

OFFICE OF  
BOARD OF APPEALS

# TOWN OF NORWELL

345 MAIN STREET, P.O. BOX 295  
NORWELL, MASSACHUSETTS 02061  
(781) 659-8018 • Fax (781) 659-1892

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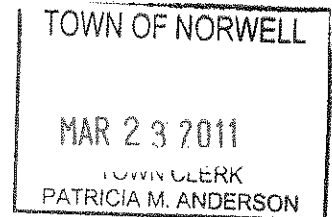
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Philip Y. Brown, Vice Chair  
David Lee Turner

## Associate Members

Michael E. Kiernan, Clerk  
Thomas P. Harrison

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

File No. 11-1



**PUBLIC HEARINGS** were scheduled on February 9, 2011 and March 9, 2011, by the Norwell Zoning Board of Appeals under Massachusetts General Laws, Chapter 40A, Section 6, at the Norwell Town offices, 345 Main Street, Norwell, Massachusetts on the application of:

**Jeffrey Caira**  
**82 Brigantine Circle**  
**Norwell, MA 02061**

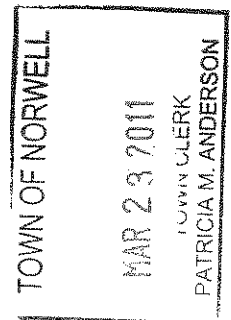
For a **Section 6 Finding** under M.G.L. c. 40A and Sections 1400, 1420, 1640 and 2430, of the Norwell Zoning Bylaw to demolish the existing dwelling and site a new single family 4-bedroom dwelling on the lot. The applicant further proposes to replace the existing shed with a 20' x 20' structure, and to construct a pier and a dock on the North River under Norwell Zoning Bylaw Sections 4100, 4120, 4200, 4240 and 4241a. The lot consists of 14.5 acres with upland of 1.42 +/- acres, and is non-conforming as to the minimum frontage requirement of 80 feet. The property is located at **80 Old Meeting House Lane** in the Residential District A and Salt Marsh Conservation District, Floodplain, Watershed and Wetlands Protection Districts, as shown on Assessor's Map 16D, Block 62, Lot 64, and recorded at the Registry of Deeds, Book 36282, Page 81-84.

The public hearing was duly noticed in the *Patriot Ledger* on January 26, 2011, and *The Norwell Mariner* on February 3, 2011, and posted at the Norwell Town Hall.

The Board received the following information into its files:

1. An Application for Public Hearing completed and signed by the Applicant on January 14, 2011, and date-stamped by the Town Clerk on January 18, 2011;
2. A copy of a letter dated December 2010 from Dr. Nancy Dawber of Naples, Florida, an owner of the property, authorizing Mr. John Cavanaro of Cavanaro Consulting, Inc. to represent the Applicant in obtaining the necessary permits and approvals for the project.
3. A copy of the Norwell Assessor's information sheets on the property;

4. A copy of a "Plan of Land Norwell Mass surveyed for Cony Moore dated December 3, 1947, prepared by S. Litchfield C.E.," referenced in the deed to the current owners, and showing the lot (the "Cony Moore Plan");
5. A copy of a Deed from John A. Dawber and Nancy H. Dawber, individually and as Co-Trustees of the Thomas R. Dawber Trust Dated June 5, 1989, as amended, to John A Dawber, a married man, as to an undivided ½ interest, and Nancy H. Dawber, a single woman, as to an undivided ½ interest, each as tenants in common, recorded in the Plymouth County Registry of Deeds in Book 36282, Page 81-84;
6. A copy of a Site Plan entitled "Site Plan to Accompany Special Permit 80 Old Meeting House Lane, Norwell, MA 02061," dated January 12, 2011, stamped and signed by Brendan Sullivan of Cavanaro Consulting, Inc.;
7. A copy of Norwell Conservation Commission Order of Conditions, DEP File No. SE52-966, dated March 8, 2011 (the "Order of Conditions");
8. A letter from John C. Cavanaro, P.E. of Cavanaro Consulting, Inc., to the Board dated March 3, 2011 (the "March 3<sup>rd</sup> Letter");
9. A copy of the Norwell Board of Health approved Application for Disposal System Construction Permit, No. S-11-02, dated January 27, 2011;
10. A copy of correspondence from Judy Grecco, Administrator of the North River Commission, confirming: (i) the Commission's unanimous determination that the applications for the construction of a pier and dock, and the construction of a dwelling, septic system and associated work meet the requirements of the Scenic and Recreational Protective Order for the North River, and are an allowed use; and (ii) the granting of the North River Commission Special Permit NRC SP 1/11 dated February 24, 2011;
11. A copy of a Deed from Cony Moore to W. Blanchard Ford dated April 24, 1948, and recorded with the Plymouth County Registry of Deeds in Book 1966, Page 369, which references the Cony Moore Plan and states in part that "This conveyance is made together with a right to pass and repass over the present lane leading Easterly from Main Street until said lane reaches the last stone wall and then the way shall run Southerly through the field until it reaches the Northerly end of the conveyed premises";
12. A copy of the Public Notice; and
13. An Abutters list.



