

**Town of Westwood**  
Commonwealth of Massachusetts

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



**ZONING BOARD OF APPEALS**

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TOWN OF WESTWOOD

**NOTICE OF DECISION**

In compliance with Chapter 40B 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, South Shore Habitat for Humanity its request for a Comprehensive Permit to construct a single family home at 5 Highview Street.

PROPERTY OWNER(S): Duncan MacFarland

LAND AFFECTED: 5 Highview Street, Westwood, MA  
Map 11 Lot 016

The signed decision for the petition was filed at the office of the Town Clerk on **June 21, 2017**.

Any appeal of this decision shall be made pursuant to the Massachusetts General Laws, Chapter 40B, Section 22 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): Duncan McFarland**

**PETITIONER(S):** South Shore Habitat for Humanity  
20 Mathewson Street  
Weymouth, MA 02189

**LAND AFFECTED:** 5 Highview Street  
Westwood, Massachusetts 02090  
Map 11, Lot 016

**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 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 for a for a Comprehensive Permit pursuant to M.G.L. Chapter 40B. The application proposes to construct a single family dwelling and requests relief from Section 5.2 [Table of Dimensional Requirements] of the Westwood Zoning Bylaw. The property is located in Single Residential Zoning District C.

**BOARD MEMBERS:** David W. Krumsiek, Chairman  
Douglas C. Stebbins  
David M. Belcher

**PROCEDURAL HISTORY**

In consideration of all of the testimony and exhibits and documents submitted before the Board, the Board makes the following findings of fact:

1. On October 17, 2016, the Board of Selectmen issued a letter of support to South Shore Habitat for Humanity (referred to herein as the "Petitioner") for the proposed construction of an affordable single family home at 5 Highview Street (the "Project"). The letter contained twelve (12) conditions that it believed would satisfy the concerns of abutters, expressed to the Board of Selectmen at a public hearing that month.
2. On January 24, 2017, the Petitioner, with the support of Ms. Nancy Hyde, Chair of the Westwood Board of Selectmen and Mr. Christopher Pfaff, Chair of the Westwood Housing Partnership, submitted an Application for Comprehensive Permit Projects to the Department of Housing and Community Development ("DHCD").
3. On April 6, 2017, DHCD issued a Project Eligibility Letter ("PEL") to the Petitioner and Ms. Hyde for the Project.

4. On April 12, 2017, the Petitioner mailed notice of a scheduled community meeting to all abutters of 5 Highview Street within 300 feet. On April 27, 2017, that meeting took place at the Westwood Public Library as scheduled.
5. On April 18, 2017, the Petitioner applied to this Board for a Comprehensive Permit, pursuant to G.L. Chapter 40B, Sections 20-23 (the "Act"), to construct one (1) affordable single family residence on 7,600 square feet at 5 Highview Street, located at the corner of Highview Street and Burgess Avenue in Westwood, Massachusetts (the "Property").
6. On April 25, 2017, Town staff mailed a copy of the Legal Notice of Public Hearing to all abutters within 300 feet of 5 Highview Street.
7. The Legal Notice of Public Hearing was published in the Westwood Press, a publication of sufficient local distribution, on April 28 and May 5 of 2017.
8. On April 28, 2017, the Petitioner submitted a revised site plan.
9. As required by the Act, the Board notified all applicable local boards and commissions of the filing of the application by sending a copy thereof to such local boards and commissions for their recommendations, all of which have been made a part of the record of these proceedings and have been taken into consideration by the Board in rendering its Decision.
10. On May 12, 2017, the Board received a letter of opposition to the Project expressing concerns primarily related to potential environmental contamination and hazards on the property. The letter was signed by 23 resident households of Westwood.
11. On May 12, 2017, the Board received a letter of opposition to the Project expressing concern about the loss of green space achieved through development of the subject parcel. The letter was signed by the direct abutter located at 9 Highview Street.
12. The Board of Appeals (the "Board") opened a duly advertised public hearing on May 17, 2017. It received oral and written testimony from the Petitioner, Town staff, boards and commissions, local residents and the general public with respect to the project. The hearing was closed on May 17, 2017 without continuance.

