils or topography of this parcel and the structures thereon that especially affect such land or structures but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of this Bylaw would involve substantial hardship, financial or otherwise, to the Petitioner and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of this Bylaw.

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**DECISION and CONDITIONS**

The Board of Appeals voted unanimously to grant the Petitioner's request for a Variance from the Westwood Zoning Bylaw, Section 5.0 to allow the storage shed to remain constructed within the setbacks. Approval of a Variance shall be conditioned upon successful condition of the following:

Petitioner shall install natural screening adjacent to the first full panel of fence that is unblocked by the shed along the rear lot line. Screening shall be evergreen (arborvitae or similar) and a minimum of 6' in height at the time of planting. Petitioner shall install screening within 60 days of this decision. Screening shall be maintained by the Petitioner and replaced as necessary should any plantings not survive.

This grant of variance shall be exercised in accordance with Section 10.4 entitled Variances and Section 10.4.9 entitled Lapse as follows:

10.4.9 Lapse. Any rights authorized by a variance which are not exercised within one (1) year from the date of grant of such variance shall lapse. The Board of Appeals, in its discretion and upon the written application of the Applicant, may extend the time for exercise of the variance for a period not to exceed six (6) months provided that the application for such extension is filed with the Board of Appeals prior to the expiration of the one (1) year period. If the request for an extension is not granted, the variance may be reestablished only after notice and new hearing pursuant to M.G.L. Chapter 40A, Section 10.

**RECORD OF VOTE**

The following members of the Board of Appeals voted to grant the Variance for the above mentioned project: David W. Krumsiek, Douglas C. Stebbins, David M. Belcher.

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

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2017 AUG -3 P WESTWOOD ZONING BOARD OF APPEALS

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David W. Krumstiek - Chairman

8/3/17

Date

18 Buckmaster Road-Colby





2017 WESTWOOD ZONING BOARD OF APPEALS

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David M. Belcher

8/3/17

Date

18 Buckmaster Road-Colby



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2017 AUG -3 P 3 50

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Douglas C. Stebbins

8/3/17  
Date

18 Buckmaster Road-Colby