



OFFICE OF
BOARD OF APPEALS

TOWN OF NORWELL

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FINDINGS AND DECISION OF THE NORWELL BOARD OF APPEALS

File No. 12-14



A PUBLIC HEARING(s) was held on February 6, 2013, by the Norwell Zoning Board of Appeals under Massachusetts General Laws, Chapter 40A, Section 10, at the Norwell Town Offices, 345 Main Street Norwell, MA on the application of:

Richard L. Wainwright,
Executor Under the Will of Joseph S. Tanczos
One Center Street
Brockton, MA 02301

For a **Variance** under Sections 1322, 2430, 2432 of the Norwell Zoning Bylaws. The minimum lot width measured at the required setback line is 149.86 feet where 150 feet is required. Property is located at **166 Pleasant Street** and shown on Assessor's Map 20C, Block 66, Lot 3; Assessor's Map 24A, Block 66, Lot 10 and Block 66, Lot 12, Registry of Deeds Book 16291, page 251 in Residential District A and the Aquifer Protection District.

The Public Hearing for this application was duly noticed in The Norwell Mariner on January 17, 2013 and January 24, 2013, and posted by the Town Clerk, as required by the Open Meeting Law.

The Board received the following information into its files:

1. Completed application for Variance signed by the property owner, Richard L. Wainwright as Executor under the will of Joseph S. Tanczos date-stamped by the Town Clerk on January 2, 2013.
2. Two sets of plans dated October 2, 2012 showing the property and date-stamped by the Town Clerk on January 2, 2013.



3. Assessor's cards for the property.

The applicant and his attorney presented the application. There was no opposition to the application. The reason the applicant seeks a variance is so that he can create three lots on the property with lot 1 containing 46,630 square feet, Lot 2 containing 55,393 square feet and Lot 3 containing 5.878 acres. The applicant intends to convey Lot 3 to the Town of Norwell. The lot width for Lot 2 is .14 feet shy of the minimum lot width. Wildcat Brook crosses Lot 3 and provides important recharge for the Aquifer Protection District. There are significant wetlands on the property owing to the topography of the property and the location of Wildcat Brook

The Applicant argues that the law does not care for, or take notice of, very small or trifling matters under the concept of de minimis non curat lex. He also contended that the topography of the property necessitated a variance.

DECISION OF THE BOARD:

Based on the application and evidence presented, and upon a motion duly made and seconded, the Board VOTED unanimously to approve the variance. The applicant would suffer a substantial hardship if the variance was not granted since the executor would not be able to convey land to the town as desired if the property is not able to be divided. This hardship is as a result of the location of the wetlands and the location of Wildcat Brook with its resultant topography. The difference between the requested setback and the required setback is extremely minor and therefore will not be a detriment to the public good nor derogate from the intent or purpose of this Bylaw.

This approval is conditioned on making an earnest and good faith attempt to convey Lot 3 to the Town of Norwell either free of charge or for nominal consideration. This approval is further conditioned on the applicant not conveying Lot 3 to any other person or entity for the next six months so that the Town of Norwell has sufficient time to consider whether to accept Lot 3.

CONDITIONS APPLYING TO ALL VARIANCES:

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 Variance 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.



Philip Y. Brown



Michael E. Kiernan



Thomas P. Harrison

Date Filed with Office of the Town Clerk

