

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

Town of Westwood
Commonwealth of Massachusetts



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~~2018 SEP 19 10:00~~
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TOWN CLERK
TOWN OF WESTWOOD

ZONING BOARD OF APPEALS

NOTICE OF DECISION

In compliance with the General Laws of the Commonwealth of Massachusetts, you are hereby notified that the Board of Appeals has unanimously voted to grant the Petitioners, Lori Cohen & Richard Karpf, their request for Leave to Withdraw Without Prejudice relative to the Variance requested for 51 Hillcrest Place pursuant to Section 4.5.3.3 [Variance Required for New or Expansion of Nonconformity] of the Westwood Zoning Bylaw.

In addition, the Board of Appeals has unanimously voted to grant the Petitioners, Lori Cohen & Richard Karpf, their request for a Special Permit pursuant to Section 4.5.3.2.3 [Special Permit Alterations of Nonconforming Structures] of the Westwood Zoning Bylaw to construct a portico on the subject property within the front setback.

The property is located in the Single Residential C (SRC) Zoning District.

PROPERTY OWNER(S): Lori Cohen & Richard Karpf

LAND AFFECTED: 51 Hillcrest Place
Westwood, Massachusetts 02090
Map 014, Lot 040

The signed decisions for the petitions were filed at the office of the Town Clerk on September 19, 2018

Any appeal of a decision of the Zoning Board of Appeals 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): Lori Cohen & Richard Karpf

PETITIONER(S): Lori Cohen & Richard Karpf
51 Hillcrest Place
Westwood, Massachusetts 02090

LAND AFFECTED: 51 Hillcrest Place
Westwood, Massachusetts 02090
Map 14, Lot 040

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, September 12, 2018 at 7:00 PM in the EOC/Training Room of the Westwood Police Station, 588 High Street, Westwood, MA 02090 to consider the Petitioners' request for a Variance pursuant to Westwood Zoning Bylaw Section 4.5.3.3 to construct a portico on the subject property within the front setback. Property located in Single Residential C Zoning District (SRC).

BOARD MEMBERS: John Lally, Acting Chairman
Douglas Stebbins
Danielle Button

APPLICABLE SECTION OF THE 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.

4.5.3 Nonconforming Structures.

4.5.3.1 Permitted Alterations of Nonconforming Single and Two-Family Residential Structures.

Nonconforming single and two-family residential structures may be altered upon a determination by the Building Commissioner that such proposed alteration does not increase the nonconforming nature of said structure. The following circumstances shall be deemed not to increase the nonconforming nature of said structure and may be permitted as of right:

- 4.5.3.1.1 Alteration to a structure which complies with all current setbacks, building coverage and building height requirements but is located on a lot with insufficient lot area, where the alteration will still comply with all of such current requirements.
- 4.5.3.1.2 Alteration to a structure which complies with all current setbacks, building coverage and building height requirements but is located on a lot with insufficient lot frontage, where the alteration will still comply with all such current requirements.
- 4.5.3.1.3 Alteration to a structure which violates one (1) or more required setbacks, where the alteration will now 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.
- 4.5.3.1.4 Alteration to a side or face of a structure which violates a required setback, where the alteration will not increase the setback violation, and will comply with building height restrictions, regardless of whether the lot complies with current lot area and lot frontage requirements.
- 4.5.3.1.5 Alteration to a nonconforming structure which will not increase the footprint of the existing structure provided that existing height restrictions of Section 5.0 of this bylaw shall not be exceeded.

