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OFFICE OF  
BOARD OF APPEALS

# TOWN OF NORWELL

345 MAIN STREET, P.O. BOX 295  
NORWELL, MASSACHUSETTS 02061  
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Philip Y. Brown, Vice Chair  
David Lee Turner, Clerk

*Associate Members*

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Ralph J. Rivkind, Assistant Clerk  
Roy W. Bjorlin  
Matthew H. Greene

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

File No. 18-24

A public hearing was scheduled on November 7, 2018, at 7:30 P.M. by the Norwell Zoning Board of Appeals (the Board) under Massachusetts General Laws, Chapter 40A, Sections 6 and 9, at the Norwell Town Offices, 345 Main Street, Norwell, MA on the Application (the Application) of:

Christopher and Amanda Garofalo  
44 Franklin Rd.  
Norwell, MA 02061

For a **Special Permit and Section 6 Finding** under the Norwell Zoning Bylaw, Sections 1642(c), 2421 (Lot Area), 2441 (Front Yard) and 2442 (Side & Rear Yards) for Property located at **44 Franklin Rd** (the "Property") in Residential District B as shown on Assessor's Maps 6C & 12A, Block 21, Lot 128, and filed with the Plymouth County Registry of Deeds in Book 47389, Page 1. The Applicants are seeking approval to construct an addition to a building that is on a pre-existing, non-conforming lot. The lot consists of .22 acres and therefore does not conform to the minimum lot size requirement

of one acre, does not conform to the setback requirements of 35' with only 25.3' and does not conform to the side yard requirement (corner lot) of 35' with only 25.8'. The house was built in 1953 prior to the existing zoning by-laws.

The application was duly noticed in *The Norwell Mariner* on October 11, 2018, and October 11, 2018, and posted at the Norwell Town Hall to fulfill requirements of the Open Meeting Law.

Mr. and Mrs. Garofalo presented the application and responded to questions from Board members. No member of the public spoke in favor of or in opposition to this application. A letter in support of the application from the abutters, Peter and Marybeth Shea at 52 Franklin Road, was received by the Board and recognized.

**FILE INVENTORY:** Documents submitted, included but not limited to the following, were received by the Board:

1. Application, signed by the Applicants, received and stamped by the Town Clerk on October 4, 2018, and by the Board of Appeals on October 3, 2018;
2. Certified Plot Plan dated August 22, 2018 prepared by McKenzie Engineering Group of 150 Longwater Dr., Suite 101, Norwell, MA;
3. Architectural Plans, consisting of four drawings and cover sheet, prepared by Marshall, LLC of 17 Nelson Road, Scituate MA, dated September 17, 2018; and
4. Email in support of application by abutters, Peter and Marybeth Shea at 52 Franklin Road.

**FINDINGS:**

1. The property is located in Residential District B and includes an existing single family home that was built in 1953 prior to the existing zoning by-laws. The Applicants are seeking approval to construct an addition in accordance with the submitted plans, noted in Paragraph 3 in the File Inventory above.
2. The Board may issue a Section 6 finding pursuant to M.G.L. c. 40A and Section 1620 of the Norwell Zoning Bylaw, if it finds that
  - a. "The conduct of the proposed use will not be detrimental to the neighborhood and zoning district . . ."  
**Finding:** As the property will continue to be used as a dwelling unit, the Board finds the proposed addition will not be detrimental to the neighborhood and zoning district.
  - b. ". . . the proposed use will not significantly alter the character of the zoning district".  
**Finding:** The Board finds, as the property is located in Residential District B, the existing use as a residence is allowed by right and will, therefore, not alter the character of the zoning district.
  - c. "The conduct of the proposed use will not be injurious, noxious, or offensive to the neighborhood by reason of the emission of odors, fumes,

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dust, smoke, noise or other cause, nor hazardous to the community on account of fire, explosion or other cause.”

**Finding:** As the property will continue to be used as a dwelling unit, the Board finds the proposed addition will not be injurious, noxious, or offensive to the neighborhood, an allowed use.

3. There was no objection to the proposed construction plans submitted to the Board either through testimony or in writing.

### **DECISION OF THE BOARD:**


Based upon the evidence presented and its findings detailed above and incorporated herein and forming a part of this decision, upon a motion duly made and seconded, Members Turner, Bjorlin, and Greene **VOTED** unanimously to grant a **Special Permit** and **Section 6 Finding** for approval to construct an addition on property located at **44 Franklin Rd.** in accordance with the filed plans, subject to the following.

### **CONDITIONS APPLYING TO ALL DECISIONS:**

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 the 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 zoning relief 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. **LAPSE OF SPECIAL PERMIT:** The Applicant must exercise any Special Permit granted by the Board of Appeals within two years of the date this Decision is filed with the Office of the Town Clerk or as provided in any extension thereof as detailed in the Board’s Rules, or it shall lapse.

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Date Stamp of Town Clerk

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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.