

OFFICE OF
BOARD OF APPEALS

TOWN OF NORWELL

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FINDINGS AND DECISION OF THE NORWELL BOARD OF APPEALS

File No. 12-15

A **PUBLIC HEARING** was held on November 7, 2012 and December 5, 2012, by the Norwell Zoning Board of Appeals under Massachusetts General Laws, Chapter 40(a), Sections 6 & 9, at the Norwell Town offices, 345 Main Street, Norwell, MA, on the application of:

Edward and Donna Condon
21 Beers Avenue
Norwell, MA 02061

For a Special Permit and Section 6 Finding pursuant to Sections 1400, 1420, 1640, 1642 and 2421 (Lot area) of the Norwell Zoning By-Laws. The Lot is nonconforming in that it is 11, 250 sq. ft. where 43, 560 sq. ft. is required.

The property is located in Residential District B at **21 Beers Avenue**, as shown on Assessors Map 12B, Block 25, Lot 29, and recorded at the Plymouth County Registry of Deeds in Book 5347, Page 400. The house was built in 1960.

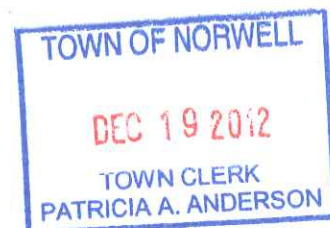
The Public Hearing for this application was advertised in *The Patriot Ledger* on October 22, 2012 and *The Norwell Mariner* on November 1, 2012. The hearing was continued to December 5, 2012.

The applicants presented the proposed project as outlined in the application. No one spoke in opposition to the application.

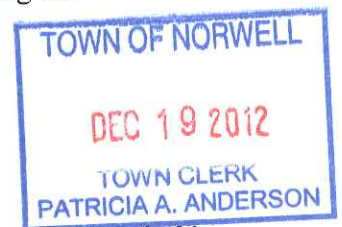
FILE DOCUMENTATION:

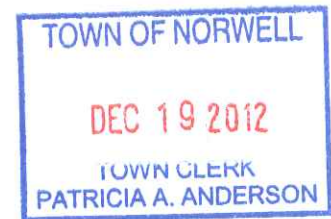
The board received the following information into its files:

1. Copy of the legal notice.



2. Assessors Card
3. An abutters list.
4. A completed application for public hearing signed by the applicant on October 17, 2012, and dated stamped by the Town Clerk on October 17, 2012.
5. A copy of a Plot Plan, showing the proposed addition, prepared by Empire Mapping for Guaranteed Builders, Inc. dated July 17, 2012. The aforementioned was date-stamped by the Town Clerk on October 17, 2012.
6. A sketch addendum which identifies the floor plan for the existing condition, as well as the proposed addition. The aforementioned was date-stamped by the Town Clerk on October 17, 2012.
7. An e-mail from the Health Agent, Brian Flynn, to the Zoning Board of Appeals dated December 5, 2012. The aforementioned e-mail indicates that the Board of Health has no issues with the proposed winterizing of the existing 3 season porch and adding a deck to the existing footprint. The Board of Health specifically mandated that a septic location plan must be submitted to the Board of Health prior to construction so as to ensure no damage is done to the system. The aforementioned septic plan must be prepared by a licensed septic inspector, installer, or engineer. The aforementioned email was marked as Exhibit "B" at the Public Hearing on December 5, 2012.
8. An e-mail from Nancy Hemmingway of the Conservation Commission to the Zoning Board of Appeals and the building inspector dated December 5, 2012. The aforementioned e-mail indicates that the Conservation Commission completed a site inspection at 21 Bears Ave. with Tracy Sharkey. The Conservation Commission indicated that they will be signing off for the structure as it is at/or outside the 100ft buffer zone. It does note that a small portion of the construction zone (no more than 10ft) is within the buffer, but is blocked from the wetland by a full fence. In the Conservation Agent's opinion there is no chance that erosion will be a problem to the wetlands to this project. The Conservation Agent recommended that the Zoning and Building Departments move forward with their reviews based upon the aforementioned opinions of the Conservation Agent. The e-mail further indicated that Ms. Sharkey and Ms. Hemmingway will work together on site work and dumping within the buffer zone, but noted that this is an issue that can be resolved with the Conservation Commission and is not directly related to the proposed addition and application before the Zoning Board of Appeals. The aforementioned was marked as Exhibit "A" at the Public Hearing on December 5, 2012.





