



**TOWN OF ARLINGTON**  
DEPARTMENT OF PLANNING and  
COMMUNITY DEVELOPMENT

TOWN HALL, 730 MASSACHUSETTS AVENUE  
ARLINGTON, MASSACHUSETTS 02476  
TELEPHONE 781-316-3090

**MEMORANDUM**

To: Zoning Board of Appeals  
From: Jennifer Raitt, Director, Dept. of Planning and Community Development/kl  
Date: 2/12/2021  
RE: Docket 3649 – 123 Westminster Avenue; Request for a Variance under Section 5.4.2 B  
(Tables of Dimensional and Density Regulations) of the Zoning Bylaw

---

The applicant, Gustavo Pardo, is seeking a Variance under Section 5.4.2 B (Tables of Dimensional and Density Regulations) of the Zoning Bylaw. The applicant seeks to construct an accessory structure of a 96 square foot non-permanent greenhouse in the side yard setback of the parcel.

The applicant's property is on a corner lot in the R1 Zoning District. The house is a registered historical structure in the Mt. Gilboa Historic District. At an Arlington Historic Districts Commission (AHCD) meeting on 12/17/2020, the Commission voted to grant a certificate of appropriateness for the structure under the condition that it be located to the side of the property so as not to obscure the view of the principal structure.

The property is nonconforming with the Zoning Bylaw's minimum requirements for rear yard depth and usable open space. The proposed accessory structure would be nonconforming with the Zoning Bylaw's front and side yard setbacks, as it would reduce the front yard setback to 12 feet and the side yard setback to 2 feet 6 inches.

The following is an application of the Variance criteria (MGL Chapter 40A, §10):

**Criterion #1:** Circumstances relating to the soil conditions, shape, or topography of the land or structures and especially affecting such land or structures but not affecting generally the Zoning District in which it is located that would substantiate the granting of a variance.

The topography of the site has a significant slope, which is retained along the Westminster Avenue frontage by three stepped retaining walls. These conditions limit the applicant's ability to locate the structure on a level area elsewhere on the site. Additionally, as the parcel is on a corner lot, the applicant is restricted by front yard setbacks on both the Westminster Avenue and Westmoreland Avenue frontage.

Due to these conditions, there are limited areas where an accessory structure could be constructed without increasing or creating a nonconformity with the Zoning Bylaw.

**Criterion #2:** A literal enforcement of the provisions of the ordinance or by-law would involve substantial hardship, financial or otherwise, to the petitioner or appellant.

The combined factors of site topography, existing retaining walls, the current siting of the principal structure, and the requirements of the AHDC restrict the applicant's ability to locate the accessory structure elsewhere on the property. The applicant is unable to both comply with the requirements of the AHDC and those of the Zoning Bylaw.

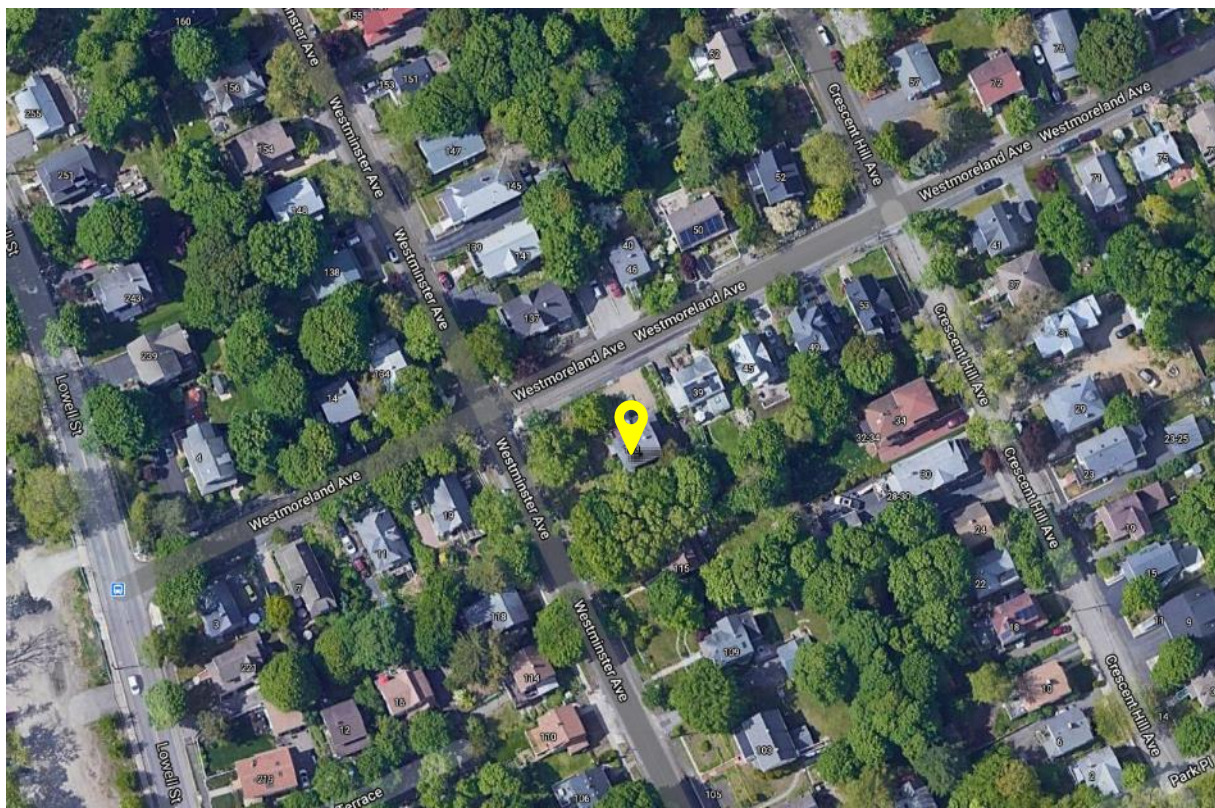
**Criterion #3:** Whether relief may be granted without substantial detriment to the public good.

The proposed accessory structure would reflect the design and appearance of the principal structure. It would be nonpermanent and could be easily removed in the future without damaging the property or harming adjacent properties. Furthermore, the AHCD has reviewed the proposal and deemed it appropriate for the site and its historic context.

**Criterion #4:** How desirable relief may be granted without nullifying or substantially derogating from the intent or purpose of the zoning bylaw in the Town of Arlington.

This proposal complies with the definition, purpose, and intent of the R1: Single-Family District zoning district.

Below are aerial and street-view photos of the property:







*Figure 1: 123 Westminster from Westminster Avenue*



*Figure 2: 123 Westminster from corner of Westminster and Westmoreland Avenues*





*Figure 3: 123 Westminster from Westminster Avenue*

**Recommendation:**

The Department of Planning and Community Development maintains that the four variance criteria have been met and recommends that the Zoning Board of Appeals approve this application.