

OFFICE OF
BOARD OF APPEALS

TOWN OF NORWELL

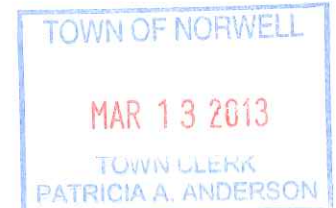
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FINDINGS AND DECISION OF THE NORWELL BOARD OF APPEALS

File No. 13-01



PUBLIC HEARINGS were held on February 6, 2013, and February 27, 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:

MTV Leasing, Inc.
C/O Michael Frazier
782 Plymouth Street
Holbrook, MA 02343

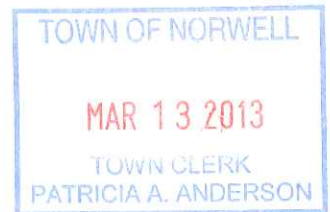
For a **Variance** under Sections 1300 and 1322 of the Norwell Zoning Bylaws. The applicant seeks relief from the Zoning Bylaws, Article III, Section 3400, Demolition of Historically Significant Building Structures, Properties, Paragraph (f) Non-Compliance. Applicant demolished a barn deemed historically significant and is prohibited from obtaining a building permit for three years. The Property is located at **486 Mount Blue Street** and shown on Assessor's Map 2D as Block 5 Lot 5, Registry of Deeds Book 41463, Page 60 in Residential District A. The House was built in 1850.

The Public Hearing for this application was duly noticed in The Norwell Mariner on January 22, 2013 and January 31, 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, Michael Frazier date-stamped by the Town Clerk on January 18, 2013.
2. A letter from the Norwell Historical Commission dated January 9, 2013 stating that the Barn was inadvertently demolished, imposing a \$1,000 fine and stating that it would provide a letter to the Board stating it would support a variance from the three year period under which no building permits can be issued. This letter is date-stamped by the Town Clerk on January 18, 2013.

3. A letter from Attorney R. Andrew Burbine to the Historical Commission dated January 9, 2013 and date-stamped by the Town Clerk on January 18, 2013.
4. A copy of the Deed to MTV Leasing, Inc. date-stamped by the Town Clerk on January 18, 2013.
5. A listing from the Massachusetts Historical Archives for the property.
6. A letter dated February 4, 2013 from the Norwell Historical Commission to the Board encouraging the Board to issue the aforementioned variance.
7. A letter from Webby Engineering Associates, Inc. dated December 19, 2012 to the Building Inspector stating that the barn was not structurally sound and could not be salvaged along with photographs of the destroyed barn.
8. An assessor's card for the property.
9. A description of obsolescence for the property.



The Applicant and his attorney presented the application. The Applicant stated that the Barn was destroyed in error by one of his employees. As a result, the Historical Commission fined him \$1,000 in accordance with the Bylaw. The Historical Commission, however, supports his ability to remove the pieces of the barn and states that the Board should grant his application to obtain a building permit. The house is in need of renovation and would be in danger of being destroyed if work cannot go forward. Two abutters, Maria Kelley and Bill Patzer appeared to ask questions as to the long term plan for the property and what the process will be for the property going forward.

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 is not granted since the house is in disrepair and will suffer further disrepair if a building permit is not granted. Moreover, it is necessary to remove the pieces of the barn to avert a public hazard. This hardship is a result of the peculiar historical nature of the structures on this property. As the house was built in 1850, it needs to be maintained in a particular manner that newer houses do not and relief from the three year moratorium on the issuance of a building permit is necessary in order for this maintenance to proceed. There is no detriment to the public good in waiving the three year moratorium, especially since the destruction of the barn without a demolition permit was done in error and the Historical Commission, which imposed the financial penalty asked the Board to vary the three year moratorium in this particular case. Accordingly, issuance of the variance also will not derogate from the intent or purpose of this Bylaw.

CONDITIONS APPLYING TO ALL VARIANCES:

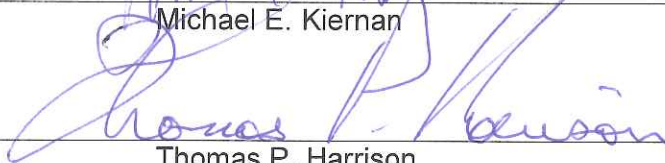
1. **RECORDING OF THE DECISION:** After receiving certification from the Town Clerk that no appeal has been taken within twenty days, or if appealed than dismissed or denied, a copy of the Board's decision must be filed with either the Registrar of the Plymouth County Registry of Deeds to be recorded 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

*This space reserved for
Date Stamp of Town Clerk*