FINDINGS:

1. The lot size measured 11,250 sq. ft. where 43,560 sq. ft. is required pursuant to Section 2421.
2. The Board finds that the increase in volume of the project will increase the nonconforming nature of the dwelling.
3. The Board may issue a Section 6 Finding under Chapter 40(a) and Section 1642 of Norwell Zoning by-laws if it finds that the increase in the nonconforming nature of the structure will not be substantially more detrimental to the neighborhood and the existing structure.
4. The proposed project is in keeping with the scale and style of the surrounding residential dwellings and will, in the opinion of the Board, not change the essential character of the neighborhood.
5. The project, as proposed, falls within all required setbacks under the Norwell Zoning by-law.
6. Based upon the application submitted, the Board finds that the proposed 13' 9" x 20' addition with a 10' x 13' 9" deck will not be substantially more detrimental to the neighborhood than the existing structure as the expansion of the footprint is minimal given that the enclosed unheated porch will be demolished and be the locus of the proposed addition with an expansion of that area of 2' 9" on the southerly side and 2' on the northerly side. The Board further authorizes an expansion on the easterly side adjacent to the proposed addition of a deck measuring 10' x 13' 9".

DECISION OF THE BOARD:

Based upon its findings as set forth above and upon a motion duly made and seconded, the Board of Appeals **VOTED** unanimously to grant a Special Permit/Section 6 Finding in accordance to M.G.L. c. 40(a) Section 6 & Section 1642 of the Norwell Zoning by-laws, for the proposed construction at 21 Bears Avenue subject to the following:

SPECIAL CONDITIONS:

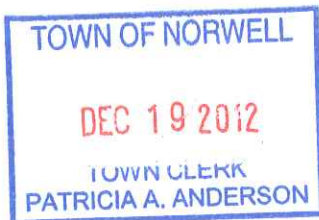
1. The project must be built in accordance with the Empire Mapping plan dated October 12, 2012 and the floor plan to the plan sketch on graph paper attached thereto with no date, but titled "Sketch Addendum". (Each date stamped by the Town Clerk on October 17, 2012.) The enclosed porch identified in the "Sketch Addendum" shall be demolished as per the reference thereto set out on the

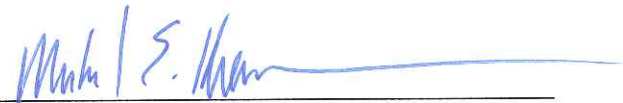
“Sketch Addendum”. No expansion beyond the dimensions set out in the Empire Mapping plan or the “Sketch Addendum” as referenced above is permitted.

2. No building permit will issue prior to Board of Health approval after submission of a septic location plan acceptable to the Board of Health and prepared by a licensed septic inspector, installer, or engineer, as required by Exhibit B.
3. No building permit will issue until the Conservation Commission signs off on the project as per the mandates as set out in the e-mail from Nancy Hemmingway to the Board of Appeals and the building inspector dated December 5, 2012 and made part of the record as Exhibit A.

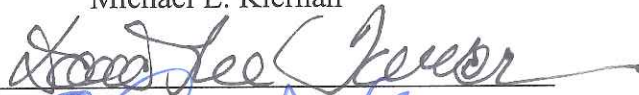
CONDITIONS APPLYING TO ALL SPECIAL PERMITS:

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 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 Decision granted by the Zoning Board of Appeals within two (2) years from the date of the decision or it shall lapse.

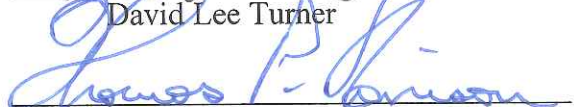




Michael E. Kiernan



David Lee Turner



Thomas P. Harrison

Date Filed with Office of the Town Clerk

*This space reserved for
Date Stamp of Town Clerk*



NOTICE OF APPELATE RIGHTS: Any decision of the Board of Appeals may be appealed to the Superior Court within twenty (20) days after filing of the written decision with the Town Clerk. Any construction or pre-construction activities undertaken at the applicants risk during the appeal period.