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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

Lois S. Barbour, Chair
Philip Y. Brown, Vice Chair
Ralph J. Rivkind, Clerk

Associate Members

Matthew H. Greene, Assistant Clerk
Daniel M. Senteno
Nicholas Dean

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

File No. 21-05

A public hearing was scheduled on March 3, 2021, by the Norwell Zoning Board of Appeals (the Board) under Massachusetts General Laws, Chapter 40A, Sections 6 and 9, online and at the Norwell Town Offices, 345 Main Street, Norwell, MA on the Application (the Application) of:

Costica Serban
44 Gerard Road
Norwell, MA 02061

For a **Section 6 Finding and Special Permit** under Norwell Zoning Bylaw § 201-4.4B(1)(c) (Nonconformance) to add a second floor and construct a 15'10" x 27' addition to the existing dwelling. The dwelling is located on a .36-acre lot, where one acre is required. The property is located at **44 Gerard Road** in Residential District B, as shown on Assessor's Map 6C, Block 21, Lot 75 and recorded at the Plymouth County Registry of Deeds in Book 53650, Page 86. The dwelling was constructed in 1953.

The application was duly noticed in *The Norwell Mariner* on February 10, 2021, and February 17, 2021, and posted at the Norwell Town Hall to fulfill requirements of the Open Meeting Law.

The Applicant, Costica Serban, presented the application to the Board and responded to member questions. No member of the public either during the meeting or in writing prior to the meeting expressed support or opposition to this application.

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

1. Application, dated 1/29/21, signed by the Applicant, Costica Serban, received and stamped by the Board of Appeals on 2/2/21 and by the Town Clerk on 2/2/21.
2. "Building Location Plan", as prepared by Environmental Engineering Technologies Inc. 465 Furnace Street, Marshfield, MA 02050, dated 2/1/2021, signed and sealed by Robert C. Crawford.
3. "Front Elevation, Cross Section B, Second Floor, Basement, Rear, and Left and Right Elevation" plans prepared by SoftPlan Architectural Design Software.
4. A copy of a Commonwealth Board of Health certificate of compliance from Richard Robert DeBenedictis marked Complete System, Upgraded, Repair.
5. Town of Norwell Assessor's Card for 44 Gerard Road Norwell MA 02061.

FINDINGS: The Board made the following findings:

1. The property is located at 44 Gerard Road in Residential District B and includes an existing single-family, one-story dwelling that was built in 1953.
2. The Applicants are seeking approval to construct an L-shaped addition and add a second story that will provide three (3) bedrooms total.
3. The subject property consists of .36-acre lot, where one acre is required.
4. According to the plans, the addition meets the rear line setback requirement of 20' from the property line under § 201-9.4B(1) with a minimum of 134.6 ft.
5. Further, the proposed addition meets the sideline requirements of 10 ft. for a house constructed prior to July 7, 1955, under § 201-B.(2) on the northerly sideline at 10.5 ft. and the southerly sideline at 24.2 ft.
6. The Board may issue a Section 6 finding pursuant to M.G.L. c. 40A and § 201-3.3. B. 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, an allowed use in Residential District B, the Board finds the proposed L-shaped addition and added second story will not be detrimental to the neighborhood and zoning district in a neighborhood of similar residences.

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- 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, as an allowed use.
7. There was no objection to the proposed construction plans submitted to the Board either through testimony or in writing.

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DECISION OF THE BOARD:

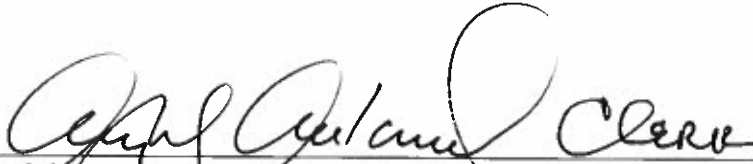
Based upon the evidence presented and its findings detailed above and incorporated herein and forming a part of this decision, upon a motion duly made and seconded, Members Rivkind, Greene and Dean were individually polled and **VOTED** unanimously to grant a **Section 6 Finding and Special Permit** to add a second floor and construct a 15'10" x 27' addition to the existing dwelling on property located at **44 Gerard Road**, in accordance with the plans, dated February 1, 2021, 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.

By unanimous vote of the Board of Appeals at its duly advertised meeting on September 9, 2020, its Clerk or Assistant Clerk is authorized to sign decisions on behalf of the panel members, which in this instance are:

Ralph J. Rivkind
Matthew Greene
Nicholas K. Dean



Ralph J. Rivkind, as Clerk on behalf of Panel Members

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.