

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

2018 NOV 20 A 11: 43

**PROPERTY OWNER(S): Rodney & Melissa Lukowski**

**PETITIONER(S):** John Bruno  
92 Millbrook Avenue  
Walpole, MA 02081

TOWN CLERK  
TOWN OF WESTWOOD

**LAND AFFECTED:** 70 Bay Colony Drive  
Westwood, Massachusetts 02090  
Map 30, Lot 008

**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, November 14, 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 Special Permit pursuant to Section 4.3.3.2 of the Westwood Zoning Bylaws, entitled Accessory Uses in Residential Districts, in order to store more than 3 vehicles on the premises. Property located within the Single Residential District E (SRE).

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

**APPLICABLE SECTION OF THE WESTWOOD ZONING BYLAW**

**4.3 ACCESSORY USES**

**4.3.1 Table of Accessory Uses.** The Table of Accessory Uses designates which Accessory Uses are allowed in each zoning district.

A Use is permitted by right in any district under which it is denoted by the letter "Y".

A Use is prohibited in any district under which it is denoted by the letter "N".

A Use may be permitted by special permit from the Board of Appeals in any district under which is denoted by the letters "BA".

A Use may be permitted by special permit from the Planning Board in any district under which is denoted by the letters "PB".

**DISTRICTS**

**ACCESSORY USE**

SRA SRB SRC SRD SRE SR SR LBA LBB HB I IO ARO

**4.3.2 ACCESSORY USES IN ALL DISTRICTS**

4.3.2.1 Any use allowed in that district as a Principal Use.

Y Y Y Y Y Y Y Y Y Y Y Y

4.3.2.2 Any use allowed in that district by special permit as a Principal Use, subject to the same conditions as a Principal Use.

BA BA BA BA BA BA BA BA BA BA BA BA

4.3.2.3 Uses, whether or not on the same premises as uses permitted as of right, accessory to uses permitted as of right, which are necessary in connection with scientific research or scientific development or related production.

BA BA BA BA BA BA BA BA BA BA BA BA

4.3.2.4 When associated with otherwise permitted agricultural operations on a lot with not more than five (5) acres, the following: (1) kennel, (2) salesroom or stand, (3) any building or structure devoted to productive agricultural use which, together with any other such buildings or structures on the premises, covers more than five hundred (500) square feet or contains more than five thousand (5,000) cubic feet.

BA BA BA BA BA BA BA BA BA BA BA BA

4.3.2.5 Commercial Outdoor Seating in association with permitted commercial uses pursuant to Section 4.4.2.

N N N N N N N Y Y Y Y Y Y

**4.3.3 ACCESSORY USES IN RESIDENTIAL DISTRICTS**

4.3.3.1 Private garage for not more than three (3) motor vehicles including not more than one (1) commercial vehicle with a gross vehicle weight of less than 26,000 pounds.

Y Y Y Y Y Y Y N N N N N N

4.3.3.2 Private garage and/or the parking or storage area of more than three (3) motor vehicles, or of more than one (1) commercial vehicle with a gross vehicle weight of less than 26,000 pounds, but only where in connection with a Principal Use on the same premises.

BA BA BA BA BA BA BA N N N N N N

4.3.3.3 Private greenhouse, stable, tool shed, playhouse, tennis court, swimming pool, or other similar building or structure for domestic use. Swimming pools shall be enclosed as required by the Massachusetts State Building Code, as amended from time to time.

Y Y Y Y Y Y Y N N N N N N

4.3.3.4 Raising or keeping of animals as pets by the resident of the premises.

Y Y Y Y Y Y Y N N N N N N

4.3.3.5 Renting of rooms by a resident owner, or the furnishing of table board in a dwelling by the resident owner, to not more than three (3) persons other than members of the family.

Y Y Y Y Y Y Y N N N N N N

4.3.3.6 Home Occupation pursuant to Section 4.4.1

Y Y Y Y Y Y Y N N N N N N

#### **4.4 NOTES FOR TABLE OF ACCESSORY USES**

- 1** Provided that any such uses shall be conducted primarily for the convenience of employees and the clientele of the principal use of the premises and shall be wholly within a building and have no exterior advertising display.
- 2** The total square feet of floor space within a parking garage as an accessory use shall not be included in the calculation of Floor Area Ratio.

## **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 Petitioner is proposing to build a new single family home that contains a four (4) bay private garage. Since this structure will have the ability to park and/or store more than three (3) motor vehicles, the project will require a Special Permit pursuant to Section 4.3.3.2. The Board of Appeals is the Special Permit granting authority.
2. The property encompasses 1.84 acres. The proposed structure does not encroach on any setbacks.
3. Four exterior garage bays are proposed with sufficient interior space to contain more than three vehicles.
4. The use of the vehicles will be consistent with that of a residential setting, for personal use by the occupants of the home.
5. The Board has given full consideration to the local conditions that affect and may be affected by the Petitioner's proposed construction, and having particular expertise in said local conditions, have taken a view that any adverse effects of the Petitioner's 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.
6. The Petitioner's 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.
7. The Petitioner has 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 4.3.3.2 of the Westwood Zoning Bylaw and upon the following conditions:

1. The Project shall be constructed in conformity with the submitted plan consisting of eleven (11) pages, prepared by John Bruno, 92 Millbrook Ave, Walpole, MA 02081, dated July 30, 2018 and the submitted plot plan prepared by Anthony Dellorco, P.L.S., Dellorco Associates, 214 East Street, Foxborough, MA 02035, dated August 9, 2018 and updated by Tsung Ting Chiang, P.E. on October 10, 2018. The Applicant shall pursue completion of the Project with reasonable diligence and continuity.
2. 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.

3. **The person exercising rights under a duly appealed special permit does so at risk that a court will reverse the permit and any construction performed under the permit may be ordered to be undone.**
4. 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 Applicant 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 K. Lally, Douglas C. Stebbins and David M. Belcher.

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 - Acting Chairman**

**Douglas C. Stebbins**

**David M. Belcher**

11/14/18  
**Date**

**70 Bay Colony - Lukowski**