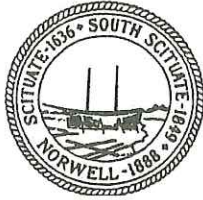
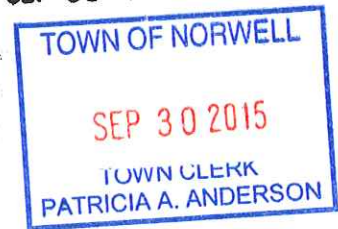


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OFFICE OF
BOARD OF APPEALS

TOWN OF NORWELL

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

Members

Lois S. Barbour, Chair
Philip Y. Brown, Vice Chair
David Lee Turner, Clerk

Associate Members

Thomas P. Harrison
Ralph J. Rivkind

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

File No. 15-5

A PUBLIC HEARING was held on September 16, 2015 by the Norwell Zoning Board of Appeals (the Board) under General Laws, Chapter 40A, Sections 6 and 9, at the Norwell Town Offices, 345 Main Street, Norwell, MA on the Application of:

Julio & Debra Foster, the Applicants,
65 Cushing Hill Road
Norwell, MA , the Property

For a Special Permit under Sections 1400, 1420 and 2316(d) of the Norwell Zoning Bylaws to convert existing garage and portion of the existing dwelling to an in-law living unit. The Property is located at 65 Cushing Hill Road and shown on Assessor's Map 19B as Block 54, Lot 18. The Property is owned by the Applicants as reflected in the deed recorded at the Plymouth Registry of Deeds, Book 18376, Page 237, and located in Residential District A.

The Public Hearing for this Application was duly noticed in The Norwell Mariner on August 27, 2015 and September 3, 2015 and posted at the Norwell Town Hall as required by law.

The owners of the Property attended the hearing and presented the Application.

The Board received the following documents, marked as Exhibits as noted:

Exhibit Numbers

1. Application received and date- stamped by the Town Clerk and Board of Appeals on August 11, 2015.
2. In-Law Apartment Affidavit, signed by Julio & Debra Foster dated 7/30/15.
3. Copy of Legal Notice published in the Norwell Mariner 8/27/15 and 9/3/15.
4. Abutters List
5. Norwell Assessors Record Card for 65 Cushing Hill Road.
6. Approval from Board of Health, dated 8/14/15, to convert existing garage into in-law with master bedroom; add 3 car garage onto front of house; not to exceed five (5) bedrooms.
7. Schematic Design Plans, prepared by Aprea Design, Revised 7/6/15, consisting of A-1 Proposed First Floor & Loft Plans; A-2 – Proposed Front Side Exterior Elevations; and A-3 – Proposed Rear & Side Exterior Elevations.
8. Existing Site Layout Plan dated 8/4/15
9. Conservation Commission Approval dated 7/7/15.

FINDINGS:

At the hearing, the Board confirmed the facts in the Notice and Application set forth above. The Applicants appeared and presented the request and the facts set forth in the Application.

Based upon the foregoing, the Board finds that:

1. In-Law Apartments are allowed in all Residential Districts, including District A by Special Permit under Section 2316(d) of the Norwell Zoning By-Law.
2. The Board found that the Owners of the Premises occupy the residence, as required by Section 2316(d)(1) and the In-Law Apartment will be occupied by Mrs. Foster's mother fulfilling the requirement of Section 2316(d)(1)(a).
3. The Board found that there will be exterior alterations, and the project will not change the appearance of the main dwelling as a single-family residence, as required by Section 2316(d)(2).



4. The Board of Health documentation demonstrates that there will be satisfactory sewage disposal, as required by Section 2316(d)(3), and conditions noted in Exhibit 6.
5. Although the Board did not invoke Section 2316(d)(5) of the By-Law, it has the stated power to "safeguard the neighborhood or otherwise serve the purpose of this by-law" by limiting the following:
 - a. maximum number of occupants
 - b. maximum number of rooms
 - c. modification of driveway or parking spaces to provide adequate off-street parking.

DECISION OF THE BOARD:

Based on the evidence presented and its findings above, upon a motion duly made and seconded, the Board **VOTED** unanimously to grant the Special Permit to the Applicants to construct additional living space at the Property to serve as an In-Law Apartment, in accordance with the file plan detailed in Exhibit 7, as allowed under Section 2316(d) of the Norwell Zoning By-Law, subject to the following:

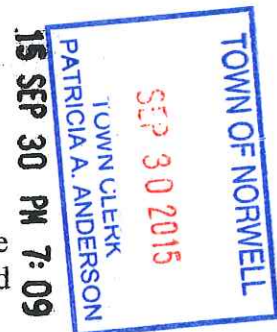
SPECIAL CONDITION:

This Special Permit shall become null and void under either of the following circumstances:

- a. If Rosemary Sullivan and/or one or both of Julio & Debra Foster are not able to occupy the premises, or
- b. As provided under Section 2316(d)(4), this Special Permit will terminate upon the transfer of ownership, and use will revert back to a single-family dwelling.


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 then dismissed or denied, a copy of the Board's decision must be filed with either the Register 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:** This Decision shall take effect only at

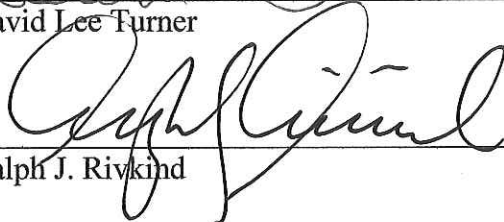


such time as a copy of the Decision, certified by the Office of the Town Clerk of the Town of Norwell, is recorded with the Register of Deeds or Recorder of the Land Court.

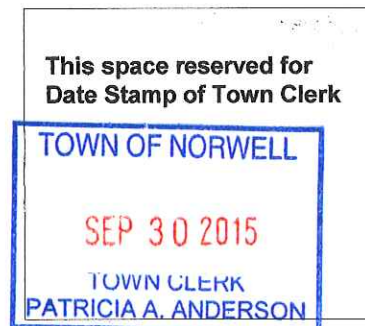
4. **EXPIRATION:** The applicant must exercise any Decision granted by the ZBA within two (2) years from the date of the Decision or it shall lapse.


Philip Y. Brown


David Lee Turner


Ralph J. Rivkind

Date Filed with Office of the Town Clerk



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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.