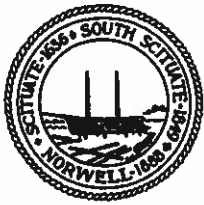


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OFFICE OF  
BOARD OF APPEALS

## 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  
Philip Y. Brown, Vice Chair  
Ralph J. Rivkind, Clerk

### *Associate Members*

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

## FINDINGS AND DECISION *of* The Norwell Board of Appeals

**File No. 21-06**

A PUBLIC HEARING was held on March 17, 2021 by the Norwell Zoning Board of Appeals (the Board) under General Laws, Chapter 40A, Section 9, at the Norwell Town Offices, 345 Main Street, Norwell, MA on the Application of:

Thomas and Kathleen McDonald/  
David Seoane (the "Applicants")  
33 Leigh Road/Lot 17  
Norwell, MA, 02061 (the "Property")

For a **Section 6 Finding and Special Permit** under Norwell Zoning Bylaw § 201.4.4B(1)(c) (Nonconformance) to raze and rebuild the existing dwelling, located on lots consisting of .48 acres, merged for purposes of zoning, where one acre is required. The applicant seeks relief from 201-9.2(A) for lot area requirements, 201-9.3 for the existing lot width of 100 ft at the 35-ft setback where 150 ft is required; 201-9.4(A)(1) for existing front setbacks of 16 ft where 35 ft is required; and 201-9.4(B)(1) for left side setback of 10 ft where 20 ft is required. The existing dwelling, constructed in 1950, is located at 33 Leigh Road as shown on Assessor's Map 12D, Block 27, Lot 18 and will be

combined with the land as shown on Assessor's Map 12D, Block 27, Lot 17, in Residential District B and recorded at the Plymouth County Registry of Deeds in Book 31754, Page 349 (33 Leigh Road) and Book 52567, Page 98 (Leigh Road).

**File Documentation (includes without limitation):**

1. Application for Special Permit and/or Section 6 Finding;
2. Site Plan from Morse Engineering dated January 19, 2021;
3. Copy of legal notice;
4. Deeds for premises;
5. Assessor's Field Cards for the premises.

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**Findings of the Board:** Based upon the evidence received, including the filed materials set forth above and the testimony offered at the public hearings, the Board finds the following:

1. The properties are known and numbered as 33 Leigh Road and Lot 17 Leigh Road totaling 20,890 square feet where 43,560 square feet is required. The two lots are merged for purposes of zoning and cannot be divided or subdivided without approval of the Board of Appeals.
2. The existing single-story dwelling located solely on 33 Leigh Road will be demolished and replaced upon the merged lots with a two-story single-family home on approximately the same footprint.
3. The Board finds the applicant's proposed structure on the merged lots shall decrease pre-existing nonconformities. Specifically, where the existing dwelling was located on a lot containing 10,890 square feet, the merged lots provide an increase of some 10,000 square feet; the side yard setback will be increase from the existing 6 feet to 10 feet; and the lot width will increase from an existing 50 feet to 53 feet.
4. 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 for a dwelling unit, an allowed use in Residential District B, the Board finds the proposed project will not be detrimental to the neighborhood and zoning district in a neighborhood of similar residences.
  - 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 for a dwelling unit, the Board finds the proposed addition will not be injurious, noxious, or offensive to the neighborhood, as an allowed use.

### Decision of the Board:

Based on the evidence presented and its findings above, incorporated herein, upon a motion duly made and seconded, the Members Brown, Senteno, and Dean were individually polled and **VOTED** unanimously to grant a MGL c. 40A, Section 6 Finding and Special Permit, in accordance with the plans detailed in the Findings, subject to the following:

### CONDITIONS APPLYING TO ALL DECISIONS:

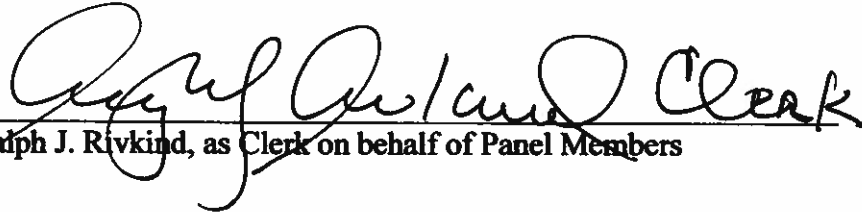
1. **RECORDING OF THE DECISION:** After receiving certification from the Town Clerk that no appeal has been taken within twenty days, or if appealed than dismissed or denied, a copy of the Board's decision must be filed with either the Registrar of the Plymouth County Registry of Deeds to be recorded 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.

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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:

Philip Y. Brown  
Daniel M. Senteno  
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.