



Town of Walpole
Commonwealth of Massachusetts
Zoning Board of Appeals

Zoning Board of Appeals
John Lee, Chair
Drew Delaney, Vice Chair
Robert Fitzgerald, Clerk
David Anderson, Member
Judith Conroy, Member
Timothy Hoegler, Assoc. Member
Mark Major, Assoc. Member

DECISION - ZONING BOARD OF APPEALS CASE NO. 23-31

APPLICANT:

Bristol Brothers Corp.

OWNER OF RECORD:

Bristol Brothers Corp.

LOCATION OF PROPERTY INVOLVED:

534 West Street
Walpole Assessors Map: 32-96
Zoning District: LB, RB and RA

APPLICATION:

A **Special Permit** under 9.4.A of the Walpole Zoning Bylaws in order to alter/enlarge an existing, non-conforming one-family dwelling, as part of the applicant's Age Qualified Village (AQV) project.

DESCRIPTION OF PROJECT:

The applicant seeks to develop an Age Qualified Village, of which the property at 534 West Street is a part. The applicant's originally proposed Age Qualified Village (the "Original Project") was approved through a Special Permit and Site Plan Review with the Planning Board in February of 2020. In the original approved project the proposed plans called for the dwelling at 534 West Street to be demolished. In January 2023 the applicant applied to the Planning Board for a modification to their Site Plan and Special Permit Decision to amend the layout of the site (the "Current Project"). The current project now calls for the dwelling at 534 West Street to be preserved and expanded so that it may be incorporated into the Age Qualified Village. The applicant is requesting a Special Permit through the Zoning Board of Appeals in order to alter/enlarge the existing, non-conforming, one-family dwelling, as shown on the plans submitted and incorporated into this decision.

PUBLIC HEARING:

On January 3, 2024 a public hearing was opened and held in the Select Board Meeting Room of Walpole Town Hall, 135 School Street, for the purpose of receiving information and voting upon a decision as to the granting of the requested Special Permit. The public hearing was closed that same evening.

On January 3, 2024 the following members were present and voting:

John Lee, Chair
Drew Delaney, Vice Chair
Bob Fitzgerald, Clerk
Judy Conroy, Member
Mark Major, Associate Member

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A motion was made by Ms. Conroy, and seconded by Mr. Fitzgerald, to approve the **Special Permit** under **Zoning Bylaw Section 9.4.A**, for 534 West Street to alter/enlarge an existing, non-conforming one-family dwelling, as part of the applicant's Age Qualified Village (AQV) project, based on the plot plan titled "Plan of land showing layout plan, 534 West Street, Walpole, Ma" dated October 24, 2023 and zoning plan dated October 24, 2023 produced by Crocker Design Group, LLC, 2 Sharp Street, Unit B, Hingham, MA 02043.

The vote was (5-0-0) in favor: Lee-Aye, Delaney-Aye, Fitzgerald-Aye, Conroy-Aye, Major-Aye; therefore, the application for a **Special Permit** is hereby granted, subject to the following conditions:

CONDITIONS:

1. The property owner shall record this Decision with the Norfolk County Registry of Deeds and provide a copy along with proof of recording to the Zoning Board of Appeals, Walpole Town Clerk, and Walpole Building Department.
2. Additions to the proposed single family dwelling shall be constructed according to the plan titled "Layout Plan", 534 West Street, Walpole, Ma" dated October 24, 2023 and the plan titled "Zoning Plan" dated October 24, 2023. Both plans were produced by Crocker Design Group, LLC, 2 Sharp Street, Unit B, Hingham, MA 02043.
3. The address of the proposed dwelling shall be 3 Weathervane Drive, or given another address deemed appropriate by Town Emergency Services.
4. The project shall comply with fast track requirements of the Stormwater Bylaw.

DECISION RATIONALE

It is the finding of the Board that the Applicant was able to meet the requirements of Section 9.4.A to alter/enlarge the existing, non-conforming, one-family dwelling, as shown on the plans submitted. The Board finds that the modification is in character with and follows the intent of the Zoning District in which it is located, and the use as part of an Age Qualified Village. Accordingly, the Board has determined that the Special Permit requested is warranted. Specifically, the Board made the following findings pursuant to Section 2.2.B.(1) of the Zoning Bylaw:

- (a) Does and shall comply with such criteria or standards as shall be set forth in the section of this Bylaw which refers to the granting of the requested Special Permit;**

The Board finds that the proposed alteration/enlargement to the pre-existing, non-conforming single-family dwelling meets the criteria of Zoning Bylaw Section 9.4.A. As stated within Section 9.4.A of the Zoning Bylaws, any proposed enlargement or extension of a nonconforming one-family or two-family dwelling may be approved by Special Permit if the proposed change is deemed to not be substantially more detrimental to the neighborhood than the existing nonconforming structure. Therefore, the Board finds this criterion is satisfied.



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- (b) shall not have vehicular and pedestrian traffic of a type of quantity so as to adversely affect the immediate neighborhood;**

The Board finds that the modification to a pre-existing, non-conforming single-family dwelling will not result in an adverse effect on the neighborhood relative to traffic. The proposed modification to the single-family dwelling is comprised of two additions to the existing dwelling which will not result in an adverse increase in vehicular and pedestrian traffic specific to this dwelling. Therefore, the Board finds that this criterion is satisfied.