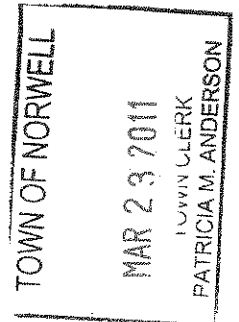
On February 9, 2011, John Cavanaro, of Cavanaro Consulting, Inc., representing the Applicant, presented the Application to the Board and described the project. The Applicant attended the hearing. No neighbors or abutters were present at the first hearing. The Board questioned the Applicant and Mr. Cavanaro regarding the lack of frontage, access to the property, the location of wetlands, the status of the approval of the Board of Health for the new septic system, the status of an Order of Conditions of the Norwell Conservation Commission, and the necessary permits and approvals of the North River Commission. The Board, with the agreement of the Applicant, voted to continue the hearing until March 9, 2011 to allow the Applicant additional time to obtain the required approvals from various Town boards.

Prior to the March 9<sup>th</sup> meeting, the Board received the March 3<sup>rd</sup> Letter from Mr. Cavanaro, which addressed several questions raised by the Board, including prior deeds referencing the Cony Moore Plan and confirming access to Main Street. The Board also received a copy of the Order of Conditions with a cover letter dated March 7, 2001 from the Town of Norwell Conservation Agent.

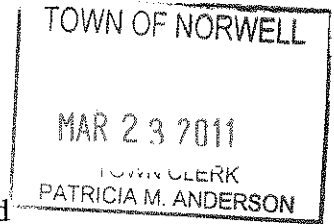
On March 9, 2011, Mr. John Cavanaro represented the Applicant at the second hearing. The Applicant and his wife, Sylvia Caira, attended. No neighbors or abutters attended the second hearing. Mr. Cavanaro responded to additional questions from the Board.

At the March 9 hearing, the Board made the following findings:

