



**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. 23-6

APPLICANT:

Christopher Gibson

OWNER OF RECORD:

Christopher Gibson

LOCATION OF PROPERTY INVOLVED:

657 North Street
Walpole Assessors Map: 12-100
Zoning District: Rural (R)

APPLICATION:

A **Special Permit** under 5.B.3.I of the Walpole Zoning Bylaws to construct an accessory structure/building to be used as a custom furniture making space to be operated by the homeowner.

DESCRIPTION OF PROJECT:

The applicant is requesting a Special Permit in order to construct an accessory structure/building to be used as a custom furniture making space to be operated by the homeowner.

PUBLIC HEARING:

On March 20, 2023 a public hearing was opened and held in the Main 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 March 20, 2023 the following members were present and voting:

John Lee, Chair
Drew Delaney, Vice Chair
Bob Fitzgerald, Clerk
Judy Conroy, Member
David Anderson, Member

A motion was made by Ms. Conroy, and seconded by Mr. Delaney, to approve the **Special Permit** under **Zoning Bylaw Section 5.B.3.I**, as conditioned, for 657 North Street to construct an accessory structure/building to be used as a custom furniture making space to be operated by the homeowner based on the plan titled "Building Permit Plan of Land in Walpole, Ma" dated November 17, 2022 and revised on February 23, 2023 and architectural renderings dated January 17, 2023 by Classic Design, Inc, 1201 Rothsville Road, Livitz, PA 17543.

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

CONDITIONS:

1. Plans with life safety devices, such as smoke and carbon monoxide (CO) detectors, will be submitted to the Walpole Fire Department for review and approval, with a follow up Fire Department inspection to confirm conformance with approved plans.
2. 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.
3. The proposed accessory structure/building shall be constructed according to the plan titled "Building Permit Plan of Land in Walpole, Ma" dated November 17, 2022 and revised February 23, 2023 by Dunn McKenzie, Inc., 206 Dedham Street, Norfolk, MA 02056 and architectural renderings dated January 17, 2023 by Classic Design, Inc, 1201 Rothsville Road, Livitz, PA 17543.
4. All new curb cuts shall be approved by the Department of Public Works.
5. The home occupation is specifically allowed for the wood working shop use only.
6. There shall be no parking for the business on Buckboard Drive.

DECISION RATIONALE

It is the finding of the Board that the Applicant was able to meet the requirements of Section 5.B.3.I to construct an accessory structure/building to be used as a custom furniture making space to be operated by the homeowner. The Board finds that the modification is in character with and follows the intent of the Zoning District in which it is located. 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 use meets the criteria of Zoning Bylaw Section 5.B.3.I within the table of use regulations. As stated within Section 5.B.3.I of the Zoning Bylaws, a customary home occupation can be approved by Special Permit. As further discussed below, the Board found that the proposed use of custom furniture making was in keeping with the bylaw in that (1) such use is clearly secondary to the use of the premises for dwelling purpose, (2) no trading in merchandise is proposed to be conducted regularly, except for the sale of products made by the resident himself, (3) such use will not have a material adverse effect on the value of the land and buildings in the neighborhood, (4) the external appearance and general aspect of the proposed building is in conformity with the residential character of the neighborhood, and (5) no outside display of goods or products, storage of



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materials or equipment, other outward evidence that the premises is being utilized for any reason other than residential. Therefore, the Board finds this criterion is satisfied.

- (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 proposed home occupation will not result in an adverse effect on the neighborhood relative to traffic. The proposed use, as described, detailed minimal to zero interaction onsite with customers. To provide further protection to the neighborhood, the Board conditioned that no customer parking shall take place on Buckboard Drive, and any additional parking shall be kept onsite. In doing so, the Board finds that this criterion has been met.

- (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 home occupation will not increase the number of residents or visitors that would negatively impact the immediate neighborhood. There will be no employees and having customers onsite is not expected or intended by the home owner and applicant. 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 and all proposed construction conforms to the applicable dimensional requirements of the Rural (R) Zoning District in which the property is located. 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 accessory structure/building will not be dangerous to the immediate neighborhood. The products being used or stored at the location in relation to this application and use would not cause any danger to the immediate neighborhood or the premises through fire, explosion, emission or wastes, or other causes. Furthermore inspection of installed life safety devisees will need to be inspected by the fire department prior to use. As 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 will not create a nuisance that would adversely affect the immediate neighborhood. Some noise and dust will be generated during construction and the quantity generated during operation will be minimal. Nothing proposed by the Applicant will be used,



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generated, or would otherwise create 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 accessory structure/building will be in keeping with the character of the immediate neighborhood and the proposed use of the structure will not adversely affect the character of the immediate neighborhood. 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 home occupation within the new accessory structure/building is compatible with the purpose of the Zoning Bylaw as relief from the table of uses is permissible provided that the Board deems the relief sought will not be substantially more detrimental to the neighborhood. Furthermore, the relief sought is for an allowed residential use within a residential zoning district and remains compatible 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 March 20, 2023 and filed with the Town Clerk on March 31, 2023