### 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 Property formerly contained an abandoned cape-style home that had fallen into disrepair. It was subject to possession by the Town and subsequently sold at auction. The purchaser, Mr. Duncan McFarland, has committed to donate the Property to the Petitioners following receipt of the requested Comprehensive Permit.
2. The proposed residence will be a single family cape-style home with three bedrooms and 1300 square feet of living area. The Project will be conducted in accordance with Habitat for Humanity's established practice of utilizing licensed contractors, proposed new owners, and community volunteers for home construction.

3. The design of the home is consistent with other properties in the neighborhood, many of which are also on nonconforming lots due to lot size, frontage and/or setbacks.
4. The proposal will result in an affordable homeownership opportunity for an income-qualified family, with Habitat for Humanity serving as an affordable mortgage lender. The deed to the home will contain a rider that restricts resale of the Property and maintains its affordability in perpetuity.
5. The home will qualify for placement on the Town's Subsidized Housing Inventory and count towards its state-mandated 10% affordability requirement. Construction of this home is consistent with the Town's goals to increase its supply of affordable housing stock and expand the diversity of housing options for residents throughout the Town, as expressed in the Housing Element of the Town of Westwood 2000 Comprehensive Master Plan.
6. The Board has given full consideration to the local conditions that affect and may be affected by the Petitioners' proposal, and having particular expertise in said local conditions, have taken a view that the 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, 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 Board heard the concerns of Town staff, boards, and residents and weighed them against local needs. The Board finds that the Project, as conditioned below, is Consistent with Local Needs, as defined in 760 CMR 56.02 and required by the Act, and addresses local and regional housing needs.
8. In response to the conditions requested by the Board of Selectmen, the Petitioners have already addressed or are in the process of addressing many of the Local Concerns, also defined in 760 CMR 56.02. The Board finds further completion of these conditions to be necessary to address Local Concerns, and imposing them in the Board's decision will not render the project uneconomic.
9. The Board finds that the Petitioner is a non-profit organization proposing a Project that meets the project eligibility requirements of 760 CMR 56.04(1).
10. The Board finds that the Local Concerns relating to environmental hazards have been sufficiently addressed by the soil characterization testing completed by EnviroTrac Environmental Services on January 25, 2017 and commissioned by the Petitioner. The Soil Sample Plan, Summary of Soil Data, and SGS Accutest Analytical Report provided by EnviroTrac on February 3, 2017 establish that there is no significant petroleum contamination in any of the three samples obtained from the subject property. The testing was conducted in accordance with Massachusetts Department of Environmental Protection EPH/VPH Methods. The Board finds that the need for further soils testing is speculative, and the expense of such testing would be uneconomic to the Petitioner and would impose unreasonable and undue burden on the Petitioner.
11. The Board finds that the Local Concerns affected thereby do not outweigh the regional need for affordable housing, especially given the conditions set by the Board of Selectmen that the Petitioner has already addressed, specifically relating to soil testing, home design, and creation of management

staging plans that accommodate the impact of construction upon the neighborhood, in direct response to concerns of the Board and other parties in interest.

12. The proposed project is supported by the Town of Westwood Board of Selectmen and the Housing Partnership.
13. The Board finds that the Petitioners have met all the requirements for a Comprehensive Permit pursuant to the Westwood Zoning Bylaw and M.G.L. Chapter 40B.

### **DECISION**

At a meeting of the Board of Appeals on Wednesday May 17, 2017, on a motion made by Douglas C. Stebbins and seconded by David M. Belcher, the Board voted to grant with conditions the Petitioner's request for a Comprehensive Permit to construct a single family home at 5 Highview Street.

### **CONDITIONS**

The Petitioners shall be granted the Comprehensive Permit with certain conditions.

#### Basic Legal Requirements

1. The Comprehensive Permit shall be issued to South Shore Habitat for Humanity, the Petitioner, of 20 Mathewson Street, Weymouth, MA 02189.
2. The Project shall be constructed in conformity with the submitted plan prepared by Main Street Architects, 25 Mathewson Drive, Suite 120, Weymouth, MA 02189, dated July 28, 2016, consisting of four (4) sheets, and in conformity with the submitted plot plan prepared by Christopher C. Charlton, P.L.S., Continental Land Survey, LLC, 105 Beaver Street, Franklin, MA 02138, dated April 29, 2016, consisting of one (1) sheet. The Petitioners shall pursue completion of the Project with reasonable diligence and continuity.
3. The Petitioner shall sell the affordable home to an eligible household with a gross annual income not to exceed 60% of the area median income. The sale of the affordable home shall be subject to the Local Initiative Program Deed Rider, which shall be recorded with the deed at the time of purchase and shall ensure the home remains affordable in perpetuity. All uses and restrictions outlined in the LIP Deed Rider shall apply.
4. In accordance with the Town's commitment to affirmatively furthering fair housing, the Petitioner must carry out the affirmative marketing plan as submitted and approved by DHCD. The Petitioner shall work cooperatively with the Town to market the affordable unit, utilizing the Town to identify appropriate local outreach venues. Family selection must abide by the federal Fair Housing Act, also known as Title VIII of the Civil Rights Act, and the Massachusetts Antidiscrimination Law, M.G.L. c. 151B, and must not discriminate against the following protected classes: race, color, national origin, religion, sex, physical or mental disability, familial status, gender identity, sexual orientation, or any other classification protected by applicable federal, state or local law.

