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OFFICE OF
BOARD OF APPEALS

TOWN OF NORWELL

345 MAIN STREET, P.O. BOX 295
NORWELL, MASSACHUSETTS 02061
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Members

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Philip Y. Brown, Vice Chair
David Lee Turner, Clerk

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Thomas P. Harrison
Ralph J. Rivkind

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

File No. 16-3

A PUBLIC HEARING was held on March 16, 2016 at 7:30 P.M., and continued to April 6, 2016, at 7:20 P.M., at the same place, 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 upon the Application of:

Andrew & Lindsey Smith
24 John Adams Drive
Norwell, MA 02061, the Applicants

For a **Special Permit** and **Section 6 Finding** under Sections 1400, 1420, 1640, 1642, 2420 (Lot Area) and 2421 of the Norwell Zoning By-Laws for the property, the Property, located at **24 John Adams Drive** and shown on Assessor's Map 18A, Block 32 Lot 24, Land Court Cert.# 118604 in Residential District B and the Aquifer Protection District. The Property, with only 22,075 sq. ft. does not conform to minimum lot size requirement of 43,560 sq. ft. The house was built in 1967.

The Applicants, in their Application, seek a decision that will allow them to expand the single family dwelling on the property by adding a second floor with three bedrooms, 2 baths and reconfiguring the bedrooms on the first floor to an office and playroom with glass doors.

The Public Hearing for this Application was duly noticed in the *Norwell Mariner* on February 25 and March 3, 2016.

The Applicant, Andrew Smith, presented the proposed project as outlined in the Application. No one spoke in opposition to the Application. The hearing was continued to April 6, 2016, so that the Applicants could submit revised plans, marked as 16-3 Exhibits 7-Sheets 1 and 2.

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FILE DOCUMENTATION:

The Board received the following documents as Exhibits, as noted, into the record

1. Pages 1, 2& 3- Application received and date-stamped by the Town Clerk and Board of Appeals on February 18, 2016
- 1-4 Site Plan
- 1-4 Original Plans, A ,B, C & D
- 1-5 Legal Notice
- 1-6 Abutters List
- 1-7 Assessors Record Card
2. Board of Health approval, dated 3/3/16 limiting bedrooms to a total of 3 in the building
3. Conservation Commission approval dated 2/19/16 with map and plot plan
4. Aerial photograph of subject and its neighborhood
5. Site Plan dated 12/11/12
6. Copy of Assessors sheet that shows relevant portions of #31 and#32
7. Pages 1 & 2 - Revised floor plans of 1st and 2nd floors
8. Deed Restriction filed March 3, 2016 with Plymouth Land Court, Certificate# 118604, stating that the septic system for said parcel has been designed for for not more than (3) three bedrooms and prohibits the installation and use of a garbage grinder

FINDINGS:

Based upon the evidence, including the Exhibits, the Board finds:

1. The lot measures 22,075 sq. ft. where 43,560 sq. ft. is required pursuant to Section 2421.
2. The footprint of the existing house will not be changed by the proposed Construction.

3. The increase in volume of the project will increase the non-conforming nature of the dwelling.
4. The Board may issue a Section 6 finding pursuant to M.G.L. c.40A and Section 1642 of the Norwell Zoning Bylaws if it finds, and the Board in this appeal finds, that the increase in the non-conforming nature of the structure will not be substantially more detrimental to the neighborhood than that existing structure.
5. 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.

DECISION OF THE BOARD:

Based upon its findings as set forth above and upon a motion duly made and seconded, the Board of Appeals unanimously **VOTED** to grant a **Special Permit and a Section 6 finding** in accordance with M.G.L. Chapter 40A Section 6 and 1642 of the Norwell Zoning Bylaws, for the addition of the proposed second floor at **24 John Adams Drive**, subject to the following:

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SPECIAL CONDITIONS:

- A. The dwelling shall continue to be used as a single family dwelling.
- B. The addition and modifications to the property approved in this Decision, shall be constructed in accordance with the revised plans, "the plans", Exhibit 7, Pages 1 and 2, and will be constructed in accordance with all the requirements of the Conservation Commission, the Norwell Board of Health, and the restrictions noted in the filing with the Land Court (see Exhibit 8).

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.

David Lee Turner

 David Lee Turner

Ralph J. Ryzkind

 Ralph J. Ryzkind

Thomas P. Harrison

 Thomas P. Harrison

Date Filed with Office of the Town Clerk

This space reserved for
 Date Stamp of 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.