

OFFICE OF  
BOARD OF APPEALS

# TOWN OF NORWELL

345 MAIN STREET, P.O. BOX 295  
NORWELL, MASSACHUSETTS 02061  
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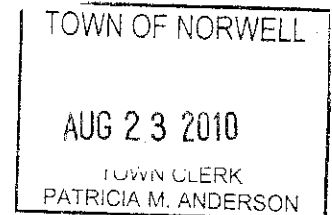
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David Lee Turner

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## **FINDINGS AND DECISION OF THE NORWELL BOARD OF APPEALS**

File No. 10-14



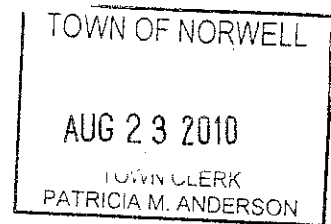
A **PUBLIC HEARING** was held on August 18, 2010, by the Norwell Zoning Board of Appeals under Massachusetts General Laws, Chapter 40A, Sections 3 and 9, at the Norwell Town offices, 345 Main Street Norwell, MA, on the application of:

**Hornstra Farm Norwell, LLC.  
246 Prospect Street  
Norwell, MA 02061**

For a **Special Permit** (Sections 1400, 1420) and **Variance** (Section 1322 a), b), c) required to add two silos for agricultural use to be constructed adjacent to the barn. The proposed silos at 70 feet will exceed the height limit of 34 feet allowed in Residential District A under Section 2460 *Height Restrictions*. The property is located at **246 Prospect Street** and shown on Assessor's Map 7C, Block 35 Lot 47 and recorded at Registry of Deeds Book 37307 Page 261.

The public hearing for this application was duly noticed in *The Patriot Ledger* on August 3, 2010, and *The Norwell Mariner* on August 12, 2010, and posted by the Town Clerk in accordance with the Open Meeting Law.

The applicant, John Hornstra, was in attendance at the hearing to present the application and respond to questions. There were approximately twenty people in attendance, some with questions and others speaking in favor of the application. Patricia Crumley of 48 Green Street asked about the safety of the silos, which Mr. Hornstra indicated are to be concrete. Fire Chief Andy Reardon was in the audience and indicated he had spoken to other chiefs in the Plymouth County area, as well as Worcester County, who indicated no particular problems or concerns with silos as long as the property is maintained. Joseph Timmons of 235 Prospect Street spoke in support of Mr. Hornstra's efforts to restore and improve the property and stated he is making a good contribution to the neighborhood. Mark Wieland of 311 Prospect Street asked about the diameter of the silo. Marie Tedeschi of 112 Riverside Drive commented on how pleased she is to see the farm operating with the property improvements. Jill Parker of 263 Prospect Street stated she felt when Town Meeting voted to fund an agricultural preservation restriction that it had signified its approval and support for the farming operations. As there was no voiced opposition or further discussion, the Board proceeded to vote.



## FILE DOCUMENTATION

The Board received the following information into its files:

1. Copy of the legal notice
2. Abutters List
3. Application, completed and signed by the applicant, date-stamped 8/5/10 by the Town Clerk
4. Assessors Card Print-out for the lot
5. Existing Conditions plan showing the proposed silo locations
6. Copy of a deed transferring ownership to Hornstra Farm Norwell LLC, recorded at BK 37307 PG 261 on June 4, 2009
7. Copy of the Agricultural Preservation Restriction, recorded at Book 4887 Page 134, on June 24, 1980
8. Letter of August 17, 2010, from the Department of Agricultural Resources to Attorney Galvin relative to "Agricultural Structures and As of Right Uses Under M.G.L. c. 40A, Section 3"
9. Excerpts from M.G.L. c 184, Section 31-33
10. Agricultural Law Memo, dated 08 09 11, detailing change in M.G.L. c. 40A, Section 3, effective 8/5/10, that reduces the requirement of 5 acres to 2 acres under certain circumstances

## FINDINGS

1. The property qualifies under 40A, sec. 3 Agricultural exemption, which provides that a Board may reasonably regulate and otherwise condition any approvals granted.
2. The Board determined that the conduct of the proposed use, which is agricultural and allowed by right, will not be detrimental to the neighborhood, but will preserve a working farm and, therefore, not significantly alter the character of the area in which it is located. Further, the conduct of the proposed use is allowed by right and will not be injurious, noxious, offensive, or otherwise hazardous to the neighborhood.

## DECISION OF THE BOARD

Based on the evidence presented and its findings above, upon a motion duly made and seconded, the Board **VOTED** unanimously to grant the Special Permit as allowed under section 2460, a Variance deemed unnecessary, for construction of two 70' silos at the property known as 246 Prospect Street, subject to the following:

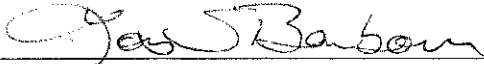
## SPECIAL CONDITIONS

As explicitly agreed by the applicant, John Hornstra, this special permit shall expire when and if the agricultural use is discontinued.

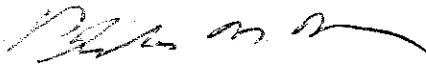
## CONDITIONS APPLYING TO ALL SPECIAL PERMITS:

1. **RECORDING OF THE DECISION:** After receiving certification from the Town Clerk that no appeal has been taken within twenty days, or if appealed than dismissed or denied, a copy of the Board's decision must be filed with either the Registrar of the Plymouth County Registry of Deeds to be recorded and indexed in the grantor index under the name of the owner of record in the case of unregistered land, or with the Recorder of the Land Court to be registered and noted on the owner's certificate of title in the case of registered land.

2. **RECORDING RECEIPT:** A copy of the recording fee receipt must be returned to the Board of Appeals. **NOTE:** No building permit shall be issued without such evidence.
3. **EFFECTIVE DATE OF APPROVAL:** The Special Permit granted by this Decision shall take effect only at such time as a copy of this Decision, certified by the Office of the Town Clerk of the Town of Norwell, is recorded with the Registrar of Deeds or Recorder of the Land Court.
4. **EXPIRATION:** The applicant must exercise any Special Permit granted by the ZBA within two (2) years from the date of the decision or it shall lapse.



Lois S. Barbour

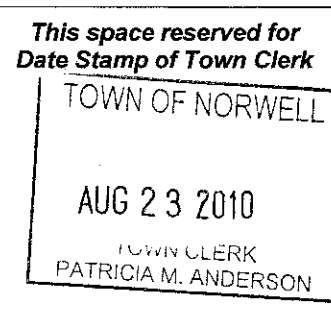


Philip Y. Brown



David Lee Turner

Date Filed with Office of the Town Clerk



**NOTICE OF APPELLATE RIGHTS:** Any decision of the Board of Appeals may be appealed to Superior Court within twenty (20) days after filing of the written decision with the Town Clerk. Any construction or pre-construction activity is undertaken at the applicant's risk during the appeal period.