4.5.3.2 Special Permit Alterations of Nonconforming Structures. In the event that the Building Commissioner determines that a proposed alteration to a nonconforming structure does not meet the requirements of Section 4.5.3.1, the Board of Appeals may grant a special permit to make alterations to a nonconforming structure in accordance with this Section only if it determines that such alteration does not substantially increase the nonconforming nature of said structure and would not be substantially

more detrimental than the existing nonconforming structure to the neighborhood. The following types of alterations to nonconforming structures may be considered for a special permit by the Board of Appeals:

- 4.5.3.2.1 Horizontal extension of an exterior wall at or along the same nonconforming distance within a required setback as the existing wall, provided that existing height restrictions shall not be exceeded, regardless of whether the lot complies with current lot area and lot frontage requirements.
- 4.5.3.2.2 Vertical extension of an existing exterior wall at or along the same or greater distance from a lot line, provided that the structure has a building height of no more than twenty-five (25) feet, if constructed on a lot that does not comply with current lot area and/or lot frontage requirements, or a building height no greater than permitted by this Bylaw if constructed on a lot that complies with current lot area and/or lot frontage requirements.
- 4.5.3.2.3 Construction of an overhang, porch, portico, or similar decorative feature, which extends no further than four (4) additional feet into a required setback area, provided that the Board of Appeals makes a positive finding that the proposed design element is de minimis in nature and improves the aesthetic quality of the property.

4.5.3.3 Variance Required for New or Expansion of Nonconformity. In the event that the Building Commissioner determines that a proposed alteration to a nonconforming structure increases the nonconformity or results in a new nonconformity and does not meet the requirements of Section 4.5.3.1 nor of Section 4.5.3.2, a variance is required in accordance with Section 10.4 of this bylaw. If the nonconforming nature of a structure would be increased by the proposed alteration, a variance from Board of Appeals shall be required to allow such alteration. In addition, no nonconforming structure, commercial or residential, shall be altered to accommodate a substantially different use, or to accommodate the same use in a substantially different manner or to a substantially greater extent, unless a variance allowing said alteration is granted by the Board of Appeals.

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 Subject Property is located at 51 Hillcrest Place. The Petitioners propose to construct a covered portico on the front of the existing single family structure. Relief in the form of a Variance to build the porch less than 4' into the front setback was requested. The Board of Appeals is the Variance Granting Authority for this request.
2. The Board duly posted and opened the public hearing on September 18, 2018 at which time it received a verbal request from the Petitioners to withdraw the application without prejudice.

DECISION and CONDITIONS

At a meeting of the Board of Appeals on Wednesday September 18, 2018, the Board voted to grant the Petitioners' request for Leave to Withdraw Without Prejudice relative to the Variance requested for 51 Hillcrest Place pursuant to Section 4.5.3.3 of the Westwood Zoning Bylaw.

RECORD OF VOTE

The following members of the Board of Appeals voted to grant the Petitioners' request for the Leave to Withdraw Without Prejudice: John Lally, Douglas Stebbins and Danielle Button.

The following members of the Board of Appeals voted in opposition to the Leave to Withdraw Without Prejudice: None.

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

PROPERTY OWNER(S): Lori Cohen & Richard Karpf

PETITIONER(S): Lori Cohen & Richard Karpf
51 Hillcrest Place
Westwood, Massachusetts 02090

LAND AFFECTED: 51 Hillcrest Place
Westwood, Massachusetts 02090
Map 14, Lot 040

HEARING:

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BOARD MEMBERS: John Lally, Acting Chairman
Douglas Stebbins
Danielle Button

APPLICABLE SECTION OF THE ZONING BYLAW

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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.

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4.5.3.2 Special Permit Alterations of Nonconforming Structures. In the event that the Building Commissioner determines that a proposed alteration to a nonconforming structure does not meet

the requirements of Section 4.5.3.1, the Board of Appeals may grant a special permit to make alterations to a nonconforming structure in accordance with this Section only if it determines that such alteration does not substantially increase the nonconforming nature of said structure and would not be substantially more detrimental than the existing nonconforming structure to the neighborhood. The following types of alterations to nonconforming structures may be considered for a special permit by the Board of Appeals:

