

OFFICE OF
BOARD OF APPEALS

TOWN OF NORWELL

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2018 JUN 20 13
 RECORDED
 MEMBERS
 TOWN OF NORWELL
 TOWN CLERK

Lois S. Harbour, 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. 18-09

A Public Hearing was held, after notice and hearing as required by law, on June 6, 2018, 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:

Jeremy Trainor
11 Old Oaken Bucket Road
Norwell, MA 02061 (the Applicant)

For a **Section 6 Finding** and **Special Permit** under Norwell Zoning Bylaw Sections 2441 (Front Yard) and 1642 (Lawfully pre-existing Nonconforming Lot) for the Property known and numbered as **11 Old Oaken Bucket Road**, (the Property), located in Residential District A. The Property is shown on Assessors' Map 8D, Block 43, Lot 27, and is described in the deed recorded with Plymouth County Registry District in Book 45382, Page 2. The lot consists of approximately 31,300 square feet, in a zoning district where a minimum of one acre of upland is required. The existing dwelling does not meet the required front-yard setback requirement of fifty (50) feet. The Applicant proposes to add a second story addition to a portion of the existing single-family dwelling constructed in 1952, alterations to the existing first floor within the existing dwelling and a second floor addition that will be within the footprint of a portion of the existing dwelling.

Application was duly noticed in *The Norwell Mariner* on May 17, 2018 and May 24, 2018 and posted at the Norwell Town Hall to fulfill requirements of the Open Meeting Law.

The Applicant attended the Hearing and presented the Application. No member of the public spoke in opposition to the Application.

FILE INVENTORY: The Application, and all attachments, and the following Documents were submitted, received and marked as Exhibits, as indicated below, by the Board:

1. Application, signed by the Applicant, received and stamped by the Board of Appeals on May 10th, 2018.
2. Approval for a Building Permit by the Conservation Commission dated 5/10/18.
3. As-Built Plan of the Septic System for the Property, received May 10, 2018, by the Board.
4. Certified Site Plan, by Cavanaro Consulting, for the Property, received May 10, 2018, that shows the proposed 2nd story addition, existing structure and building set-backs from the Public Way and a Property side line
5. Proposed and existing Building Plans, by Bob Burgess, dated 5/2/18, for 11 Old Oaken Bucket Rd, Norwell, MA, Page 1 of 5 – Elevations; Page 2 of 5, proposed floor plan for second floor; Page 3 of 5, floor plan, for proposed first floor; 4 of 5, construction section and framing; page 5 of 5 existing first floor plan.

FINDINGS:

The property is located in Residential District A and includes a single-family dwelling to which the Applicant proposes alterations and a partial second floor addition, all as noted and generally described in the Plans included as Exhibit 5 described in the File Inventory above. The alterations and additions will not increase or change the setback or lot size nonconformity note above.

1. The Board may issue a Section 6 Finding and Special Permit pursuant to M.G.L. c. 40A, 6 and 9, and Section 1642 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 single family dwelling, the Board finds the proposed alterations and additions 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 A, the existing use as a single family dwelling is allowed by right and, therefore, the alterations and additions designed for and limited to such use will 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, dust, smoke, noise or other cause, nor hazardous to the community on account of fire, explosion or other cause.”

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Finding: As the property will continue to be used as a single family dwelling, the Board finds the proposed alterations and additions will not be injurious, noxious, or offensive to the neighborhood, as that allowed use.

2. There was no objection to the proposed alterations and renovations proposals submitted to the Board either through testimony or in writing.

DECISION OF THE BOARD:

Based upon the evidence presented, the findings detailed above and incorporated herein and forming a part of this decision, upon a motion duly made and seconded, Members Turner, Rivkind, and Harrison, **VOTED** unanimously to grant a **Section 6 Finding and Special Permit** for construction of the proposed alterations and additions to the single family dwelling (the Property) located at **11 Old Oaken Bucket Road in accordance with the filed and bound plans, marked as Exhibit 5, and subject to the following: Since approval of the Project has not been received from the Board of Health, by this Board, no Building Permit shall issue until such approval is received by the Building Inspector.**

CONDITIONS APPLYING TO ALL DECISIONS:

RECORDING OF THE DECISION: After receiving certification from the Town Clerk that no appeal has been taken within twenty days, or if appealed then 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.

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1. **RECORDING OF THE DECISION:** After receiving certification from the Town Clerk that no appeal has been taken within twenty days, or if appealed, it was then 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 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.

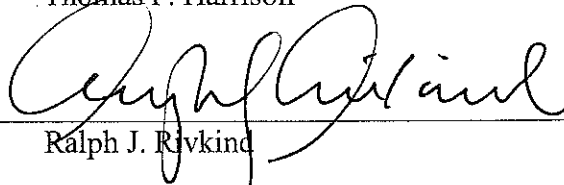
4. **LAPSE OF SPECIAL PERMIT:** The Applicant must exercise any Special Permit granted by the Board of Appeals within two years of the date this Decision is filed with the Office of the Town Clerk or as provided in any extension thereof as detailed in the Board's Rules, or it shall lapse.



David Lee Turner



Thomas P. Harrison



Ralph J. Rivkind

Date Filed with Office of the Town Clerk

This space reserved for
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.