

OFFICE OF
BOARD OF APPEALS

TOWN OF NORWELL

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

File No. 15-9

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A PUBLIC HEARING was held on November 18, 2015 at 7:30 P.M. and continued to and completed on December 1, 2015, at 7:30 p.m., by the Norwell Zoning Board of Appeals (the Board) under Massachusetts General Laws, Chapter 40A, Sections 6 and 9, at the Norwell Town Offices, 345 Main Street, Norwell, MA on the Application (the Application) of:

Scott Kudrick
21 Birchwood Lane
Norwell, MA 02061, (the Applicant)

for a Special Permit and/or Section 6 Finding under the Norwell Zoning By-Law, Sections 1400, 1420, 1640, 1642(a) (Dwellings on Non-Conforming Lots Equal to or Greater than One Acre) and 2441 (Front Yard), for his Property known and numbered as 293 South Street, in said Norwell, (the Property). The Applicant, in his Application, seeks relief under Section 1642(a) as the existing Property front yard setback of 41 ft.

does not conform to the required front yard setback of 50 ft. and also the proposed addition will increase the footprint by more than 50%.

The Property is shown on Assessors Map 23D as Lot 7 in Block 64, is in Residential Zoning District A, is described in the instrument recorded with Plymouth Deeds in Book 45688, Page 25. The single family dwelling on the property was built in 1960.

The Public Hearing for this Application was duly noticed in The Norwell Mariner on October 29, 2015 and November 5, 2015, and was posted at the Norwell Town Hall as required by law. The Applicant was represented at the two hearings by Laurence Gogarty of 283 South Street, in said Norwell (see Application, Exhibit 1).

The following documents were received by the Board, marked as Exhibits as noted below and included as part of the Application and file for this case:

Exhibit Numbers

1. Application received and stamped by the Town Clerk and Board of Appeals on September 29, 2015.
2. Sketch Plan dated 7/20/15, 293 South St., Norwell, MA, filed with Exhibit 1, date-stamped by the Town Clerk and Board of Appeals that shows the existing site, existing dwelling and proposed addition and site grades, existing and proposed and proposed septic tank and leach field and foundation plan
3. Plan for "Sewage Disposal System", dated 8/21/15, by Spath Engineering and Morse Engineering, Inc., received with the Application on 9/29/15-three sheets, marked 1 of 3.
4. Copy of Legal Notice published in The Mariner on 10/29/15 and 11/5/15.
5. List of abutters.

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FINDINGS:

The first hearing was held on November 18, 2015, with the Applicant's Representative presenting the proposal to the Board. Abutters were present. They generally supported the Application but some pointed out that if surface water, including run-off from paved and increased roof area is not handled and disposed of onsite, the increased water run-off will flow down grade to South Street and impact single family dwellings that exist at lower elevations. A site inspection by an authorized member of the Board confirmed that the concern was based on fact and, under Town By-Laws, must be resolved.

At the hearing, the Board confirmed the facts in the Notice and Application set forth above and the Exhibits and in the testimony received by the Board. The Applicant's Representative appeared and presented the request and the facts set forth in the Application.

Based upon the foregoing, the Board finds that:

1. The Applicant proposes to expand their single family dwelling as noted in the Exhibits, within the existing setbacks and without expanding the use of the Property.
2. The Application also proposes a new addition as shown on Exhibit 3, not within the footprint of the existing structure with a major expansion of the foundations and footprint of the dwelling (see Exhibits 2 and 3).
3. The proposal will not change the non-conformity of the Property or impact upon the allowed use of the Property. However, the impact of the expansion of the dwelling will impact the discharge of surface water onto South Street and existing private dwellings down grade from the Property, if not contained on the site.
4. The proposed changes, aforesaid, as shown on the Exhibits, and as described above, can be, and must be in harmony with and comply with the intent and purpose of the Zoning By-law and will have no adverse impact upon the neighborhood if the increase surface water is controlled and contained and handled onsite, the Property.

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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 and make a Section 6 Finding approving the changes described above, upon the following conditions:

SPECIAL CONDITION 1:

A plan or plans, stamped and approved by a duly licensed Professional Engineer, of proper qualification, shall be submitted to this Board and the Building Inspector before any building permit for the project is issued, that designs, details and provides for a system for the handling of the surface water discharge on the site so that surface water on the site is not discharged onto or through South Street, as required in this Decision and the law and the By-Laws of the Town of Norwell. A certification, by said Professional Engineer, that such system has been constructed and performs as required by such Plans and this Decision, shall be filed by the Applicant or his Representative with the Board and Building Inspector before any occupancy permit is issued for the project.

ADDITIONAL SPECIAL CONDITION:

Plans, in accordance with the State Building code, and Special Condition 1, above, shall be submitted to the Building Inspector before any Building Permit for the Project is issued.

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.

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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.