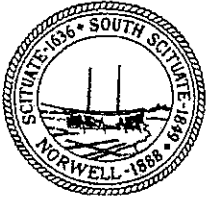


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OFFICE OF
BOARD OF APPEALS

TOWN OF NORWELL

345 MAIN STREET, P.O. BOX 295
NORWELL, MASSACHUSETTS 02061
(781) 659-8018 • Fax (781) 659-1892

Members

Lois S. Barbour, Chair
Philip Y. Brown, Vice Chair
David Lee Turner, Clerk

Associate Members

Thomas P. Harrison
Ralph J. Rivkind

FINDINGS AND DECISION OF THE NORWELL BOARD OF APPEALS

File No. 16-10

A **PUBLIC HEARING(s)** was held on June 15, 2016, by the Norwell Zoning Board of Appeals under Massachusetts General Laws, Chapter 40A, Section 10, at the Norwell Town offices, 345 Main Street Norwell, MA on the application of:

**Claire Paulson
42 Brantwood Road
Norwell, MA 02061**

For a **Variance** under Section 1322 under the Norwell Zoning Bylaw to add a 24.55' x 12.42' addition to the side of the existing dwelling for a first floor full bath due to a medical necessity. The lot does not conform to the minimum lot size requirement of 43,560 sq. ft. with only 7,500 sq. ft. and does not meet the required side setback of 20' where the proposed addition will be located. The property is located at 42 Brantwood Road, in Residential District B and in the Aquifer Protection District, as shown on Assessor's Map 12C, Block 25, Lot 48, Registry of Deeds Book 43346, Page 225. The house was built in 1957.

The Public Hearing for this application was duly noticed in *The Norwell Mariner* on May 26 and *The Patriot Ledger* on June 2, 2016, and posted by the Town Clerk, as required by the Open Meeting Law.

The Applicant and her contractor/son were in attendance at the hearing to present the application for the proposed change in the property. They noted that Applicant had lived in the house for over 40 years and that, as a result of a medical necessity, the proposed addition was necessary for the Applicant to remain in her home. The Applicant's abutters attended the meeting and voiced their support for the Application. There was no voiced opposition. While the Application states that the house was built in 1957, there is some question as to when the house was, in fact, constructed, and the Board notes that other houses in that area were constructed in 1953-54, before Norwell adopted the Zoning Bylaw. The proposed addition would not require a variance if the house were built prior to July 7, 1955, as it would meet all required setbacks.

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The Board received the following information into its files:

1. Copy of the legal notice from *The Norwell Mariner*;
2. Abutters List;
3. Application, completed and signed by the applicants, date-stamped on May 25, 2016, by the Town Clerk;
4. Assessors Card print-out for the lot;
5. Conservation Commission Approval for Building Permit dated September 22, 2015;
6. A Board of Health Approval allowing the addition of a new bathroom and laundry dated May 26, 2016;
7. Architectural Drawings for the proposed addition dated June 23, 2015; and
8. A Plot Plan showing the existing house and the proposed addition dated May 22, 2016;
9. A letter from Ronald Dunlap, M.D., F.A.C.C. dated May 26, 2016, setting forth the medical necessity;
10. An email from Hank Wolfson of 46 Brantwood Road in favor of the Application.
11. A letter from Rosemary E. O'Dea of 26 Brantwood Road in favor of the Application.
12. A Letter from Ann Whittaker of 62 Brantwood Road in favor of the Application.

FINDINGS:

1. The proposed addition will be added to the side of the existing house and is located 13.7' from the lot line at its closest point; it would meet all setbacks if the house were built prior to July 7, 1955.
2. A literal enforcement of the provisions of this Bylaw would involve a substantial hardship to the Applicant because she has encountered a medical necessity that would force her to leave her home of more than 40 years if the Bylaw is literally enforced.
3. The neighborhood within which her house is located is unique in the Zoning District in that all the lots are undersized because they were created prior to Zoning. Not all lots in Residential District B are undersized. The Applicant's house appears to have been built just after (or possibly before) the Zoning Bylaw came into effect.
4. The proposed relief may be granted without substantial detriment to the public good. Indeed, it is the Board's view that is a public good to allow people to modify their houses to accommodate medical necessities so that they can stay in their homes. The proposed relief may also be granted without nullifying or substantially derogating from the intent or purpose of this Bylaw since the proposed addition would otherwise comply with the side setback if the house had been built two years earlier. Moreover, the Board is aware that many similar houses in that neighborhood have been granted special permits for additions with similar proposed setbacks.

DECISION OF THE BOARD:

Based on the application and evidence presented and its findings above, upon a motion duly made and seconded, the Board **VOTED** unanimously to grant the Variance for the addition of the bathroom and laundry to a residential dwelling located at the property known as 42 Brantwood Road, subject to the following:

SPECIAL CONDITIONS:

The addition will be constructed in accordance with the filed plans as set forth above.

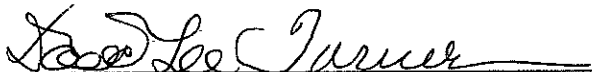
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CONDITIONS APPLYING TO ALL SPECIAL PERMITS:

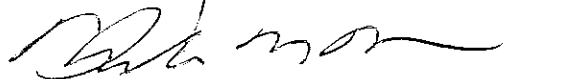
1. **RECORDING OF THE DECISION:** After receiving certification from the Town Clerk that no appeal has been taken within twenty days, or if appealed than dismissed or denied, a copy of the Board's decision must be filed with either the Registrar of the Plymouth County Registry of Deeds to be recorded 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.



David L. Turner



Ralph J. Rivkind



Philip Y. Brown

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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.