- (c) shall not have a number of residents, employees, customers, or visitors, so as to adversely affect the immediate neighborhood;**

The Board finds that the proposed expansion to the dwelling, specifically additions on either side of the existing dwelling, will not increase the number of residents or visitors that would negatively impact the immediate neighborhood. There will be no employees or customers as it is a residential use, and the only disruptions will be temporary during construction. Accordingly, the Board finds that there will not be any adverse effect on the neighborhood, and this condition is satisfied.

- (d) shall comply with the dimensional requirements applicable to the zoning district in which the premises is located, including, without limitation, the applicable lot coverage and buffer zone requirements in Section 5-G;**

The Board finds that the dwelling does not conform to the applicable dimensional requirement of a fifty (50) foot buffer, which is required for an Age Qualified Village under Section 10-C of the Town's Zoning Bylaws. However, the dwelling is pre-existing nonconforming and Section 9.4.A of the Zoning Bylaws allows for enlargement or extension of a pre-existing nonconforming one-family or two-family dwelling, so long as the Board finds that the proposed alteration will not result in a change that is deemed substantially more detrimental to the surrounding neighborhood than the existing nonconforming structure. The Board finds that the additions to the existing dwelling within the AQV buffer will not be substantially more detrimental to the surrounding neighborhood than the existing condition. Therefore, the Board finds that this criterion has been met.

- (e) shall not be dangerous to the immediate neighborhood of the premises through fire, explosion, emission of wastes, or other causes;**

The Board finds that the proposed additions to the legally non-conforming single-family dwelling is residential, and there will not be any activities or products being used or stored at the location in relation to this application which would cause any danger to the immediate neighborhood or the premises through fire, explosion, emission or wastes, or other causes. As a result, this criterion has been met.

- (f) shall not create such noise, vibration, dust, heat, smoke, fumes, odor, glare or other nuisance or serious hazard as to adversely affect the immediate neighborhood;**

The Board finds that the proposed use is residential. Some noise and dust will be generated during construction. Nothing proposed by the Applicant will be used, generated, or would otherwise create



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such noise, vibration, dust, heat, smoke, fumes, odor, glare or other nuisance or serious hazard as to adversely affect the immediate neighborhood. Therefore, this criterion is satisfied.

(g) shall not adversely affect the character of the immediate neighborhood, and;

The Board finds that the proposed additions are in keeping and will not adversely affect the character of the immediate neighborhood. This home is part of an approved Age Qualified Village project. The outside character of the home will be in keeping with the overall look of the other homes to be constructed. This home will have two bedrooms which is similar to other homes in the area. Therefore, the Board is satisfied that this condition is met.

(h) shall not be incompatible with the purpose of the Zoning Bylaw or the purpose of the Zoning District in which the premises is located;

The Board finds the proposed additions are compatible with the purpose of the Zoning Bylaw as relief for preexisting nonconforming dwellings is permissible provided that the Board deems the relief sought will not be substantially more detrimental to the neighborhood than the existing non-conforming structure. Furthermore, the relief sought is for a residential use within a residential zoning district and is therefore appropriate for that zoning district. Therefore, this criterion is met.

Said Special Permit is granted pursuant to Massachusetts General Law c. 40A § 9 which provides in pertinent part as follows: "...Zoning ordinances or by-laws shall provide that a special permit granted under this section shall lapse within a specified period of time, not more than two years, which shall not include such time required to pursue or await the determination of an appeal referred to in section seventeen, from the grant of thereof, if a substantial use thereof has not sooner commenced except for good cause or, in the case of permit for construction, if construction has not begun by such date except for good use".

Massachusetts General Laws c. 40A, §11 provides in pertinent part as follows: "A special permit, or any extension, modification or renewal thereof, shall not take effect until a copy of the decision bearing the certification of the city or town clerk that 20 days have elapsed after the decision has been filed in the office of the city or town clerk and either that no appeal has been filed or the appeal has been filed within such time, or if it is a special permit which has been approved by reason of the failure of the permit granting authority of special permit granting authority to act thereon within the time prescribed, a copy of the application for the special permit-accompanied by the certification of the city or town clerk stating the fact that the permit granting authority or special permit granting authority failed to act within the time prescribed, and whether or not an appeal has been filed within that time, and that the grant of the application resulting from the failure to act has become final, is recorded with the Norfolk registry of deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner on record or is recorded and noted on the owner's certificate of title. The person exercising rights under a duly appealed special permit does so at risk that a court will reverse the permit and that any construction performed under the permit may be ordered undone. This section shall in no event terminate or shorten the tolling, during the pendency of any appeals, of the 6 month periods provided under the second paragraph of section 6. The fee for recording or registering shall be paid by the owner or applicant.



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APPEALS FROM THIS DECISION FOR A SPECIAL PERMIT, IF ANY, SHALL BE MADE PURSUANT TO MASSACHUSETTS GENERAL LAWS CHAPTER 40A, SECTION 17, AND SHALL BE FILED WITHIN TWENTY DAYS AFTER THE DATE OF FILING OF THE NOTICE OF DECISION IN THE OFFICE OF THE CITY OR TOWN CLERK.

WALPOLE ZONING BOARD OF APPEALS

Robert Fitzgerald

Robert Fitzgerald, Clerk

This decision was made on January 3, 2024 and filed with the Town Clerk on January 9, 2024