5. This Comprehensive Permit shall expire if construction is not commenced within three (3) years from the date this Decision becomes final as provided in 760 CMR 56.05(12)(c), subject to the tolling provisions of 760 CMR 56.05(12)(c).
6. The Applicant may apply to the Board for extensions of this Comprehensive Permit in accordance with 760 CMR 56.05(12)(c).
7. If the Applicant revises any of the Plans, it shall present the revised plans to the Board in accordance with 760 CMR 56.05(11).
8. This Comprehensive Permit may be transferred by the Applicant only upon compliance with the requirements of 760 CMR 56.05(12)(b).
9. Prior to thirty (30) days subsequent to the end of all applicable appeal periods, the Applicant shall record this Decision in the Norfolk County Registry of Deeds and shall provide the Westwood Town Clerk with a copy of this Decision endorsed with the applicable recording information.

#### Conditions to be Met in Advance of Building Permit Issuance

10. The Petitioner shall submit a landscaping plan to the Building Commissioner at the time of building permit application that calls for appropriate foundation plantings, grass seeding on any disturbed ground areas, and preservation of existing mature trees when feasible.
11. Pursuant to the memorandum from the Westwood Board of Health dated May 11, 2017, the Petitioner shall ensure the following:
  - a. The waste company providing the construction dumpster be licensed by the Westwood Board of Health;
  - b. The company providing a portable toilet must be licensed by the Westwood Board of Health.

#### Conditions to be Met in Advance of Certificate of Occupancy

12. The Petitioner shall also install a 6 foot fence along the north and west property lines of the Property. All fencing installed on the Property must be in compliance with the Town of Westwood Zoning Bylaw, Section 5.5.5 [Corner Clearance] to preserve sight lines.

#### General Conditions

13. Pursuant to the memorandum from the Westwood Conservation Commission dated May 17, 2017, if the project causes greater than 5000 square feet of disturbance, the Petitioner shall file with the Conservation Commission in accordance with the Town's Stormwater Management Bylaw
14. The Petitioner shall continue to reassess through the start of excavation the possibility of reducing the grade of that portion of the lot nearest the intersection of Highview Street and Burgess Avenue to improve sight distance.
15. The Project shall be completed in compliance with the Construction Management and Staging Plan submitted with the Comprehensive Permit Application. Accordingly, the Petitioner shall

arrange for satellite parking and/or carpooling for volunteers to reduce the amount of on-street parking within the neighborhood.

16. Should the Petitioner further require additional waivers from Town bylaws and/or regulations, the Board shall entertain requests for minor modification of this Comprehensive Permit if the additional waivers are substantially consistent with the approved plans.

### **WAIVERS**

The Board has granted the following waiver requested by the Petitioner:

The Petitioner may receive relief from the minimum lot area, minimum frontage, minimum lot width, and setback requirements established in the Westwood Zoning Bylaw Section 5.2 [Dimensional Requirements] to construct a single family residence on the subject property within Single Residential District C.


### **RECORD OF VOTE**

The following members of the Board of Appeals voted to grant the Petitioner's request for a Comprehensive Permit: David W. Krumsiek, Douglas C. Stebbins and David M. Belcher.

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



**WESTWOOD ZONING BOARD OF APPEALS**

  
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**David W. Krumsiek - Chairman**

  
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**Douglas C. Stebbins**

  
\_\_\_\_\_  
**David M. Belcher**

5/17/17  
**Date**

**5 Highview Street- McFarland/South Shore Habitat for Humanity**

TOWN CLERK  
TOWN OF WESTWOOD

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