

Town of Westwood
Commonwealth of Massachusetts



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2017 OCT 27 P 1:51 ZONING BOARD OF APPEALS

TOWN CLERK
TOWN OF WESTWOOD

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, Petruzziello Properties, LLC and Matt's Barbers Unlimited LLC, their request for a Special Permit pursuant to the Westwood Zoning Bylaw, Section 4.5.2.2 [Special Permit Required for Alteration to Nonconforming Use], to change the current retail use to a personal service business use.

PROPERTY OWNER(S): Petruzziello Properties, LLC

LAND AFFECTED: 256 Washington Street, Westwood, MA
Map 23 Lot 184

The signed decision for the petition was filed at the office of the Town Clerk on **October 27, 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): Petruzziello Properties, LLC

PETITIONER(S): Petruzziello Properties, LLC & Matt's Barbers Unlimited LLC
21 Eastbrook Road
Dedham, Massachusetts 02026

LAND AFFECTED: 256 Washington Street
Westwood, Massachusetts 02090
Map 23, Lot 184

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, October 18, 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 Petitioners' request for a Special Permit under Section 4.5.2.2 [Special Permit Required for Alteration to Nonconforming Use] of the Westwood Zoning Bylaw to change the current retail use to a personal service business use. Property located in General Residential Zoning District.

BOARD MEMBERS: David W. Krumsiek, Chairman
John F. Lally
Gregory J. Donovan

APPLICABLE SECTIONS OF THE WESTWOOD ZONING BYLAW

4.5 NONCONFORMING USES AND STRUCTURES

4.5.1 **Applicability.** Nonconforming uses and structures, as defined in Section 2.0 of this Bylaw, may continue. Any alteration of a nonconforming use, or any alteration of a nonconforming structure, shall require authorization in accordance with this section. An alteration of a structure is a modification, structural change, extension, or reconstruction of the structure.

4.5.2 **Nonconforming Uses.**

4.5.2.1 **Permitted Alterations of Nonconforming Uses.** A structure that conforms dimensionally to current zoning regulations while its use no longer conforms can be altered without needing a special permit if the Building Commissioner determines that the proposed alteration falls under any of the following circumstances:

4.5.2.1.1 There is no extension or expansion of the exterior of the structure.

4.5.2.1.2 There is no interior expansion that would intensify the use.

4.5.2.1.3 The alteration is made for the purposes of conforming to the building code for health and safety purposes.

4.5.2.2 Special Permit Required for Alteration to Nonconforming Use. The Board of Appeals may grant a special permit to modify, alter or extend a nonconforming use in accordance with this Section only if it determines that such modification, alteration or extension shall not be substantially more detrimental than the existing nonconforming use to the neighborhood and the town. To be considered insubstantial, the Board must find that the proposed use reflects the nature and purpose of the prior use, there is no difference in the quality, character or degree of the proposed use and the proposed use is not different in its effect on the neighborhood.

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 relocate an existing personal services business to a property previously occupied by a retail business. The commercial property is located within the General Residential Zoning District. The proposed use will require a Special Permit pursuant to Section 4.5.2.2 [Special Permit Required for Alteration to Nonconforming Use]. The Board of Appeals is the Special Permit Granting Authority.
2. The lot area of the subject property is 9099 square feet where 12,000 SF are required.
3. The lot frontage of the subject property is 67 feet where 90 feet are required.
4. The previous use of the subject property was a nonconforming retail use in a residential district. The proposed personal services use is also nonconforming.
5. The proposed personal services use will not be substantially more detrimental than the existing nonconforming retail use to the neighborhood and the town. The proposed personal services use reflects the nature and purpose of the prior use, and there is no difference in the quality, character or degree of the proposed use. The proposed use is not different in its effect on the neighborhood.
6. The proposed change of use requires an Environmental Impact and Design Review (EIDR), pursuant to Section 7.3 of the Bylaw. An Administrative EIDR application pursuant to Section 7.3.6 was submitted to the Planning Board on 9/29/17.
7. The Board has given full consideration to the local conditions that affect and may be affected by the Petitioners' proposed construction, and having particular expertise in said local conditions, have taken a view that 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.
8. 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, 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.
9. 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 4.5.2.2 of the Westwood Zoning Bylaw.

1. The Project shall be pursued in conformity with the proposed use contained in the narrative submitted to the Board. The Petitioner shall pursue completion of the Project with reasonable diligence and continuity.
2. This Special Permit shall be conditional upon successful completion and adherence to any conditions established by the Planning Board and/or Town Planner in the Environmental Impact and Design Review pursuant to Section 7.3 of the Bylaw.
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.

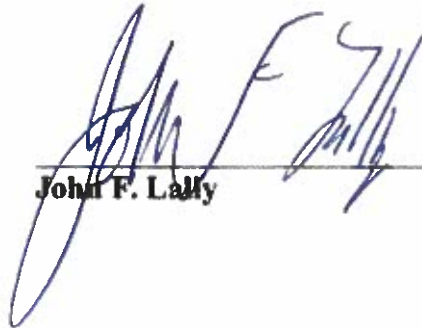
RECORD OF VOTE

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 Gregory J. Donovan.

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



WESTWOOD ZONING BOARD OF APPEALS



John F. Lally

10/18/17
Date

256 Washington Street- Petruzziello Properties and Matt's Barbers Unlimited LLC

2017 OCT 21 P 1:00
TOWN CLERK
TOWN OF WESTWOOD



WESTWOOD ZONING BOARD OF APPEALS


Gregory J. Donovan

10/18/17
Date

256 Washington Street- Petruzzello Properties and Matt's Barbers Unlimited LLC

2011 OCT 21 P 1:00
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WESTWOOD ZONING BOARD OF APPEALS



David W. Krumsiek - Chairman

10/18/17
Date

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