

OFFICE OF  
BOARD OF APPEALS

# TOWN OF NORWELL

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## NOTICE OF DECISION

### THE NORWELL BOARD OF APPEALS

File No. 19 - 4

A Public Hearing was opened, after notice and hearing, as required by law, on May 15, 2019, but then continued by the Norwell Zoning Board of Appeals (the Board), to and held on 05 June, 2019, under MA. General Laws, Chapter 40A, Sections 6 and 9, at the Norwell Town Offices, 345 Main Street, Norwell, MA, on the APPLICATION (Application) of:

Stephen M. Adams  
11 Wendall Avenue  
Norwell, MA 02061 (Applicant)

For a **Section 6 Finding and Special Permit**, under Sections 1400, 1420, 2421 and 2441 (non-conforming Front Yard Setback & Lot Area) of the Norwell Zoning By-laws, because the existing structure does not meet the presently required front yard setback of thirty-five (35) feet and the Property does not satisfy the present minimum Lot size of One (1) acre. The Applicant's requests are to add a 4' x 8.5' roof covered porch (insignificantly larger than the present outside open entry and front stairs) to the existing non-

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conforming single- family dwelling and a new foundation to replace a portion of the existing foundation at the rear of that dwelling, known and numbered as 11 Wendall Avenue. The Property (Property), located in Residential District B and in an Aquifer Protection District, is shown on Assessors' Map 12D, Block 27, Lot 126, and is described in the Deed recorded with Plymouth County Registry of Deeds in Book 48934, Page 93. The single-family dwelling was constructed in 1941, on a Lot containing .13 of an acre. The Property consists of 5,500 Square Feet and is bounded and described as set forth on the Plot Plan, by Grady Consulting, L.L.C., dated: April 8, 2019, Job No. 18-285, incorporated herein as EXHIBIT 4 (Plot Plan ). The Plot Plan also shows the location of the single-family dwelling and the changes requested by the Applicant in his Application.

The Application was duly noticed, published in the Norwell Mariner on April 25, 2019 and May 2, 2019, and posted at the Norwell Town Hall in accordance with the requirements of the Open Meeting Law. All interested parties were notified by mail as required by law.

The Applicant attended the Hearing and presented the Application. No one spoke in opposition to granting the requested relief.

**EXHIBITS AND FILE INVENTORY:** The Application, all attachments, and the following documents were received and marked as Exhibits, as indicated, by the Board:

1. Application, signed by the Applicant, was received and stamped by the Board of Appeals on April 10, 2019.
2. Assessors Property Record Card for the Property.
3. A copy of the Notice of the Hearing for this Hearing,
4. Plot Plan, dated April 8, 2019, by Grady Consulting, LLC, Job No. 18-285

Commented [DT1]:

**FINDINGS**

The Property is located in Residential District B and an Aquifer Protection District and is non-conforming, as set forth above. The Applicant proposes alterations to the front entry to the existing single Family and replacement of a portion of the existing foundation at the rear of the Dwelling that do not significantly change or increase the non-conformity of the Property. The use of the Property is, and will continue to be used as a single family dwelling, an allowed use, and the changes proposed in the Application will not increase or change the intensity of that allowed use or its impact on the Zoning District.

***The evidence presented, including EXHIBIT 4, was that the changes are not significant, will not change the presently allowed, actual and proposed continued use of the structure as a single-family dwelling, and because they are minor and of little significance, they will have no negative impact upon the neighborhood or zoning district***

The Board may issue a Section 6 Finding and Special Permit pursuant to G.L. c. 40A, Section 6 and Section 9; and Sections 1400, 1420, 2421 and 2441 of the Norwell Zoning Bylaws, modifying and reducing front and side yard set-backs if it finds that

- a. The proposed changes will not be detrimental to the neighborhood and zoning district

**Finding:** The Board finds that the property will continue to be used as a single-family dwelling and the activities allowed for that use in Residential District B. The Board finds the proposed

changes and replacement foundation will not, therefore, change the impact of or be detrimental to the neighborhood and zoning district.

- b. The proposed change will not significantly alter the character of the zoning district”.

Finding: The Board finds the property is in Residential District B. The existing allowed uses, as a single- family dwelling, will not be changed by the changes and replacement foundation designed for and limited to such use, and, therefore, the changes authorized by this Decision will 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: The property will continue to be used as a single family dwelling, The Board finds the proposed changes and replacement foundation will not .be injurious, noxious, or offensive to the neighborhood so long their uses are limited to those uses allowed by right in the Residential B District.. The Board further finds that those uses must be observed.

- 2. The Property is located in an area where front yard set-backs do not generally meet existing requirements because parcels were created and single- family dwellings were constructed to different lot size and set-back requirements. The relief granted in this Decision satisfies the Applicants’ request set forth in the Application.

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**DECISION OF THE BOARD:**

Based upon the evidence presented, the findings detailed above, upon a motion duly made and seconded, the Board, VOTED unanimously to grant a Section 6 Finding and Special Permit for construction of the proposed changes, as set forth in exhibit 4, with frontage waivers only to extent set forth on the Plans for the Property, known and numbered as 11 Wendell Road, in accordance with the filed Application and all EXHIBITS, subject to the following:

**SPECIAL CONDITION:** Unless specifically waived in writing in any instance by the Building Inspector, detailed building and renovation plans shall be submitted to the Building Inspector, in accordance with the MA Building Code, before any construction work is commenced on the Project approved by this Decision.

**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 it was then 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.

	LOIS S. BARBOUR
	STEPHEN T. BRIGHT
	DAVID LEE TURNER

This space reserved for  
Date Stamp of Town Clerk

Date Filed with Office of the 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.

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