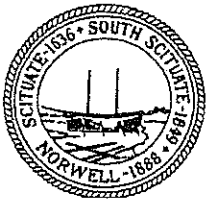


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OFFICE OF
BOARD OF APPEALS

TOWN OF NORWELL

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NORWELL, MASSACHUSETTS 02061
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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. 17-01

A **PUBLIC HEARING(s)** was held on March 1, 2017, by the Norwell Zoning Board of Appeals under Massachusetts General Laws, Chapter 40A, Sections 6 and 9, at the Norwell Town offices, 345 Main Street Norwell, MA on the application of:

**23-33 Winter Street LLC
221 Libbey Parkway
Weymouth, MA 02189**

For a **Special Permit** to alter or extend a nonconforming structure under Sections 1321, 1400, and 1642 of the Norwell Zoning By-laws. The Applicant seeks relief from zoning requirements for an existing, nonconforming structure. The Property is located at 23R Winterer Street in Residential District A as shown on Assessor's Map15D, Block 48, Lot 35 and recorded at the Plymouth County Registry of Deeds in Book 46387, Page 292. The house was built in 1992 and contains 3.99 acres.

The Public Hearing for this application was duly noticed in *The Norwell Mariner* on

February 16, 2017 and February 23, 2017 and posted by the Town Clerk, as required by the Open Meeting Law.

The Applicant was in attendance at the hearing to present the application. The Applicant seeks to have a determination that the existing residential units on the property are legal and conforming. There was no voiced opposition to the Application itself; although, there was concern voiced as to how the multiple residential units came to be on the property in the first instance.

The Board received the following information into its files:

1. Application for Public Hearing;
2. Letter from Applicant;
3. Wetland Replication Plan;
4. Letter from Thomas Barry to Jay Kennedy dated December 27, 2016;
5. Letter from Town of Norwell (Brian T. Flynn) to Henry C. & Sharon K. Larsen dated October 19, 2015;
6. Letter from Town of Norwell (Tim Fitzgerald) dated May 15, 2009;
7. Building Permit dated December 16, 2015;
8. Assessor's Sheet for 23-33 Winter Street, LLC;
9. Subsurface Sewage Disposal System (Repair) Plan.

FINDINGS:

1. Prior to the Applicant's purchase of the property on December 15, 2015, the Applicant was provided with a letter from the Town of Norwell Building Inspector dated May 15, 2009, stating that the existing residential units were legal and conforming and at that time were subject to the 10-year statute of limitations under Mass. Gen. Laws Ch. 40A, Section 7, second paragraph.
2. A building permit was issued by the prior Building Inspector to renovate the existing apartment on December 16, 2015. The Applicant commenced and completed work on the renovation.
3. On December 27, 2016, the Applicant received a letter from the Building Inspector regarding the work under the Building Permit.
4. The Applicant's renovation did not increase the non-conforming use of the structure – it is still a one bedroom apartment and all the renovations were within the existing footprint.
5. The renovation will not significantly alter the character of the zoning district, as it fits with the character of the neighborhood, which has a range of dwelling sizes and styles.
6. The nonconforming use of the renovation is grandfathered and will not be detrimental to the neighborhood or zoning district.
7. The proposed use will not be injurious or otherwise hazardous to the community, as the use of the property will continue to be residential.

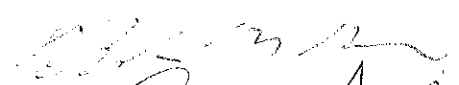
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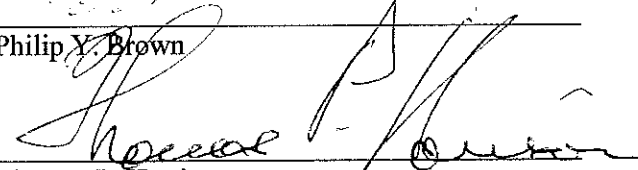
DECISION OF THE BOARD:

Based on the application and evidence presented and its findings above, upon a motion was duly made and seconded, the Board **VOTED** unanimously to grant the Special Permit regarding the nonconforming structure.

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.


Philip Y. Brown


Thomas P. Harrison


Ralph J. Rivkind

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NOTICE OF APPELLATE RIGHTS: Pursuant to M.G.L. Chapter 40A, Section 17, any decision of the Board of Appeals may be appealed within twenty (20) days after filing of the written decision with the Town Clerk.