

TOWN OF NORWELL
TOWN CLERK

2019 JUN 19 PM 7:03

RECEIVED



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

Associate Members

Ralph J. Rivkind, Assistant Clerk
Roy W. Bjorlin
Matthew H. Greene
Stephen T. Bright

FINDINGS AND DECISION OF THE NORWELL BOARD OF APPEALS

File No.: 18-30

A public hearing was held on May 15, 2019, at 7:30 P.M. and continued on June 5, 2019, 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:

Eric W. Chaisson
77 Kings Landing
Norwell, MA 02061

For a Special Permit and Section 6 Finding under Sections 1400, 1420, 1640, 1642 (c) (Structural Change to Non-Conforming Lot) and 2421 (Lot Area) of the Norwell Zoning By-laws. Applicant seeks to remove and re-build existing structure, adding a second floor, thus changing the roofline. Proposed building height to be approximately 33.7 ft. The lot does not conform to the minimum lot size requirement of 43,560 sq. ft. with only 3,791 sq. ft. The Property is

located at 77 King's Landing in Residential District A, Salt Marsh Conservation District, Flood Plain as shown on Assessor's Map 22A, Block 61, Lot 41 and recorded at the Plymouth County Registry of Deeds in Book 44976, Page 116. The house was built in 1930.

The application was given proper public notice in the Norwell Mariner on April 18, 2019 and April 25, 2019, and posted at the Norwell Town Hall to fulfill requirements of the Open Meeting Law.

Mr. Chaisson presented the application on May 15, 2019, and Attorney Walter Sullivan appeared for the applicant on June 5, 2019, and responded to questions from Board members. Edward LeNormand spoke in favor of this application.

FILE INVENTORY: Documents submitted, included but not limited to the following, were received by the Board:

1. Application dated 4/3/19 signed by the owner Eric Chiasson. File # 19-03
2. Departmental Building Permit Approvals.
3. Town of Norwell- Conservation Commission Order of Conditions.
4. Federal Emergency Management System Elevation Certificate.
5. Floor Plans and Elevations for proposed new structure.
6. Commonwealth of Massachusetts, Department of Conservation & Recreation Special Permit and Conditions (issued 2/28/19 & recorded on 4/8/19)
7. Two letters of support from neighbors at 80 Kings Landing & 78,71,70 Kings Landing.
8. Site Plan dated 4/1/19.
9. Foundation, First, Second, & Roof Framing Plans dated 11/5/18.
10. Applicants check # 631 (\$125).
11. Assessor property card.
12. Letter from Walter Sullivan's office dated 6/3/19 requesting a favorable finding, and also a copy of a decision from another case Bellalta vs. Zoning Board of Appeals of Brookline.
13. Photos of the property.

RECEIVED
2019 JUN 19 PM 7:04
TOWN OF NORWELL
TOWN CLERK

2019 JUN 19 PM 7:04

FINDINGS:

RECEIVED

1. The property is located in Residential District B and includes an existing single-family home that was built in 1930 prior to the existing zoning by-laws. The lot is non-conforming because it is less than one acre. The Applicant is seeking approval to remove and rebuild the existing structure in order to raise his home off the ground and to increase the size of his house by adding a second story in accordance with the submitted plans, noted in the File Inventory above. The construction is necessary because the Applicant's home was damaged by flood waters.
2. The Board may issue a Section 6 finding pursuant to M.G.L. c. 40A and Section 1620 of the Norwell Zoning Bylaw, if it finds that:
 - a. "The conduct of the proposed use will not be detrimental to the neighborhood and zoning district . . ."
Finding: As the property will continue to be used as a dwelling unit, the Board finds the proposed addition will not be detrimental to the neighborhood and zoning district.
 - b. ". . . the proposed use will not significantly alter the character of the zoning district".
Finding: The Board finds, as the property is located in Residential District B, the existing use as a residence is allowed by right and will, therefore, not alter the character of the zoning district.
 - c. "The conduct of the proposed use will not be injurious, noxious, or offensive to the neighborhood by reason of the emission of odors, fumes, dust, smoke, noise or other cause, nor hazardous to the community on account of fire, explosion or other cause."
Finding: As the property will continue to be used as a dwelling unit, the Board finds the proposed addition will not be injurious, noxious, or offensive to the neighborhood, an allowed use. It will also be rebuilt in a manner to protect against future flooding.
3. There was no objection to the proposed construction plans submitted to the Board either through testimony or in writing.

DECISION OF THE BOARD:

Based upon the evidence presented and its findings detailed above and incorporated herein and forming a part of this decision, upon a motion duly made and seconded, Members Brown, Greene, and Rivkind and **VOTED** unanimously to grant a **Special Permit and Section 6 Finding**

for approval to remove and rebuild the Applicant's home along with a second story on property located at 77 Kings Landing in accordance with the filed plans as well as the conditions and orders from other regulatory authorities, subject to the following:

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 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 the 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 zoning relief 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.
4. **LAPSE OF SPECIAL PERMIT:** The Applicant must exercise any Special Permit granted by the Board of Appeals within two years of the date this Decision is filed with the Office of the Town Clerk or as provided in any extension thereof as detailed in the Board's Rules, or it shall lapse.

----- The remainder of this page is intentionally left blank. -----

RECEIVED
2019 JUN 19 PM 7:04
TOWN OF NORWELL
TOWN CLERK

Philip Y. Brown

Philip Y. Brown

Matthew H. Greene

Matthew H. Greene

Ralph J. Rivkind

Ralph J. Rivkind

This space reserved for
Date Stamp of Town Clerk

Date Filed with Office of the Town Clerk

RECEIVED

2019 JUN 19 PM 7:04

TOWN OF ADIRONDACK
TOWN CLERK

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.