

TOWN OF NORWELL

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NORWELL, MASSACHUSETTS 02061
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Thomas P. Harrison
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FINDINGS AND DECISION OF THE NORWELL BOARD OF APPEALS

File No. 17-15

A PUBLIC HEARING was held on September 13, 2017, by the Norwell 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 (the Application) of:

**John A. Striano and Mary V. Striano,
husband and wife, (the Applicants),
of 68 Farrar Farm Road, Norwell, MA 02061,
(the Property)**

For a **Special Permit** to add to their single family house, one accessory dwelling unit, a so-called **in-law apartment**, under Sections 1400, 1420 and 2316 d) of the Norwell Zoning By-Laws, to be occupied by the Applicants, with the remainder of the dwelling to be occupied by their daughter, son-in-law and granddaughter. The residence was built and first occupied by the Applicants in 1997, on a lot containing 1.08 acres, located in Residential District A, shown on Assessors Map 12A, Block 24, Parcel 39. The Property is further described in the Deed recorded at Plymouth Registry of Deeds in Book 35383, Pages 65-66.

The Public Hearing for this Application was duly noticed in *The Norwell Mariner* on August 17, 2017 and August 24, 2017, and posted at the Norwell Town Hall. The Applicants attended the hearing and presented the Application. A letter, signed by the Applicants, explaining the reasons for the requested Special Permit, was filed and included in the Exhibits for the Hearing. There was no opposition to the Application

FILE INVENTORY:

The following documents were in the File, were noted by Exhibit Number, and were received into evidence:

1. The Application, completed and signed by the Applicants, date-stamped August 08, 2017, by the Town Clerk.
2. In-Law Apartment Affidavit, signed the Applicants
3. Printout of the Assessors Card for the lot and an abutters' list.
4. Published Legal Notice
5. Copies of recorded Deeds (2)
6. Applicants' letter to the Building Departmentt & Board
7. **Memo to Board (Chair) 9/13/17 from Board of Health Administrator with details of approved subsurface sewage disposal system**
8. **Conservation Commission Agent's Approval of Building Permit - with attachments**
9. **Three sheets of exterior pictures of the proposed structure after changes, Sheet A1.1 - Garage & Second Floor Plans and elevations and Sheet JN 3827 - Site Plan for 68 Farrar Farm Road in Norwell, MA By Ross Engineering Company, Inc., dated: April 13, 2017**

FINDING AND RULINGS:

The Board Finds and Rules, based upon the testimony of the Applicants, the Exhibits and the provisions of the Norwell Zoning By-laws, that:

The Property is located in a Residential Zoning District.

In the Residential Districts, the Norwell Zoning By-Laws provide, in Section 2316 d), for the "conversion" of a SINGLE FAMILY DWELLING by the addition of one accessory dwelling unit (one or more rooms with kitchen and bathroom facilities not shared WITH ANY OTHER DWELLING UNIT) if certain conditions of the double occupancy are satisfied.

The qualifying conditions set forth in Section 2316 d) are satisfied, as set forth below:

The Applicants have filed an In-Law Apartment Affidavit, Exhibit 2, that establishes that they, as owners, will be the sole occupants of the proposed other dwelling unit (so-called In-Law apartment unit) and, by letter, Exhibit 6, and by testimony established that their daughter, son-in-law and granddaughter will be the sole occupants of the original single family dwelling not occupied by the Applicants.

Copies of the Deeds recorded in the Applicants' chain of title were reviewed, are marked as Exhibit 5, and establish the ownership required in Section 2316 d).

The Applicants, in Exhibit 6, and by their testimony established that they are both over 60 years of age.

The Applicants filed detailed plans and exterior views of the dwelling after the addition of the proposed in-law apartment, marked as Exhibit 9. Members of the Board are familiar with the general appearance and character of the neighborhood that surrounds the Property. After reviewing the plans and drawings in Exhibit 9, the Board finds and rules that the proposed changes to the single family dwelling are appropriate and in harmony with the general appearance and character of the neighborhood and that the proposed changes will not change the appearance of the main dwelling as a single-family residence.

The Norwell Board of Health Administrator has set forth in Exhibit 7, in essence, that Sewage Disposal will be satisfactorily provided for, including an area for a reserve replacement system.

The Norwell Conservation Commission approved the proposed project. See Exhibit 8.

The Board also finds that the conversion will not be detrimental to the neighborhood, nor significantly alter the character, nor be injurious or hazardous to the neighborhood.

BED ROOM LIMITATION:

The Board can and hereby does approve the Application and conversion process upon the express limitation that the total number of bed rooms in the dwelling, including both dwelling units, shall not exceed FIVE (5) Bedrooms, as set forth in the Board of Health approval and as determined by the Board as a limit under Section 2316 d) (5) of the Zoning By-Laws.

DECISION OF THE BOARD:

Based upon the foregoing, upon a motion made and duly seconded, the Board, Brown, Rivkind and Turner, **UNANIMOUSLY VOTED** to GRANT a **Special Permit for an In-Law Apartment** to the Applicants, for the Property, in accordance with the Application,

Application, as allowed under Section 2316 d) of the Norwell Zoning Bylaws, subject to the following:

SPECIAL CONDITIONS: This Special Permit shall become null and void under any one of the following circumstances:

1. If at least one of the Applicants is not able to occupy the Accessory Dwelling, the so-called "in-law apartment," in the Premises.
2. If at least one of the following is not able to occupy the main dwelling unit in the Premises: the Applicants daughter, son-in law or granddaughter.
3. As provided under Section 2316(d)(4), this Special Permit will terminate upon the transfer of ownership, and the use will revert back to a single-family dwelling.
4. Additionally, the Applicants shall file an In-Law Apartment Affidavit annually with the Board of Appeals.

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 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 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.

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Philip Y. Brown

Philip Y. Brown

Ralph J. Rivkind

Ralph J. Rivkind

David Lee Turner

David Lee Turner

Date Filed with Office of the Town Clerk

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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.