

TOWN OF NORWELL

OFFICE OF
BOARD OF APPEALS

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FINDINGS AND DECISION

OF

THE NORWELL BOARD OF APPEALS

File No. 18-1

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A **PUBLIC HEARING** was held on January 31, 2018, by the Norwell Zoning Board of Appeals (Board) under Massachusetts General Laws, Chapter 40A, Sections 6 through 9, at the Norwell Town offices, 345 Main Street Norwell, MA, on the Application (Application) of:

GLENN A. DiTOMASO for himself and his wife,
JILL M. DiTOMASO, husband & wife, as Tenants by the Entirety,
65 Washington Park Drive
Norwell, MA 02061 (the Applicants)

For a Special Permit and Section 6 finding under Sections 1400, 1420, 1640, 1642 and 2421 (Lot Area) of the Norwell Zoning By-laws. The Applicants seek a Special Permit and a Section 6 Finding that approve and authorize their plans to add a second story to the existing single-family dwelling that will meet present Building Code requirements, on the existing foundation and structure that was constructed in 1952, is located on the property known and numbered as 65 Washington Park Drive (Property), in Residential District B, is shown on Assessors' Map 18A, Block 32, Lot 63 and is described in the Deed recorded with Plymouth County Registry of Deeds in Book 48877, Pages 167-168. The Property is non-conforming because it contains 16,000 square feet of land and does not conform to the present minimum lot size requirement of 43,560 sq. ft. In addition, the Property is subject to a recorded Restriction imposed by the Norwell Board of Health, accepted and recorded by the owner of the Property, see Document recorded with said Plymouth Deeds in Book 48852, Page 305, that is in full force and effect, see the referenced deed to the Applicants, that limits the use of the Property to a single-family dwelling with not more than four bedrooms and, in addition, that limits sewage flows. Notice of the Application & Public Hearing was given in accordance with G.L.c.40A, was posted by the Town Clerk as required by the Open Meeting Law and was published in the Norwell Mariner on January 11th and 18th, 2018.

The Applicants were present at the Public Hearing and presented the Application. There was no voiced opposition at the Public Hearing. The member of the Board who drafted this Decision is generally familiar with the neighborhood and conditions on the site. The Applicants answered questions asked by members of the Board.

FILE INVENTORY:

The Board received the following information into its files:

EXHIBITS

1. Copy of the legal notice from *The Norwell Mariner*
2. Abutters List;
3. The Application, completed and signed by the Applicant, date-stamped on January 3, 2018, by the Town Clerk;
4. Assessors Card print-out for the lot;
5. Copies of the documents referred to above with regard to the Board of Health Restriction and the Plan that shows the septic system details and capacity limitations, dated: 8-21-17, by Collins Civil Engineering Group, Inc., of West Bridgewater, MA 02379, entitled: "As-Built Plan Subsurface Sewage Disposal System Upgrade," Project No. 17-1131-2454, received by the Norwell Board of Health on August 29, 2017.
6. **Building Permit Application, received and date stamped by the Board of Health December 05, 2017'**
7. Eleven sheets of Plans entitled: "Proposed Renovation to, DITOMASO RESIDENCE 65 WASHINGTON PARK DRIVE NORWELL, MA, dated: November 10 2017, by Boynton Design, East Taunton, MA, Sheets A1,1; A1,2; A2,1; A2,2; A3,1; A4,1; S1,1; S1,2; S1,3; S1,4: EX1,1.

FINDINGS:

1. The proposed renovation of the dwelling, that is, in essence, the addition of a second floor, will be on the existing foundation and will remain within existing set-backs..
2. The proposed renovation will not significantly alter the character of the zoning district, as it is appropriate with and blends into the character of the neighborhood, which has a range of dwelling sizes and styles, and is appropriate in size, impact and style with existing structures in the neighborhood..
3. The use of the proposed dwelling as renovated will continue as a single family dwelling with not more than four bedrooms and not more than two bathrooms and one kitchen. The approved renovated use, which is permitted by right under the Norwell Zoning Bylaw, shall not be allowed to increase the flow of sewage to the approved subsurface sewage system, as established and limited in the recorded Restriction, aforesaid to the Board of Health, and therefore, will not be detrimental to the neighborhood or zoning district.
4. The proposed use will not be injurious or otherwise hazardous to the community, as the proposed construction shall continue to be a single family residential use, limited to four bed rooms, as allowed by right under the Norwell Zoning Bylaw, Provided, Always, that subsurface sewage disposal is limited to a discharge within the capacity of the approved subsurface sewage disposal system for the Property.

5. Prior uses in the basement that involved a bedroom and cooking, food preparation and handling areas have been abandoned and shall not be reestablished or allowed.

DECISION OF THE BOARD:

Based on the Application and all evidence, including the Exhibits, presented and its findings above, upon a motion was duly made and seconded, the Board **VOTED** unanimously to grant the Special Permit and Section 6 Finding for the proposed renovation on the existing foundation of the single family residence dwelling located on the Property, known and numbered as 65 Washington Street Drive, in accordance with the Plans, marked and made Exhibits, and on file with the Application, and current Building Code requirements. Subject to the following Permanent Special Conditions:

PERMANENT SPECIAL CONDITIONS:

- A. There shall be no bedroom or bedrooms in the basement area.
- B. There shall be no cooking, food handling or preparation in the basement area.
- C. All plumbing, fixtures and utilities that could be used for bedrooms, cooking purposes, food handling or preparation in the basement shall be removed before any occupancy permit hereunder is issued.
- D. The recorded Restriction to the Norwell Board of Health, aforesaid, shall be observed.

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

Philip Y. Brown

David Lee Turner

David Lee Turner

Ralph J. Rivkind

Ralph J. Rivkind

*This space is reserved for
Date Stamp of Town Clerk*

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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.