1. The lot known as 80 Old Meeting House Lane is shown on Norwell Assessors Map No. 16D, Block 62, Lot 64, recorded at the Plymouth County Registry of Deeds, Book 36282, Page 81-84.
2. The lot consists of 14.5 acres with approximately 1.42 acres of upland, portions of which are located in the Residential A and Salt Marsh Conservation zoning districts.
3. The dwelling located on the lot was first constructed approximately 1920.
4. The lot and a dwelling are depicted on a "Plan of Land Norwell Mass surveyed for Cony Moore dated December 3, 1947, prepared by S. Litchfield C.E.," referenced in the deed to the current owners.
5. The lot lacks the minimum frontage on a street as required under Section 2430 of the Norwell Zoning Bylaw. The lot otherwise conforms in every respect with the dimensional requirements of the Zoning Bylaw.
6. The lot predated zoning in Norwell and is, therefore, a lawful pre-existing nonconforming lot.
7. The Applicant proposes to raze and reconstruct the existing dwelling on the lot, and construct a small storage shed in the location of the existing dwelling. The existing dwelling and septic system are located in FEMA Flood Zone A2 and are partially within the 50' buffer to vegetated wetlands. The reconstructed dwelling and new septic system would be located in FEMA Flood Zone C, and would be completely outside the 100' buffer to vegetated wetlands. The new dwelling would also conform to the dimensional requirements of the Zoning Bylaw. The footprint of the storage shed would be significantly smaller than the footprint of the existing dwelling.
8. The lot lacks the minimum frontage on a street, so the lot remains nonconforming.
9. However, the Board may approve the proposed reconstruction under General Law c. 40A, Section 6, and Section 1642 of the Zoning Bylaw if it finds that the proposed reconstruction of the structure will not be substantially more detrimental to the neighborhood than the existing structure.
10. The Board is familiar with the tone and character of the residential neighborhood. The homes in the immediate vicinity of the property are substantial distances from the proposed new dwelling. The proposed structure would not be spatially inconsistent with the neighborhood, create any aesthetic concern, or overcrowd the property.
11. None of the abutters attended the hearings, or made any claim that the reconstructed dwelling would be substantially more detrimental to the neighborhood than the existing structure.
12. The Board specifically finds that the reconstructed dwelling will create no additional noises or odors and will not interfere with the air, light or breezes currently enjoyed by the neighbors. The reconstructed dwelling is completely consistent with the tone and character of the neighborhood.



13. Therefore, the Board finds that the proposed reconstructed dwelling and shed will not be substantially more detrimental to the neighborhood than the existing structure, and the Applicant is entitled to this finding under Massachusetts General Laws c. 40A, §6 and Section 1642 of the Zoning bylaw.



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

Based on its findings enumerated above and upon motion duly made and seconded, the Board of Appeals unanimously **VOTED** to grant a **Special Permit/ Section 6 Finding** in accordance with M.G.L. c. 40A, Section 6 and Section 1642 of the Norwell Zoning Bylaw, to allow the Applicant to raze and reconstruct an existing single family dwelling and construct a storage shed, pier and dock on a pre-existing nonconforming lot located at **80 Old Meeting House Lane** as shown on Norwell Assessors Map No. 16D, Block 62, Lot 64, recorded at the Plymouth County Registry of Deeds, Book 36282, Page 81-84, subject to the following:

### **SPECIAL CONDITIONS:**

1. The applicant shall submit evidence to the Inspector of Buildings that all conditions and requirements of the North River Commission, the Norwell Conservation Commission and the Norwell Board of Health, referenced above, as they may be amended or modified, have been met, prior to issuance of a building permit.
2. The property and reconstructed dwelling shall be limited in use to a single family dwelling and shall be constructed in accordance with the plans presented to this Board.
3. The applicant shall submit evidence to the Inspector of Buildings that the applicant has obtained a license for construction of the proposed pier and dock on the North River pursuant to Massachusetts General Laws Chapter 91, prior to issuance of a building permit for those structures.

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

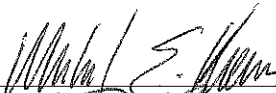
1. **RECORDING OF THE DECISION:** After receiving certification from the Town Clerk that no appeal has been taken within twenty days, or if appealed than dismissed or denied, a copy of the Board's decision must be filed with either the Registrar of the Plymouth County Registry of Deeds to be recorded and indexed in the grantor index under the name of the owner of record in the case of 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/ Section 6 Finding 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.

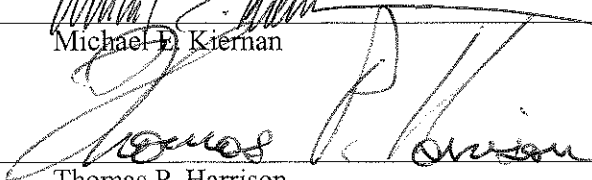
4. **EXPIRATION:** The Applicant must exercise any Special Permit granted by the Board of Appeals within two (2) years from the date the decision or it shall lapse.



Lois S. Barbour



Michael D. Kiernan



Thomas P. Harrison

Date Filed with Office of the Town Clerk

This space reserved for Date  
Stamp of Town Clerk

TOWN OF NORWELL

MAR 23 2011

TOWN CLERK  
PATRICIA M. ANDERSON

**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.