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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 construct a covered portico on the front of the existing single family structure. Relief in the form of a Special Permit to build the porch less than 4' into the front setback was requested. The Board of Appeals is the Special Permit Granting Authority.
2. The lot area of the Subject Parcel is 26,773 SF where 40,000 SF is required.
3. The lot frontage of the Subject Parcel is 63' where 125' is required.
4. Both the existing and proposed footprints of the single family structure are conforming to the front setback.
5. The portico as proposed would measure 5' by 9.5', violating the front setback requirement by 3.6', with 36.4' provided where 40' is required.
6. The Board finds that the proposed project is de minimis in nature and constitutes an overhang, porch, portico, or similar decorative feature.
7. The Board has given full consideration to the local conditions that affect and may be affected by the Petitioners' construction, and having particular expertise in said local conditions, have taken a view that any adverse effects of the Petitioners' 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 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 4.5.3.2.3 of the Westwood Zoning Bylaw.

1. The Project shall be otherwise constructed in conformity with the submitted plans prepared by Leah Greenwald, AIA, 184 Prospect Hill Road, Waltham, MA 02451, dated June 7, 2018, consisting of two (2) sheets, and in conformity with the submitted plot plan prepared by Thomas P. Bernardi, P.L.S., Massachusetts Survey Consultants, 14 Sumner Street, Gloucester, MA 01930, dated August 8, 2019, consisting of one (1) sheet.
2. The Petitioners shall pursue completion of the Project with reasonable diligence and continuity.

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: John Lally, Douglas Stebbins, and Danielle Button.

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



WESTWOOD ZONING BOARD OF APPEALS

John F. Lally

Douglas Stehbins

Danielle Button

9/12/18
Date

51 Hillcrest Place – Cohen & Karpf

TOWN CLERK
TOWN OF WESTWOOD

2018 SEP 19 P 3:08

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

Town of Westwood
Commonwealth of Massachusetts



Sarah Bouchard, Housing & Zoning Agent
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2018 SEP 19 10:30 AM
Maura A. Quinn, Planning Assistant
mquinn@townhall.westwood.ma.us
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TOWN CLERK
TOWN OF WESTWOOD

ZONING BOARD OF APPEALS

NOTICE OF DECISION

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In addition, the Board of Appeals has unanimously voted to grant the Petitioners, Lori Cohen & Richard Karpf, their request for a Special Permit pursuant to Section 4.5.3.2.3 [Special Permit Alterations of Nonconforming Structures] of the Westwood Zoning Bylaw to construct a portico on the subject property within the front setback.

The property is located in the Single Residential C (SRC) Zoning District.

PROPERTY OWNER(S): Lori Cohen & Richard Karpf

LAND AFFECTED: 51 Hillcrest Place
Westwood, Massachusetts 02090
Map 014, Lot 040

The signed decisions for the petitions were filed at the office of the Town Clerk on September 19, 2018

Any appeal of a decision of the Zoning Board of Appeals 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.

2018 OCT 24 4:11 PM
TOWN CLERK
TOWN OF WESTWOOD

I hereby certify that the Decision by the Westwood Board of Appeals allowing this Variance/Special Permit was received in this office on 9-29-18 and 20 days have elapsed and that:

No Appeals have been filed.

A Notice that an Appeal was filed in Norfolk Superior Court/Land Court was filed in this office on _____

Carby Street Municipal Building • 50 Carby Street

Maura A. Quinn
Town Clerk of Westwood

RECEIPT
Printed: October 24, 2018 @ 10:44:36
Norfolk Registry of Deeds
William P O'Donnell
Register

Trans#: 235984 Oper: SDOHERTY

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Book: 36384 Page: 24 Inst#: 95153
Ct1#: 464 Rec: 10-24-2018 @ 10:44:29a
WSTD 51 HILLCREST PLACE

DOC	DESCRIPTION	TRANS AMT
	DECISION	
	10.00 rec fee	17.00
	20.00 Surcharge	20.00
	5.00 Tech. Surcharge	5.00
	STATE PG ADJ	7.00
	Postage/Handling Fee	1.00
	State Fee \$40.00	40.00
	Total fees:	76.00
	*** Total charges:	76.00
	CHECK PM 116	76.00

2018 OCT 24 A 11: 01
TOWN CLERK
TOWN OF WESTWOOD