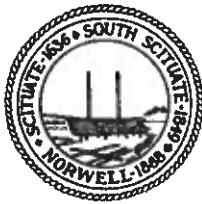


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OFFICE OF
BOARD OF APPEALS

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 Dean
William J. Lazzaro

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

File No. 21-07

A public hearing was scheduled on April 7, 2021, by the Norwell Zoning Board of Appeals (the Board) under Massachusetts General Laws, Chapter 40A, Sections 6 and 9, and held virtually VIA Zoom and not at the Norwell Town Offices, 345 Main Street, Norwell, MA on the Application (the Application) of:

Michael J. and Hollis M. Breen, Owners
6 Neal Gate Street
Norwell, MA 02061

For a **Section 6 Finding and Special Permit** under Sections 201-3.3, 201-4.4 B(1)(c) (Nonconformance), and 201-9.2 (Lot area) of the Norwell Zoning Bylaw to add a second floor within the existing footprint that will increase the roofline of the single-family dwelling, situated on a .52-acre lot, where one acre is required. The property is located at **6 Neal Gate Street** in Residential District A as shown on Assessor's Map 16B, Block 62 Lot 04, and recorded at the Plymouth County Registry of Deeds in Book 19116, Page 145. The dwelling was constructed in 1954.

The application was duly noticed in *The Norwell Mariner* on February 17, 2021, and February 24, 2021, and posted at the Norwell Town Hall to fulfill requirements of the Open Meeting Law.

The Applicants, Holly and Michael Breen, with their contractor, Robert L. Shepard of Shepard Construction of Hingham, presented the application to the Board and responded to member questions. A neighbor spoke in favor of the application while no one present expressed opposition to this application.

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

1. Application, dated 3/1/21, signed by the owners, Holly and Michael Breen, and Applicant, Robert L. Shepard, received and stamped by the Board of Appeals and the Town Clerk on 3/1/21.
2. Quitclaim Deed, filed with the Plymouth County Registry of Deeds at Bk 19116 PG 145 on 30 Nov 2000.
3. Letter in support of the application from neighbors Allan and Anne Traft of 1134 Main Street, Norwell, MA.
4. Letter in support of the application from neighbor Diane Ashton of 12 Neal Gate Street, Norwell, MA.
5. Letter in support of the application from neighbor, Mike Shea of 1150 Main Street, Norwell, MA.
6. Plan of 6 Neal Gate Street, dated February 25, 2021, as prepared by Ross Engineering Company of 683 Main Street, Norwell, MA 02061, as signed and Sealed by Paul J. Mirabito, Registered Professional Land Surveyor.
7. Set of nineteen (19) drawings, entitled "Breen Residence/ 2nd Floor Addition and Interior/ Renovation/ 6 Neal Gate St. Norwell, MA/ Owner:/ Hollis and Michael Breen/ 6 Neal Gate St. Norwell, MA", dated 2/9/21 "For Construction", as prepared by EMBR Architects, LLC, 37 Derby Street, Suite B-1, Hingham, MA 02043, not signed or sealed, including the following:

General:

G1001 Cover Sheet

G1002 Reference

Demolition:

AD101 Basement Demolition Plan

AD102 1st Floor Demolition Plan

AD103 Roof Demolition Plan

AD201 North and West Demolition Elevations

AD202 South and East Demolition Elevations

Structural (signed and sealed by Edward T. Eisenhaure, P.E):

SF101 First and Second Floor Framing Plans

SF102 Attic and Roof Framing Plans

Architectural (AE101, AE102, and AE103 signed and sealed by Edward T. Eisenhaure, P.E):

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AE101 Basement Plan
AE102 First Floor Plan
AE103 Second Floor Plan
AE201 North (Front) and West (Right Side) Elevations
AE202 South (Rear) and East (Left Side) Elevations
AE301 Building Section
AE302 Building Section
AE303 Building Section
AE601 Window Schedule
AE601 Door Schedule

FINDINGS: The Board made the following findings:

1. The property is located at 6 Neal Gate Street in Residential District A and includes an existing single-family, one-story dwelling that was built in 1954.
2. The Applicants are seeking to restore damage from a fire and add a second floor to the existing dwelling that will not expand the existing footprint.
3. The subject property consists of a .52-acre lot, where one acre is required.
4. According to the submitted plot plan, the existing setback of 51.7' and easterly and westerly sidelines of 24.8' and 28.4', respectively, meet the sideline setback requirements of 20', while the closest rear line setback of 31.4' meets the requirement of 20' from the property line under § 201-9.4B(1).
5. 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 A, the Board finds the proposed second floor addition 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 A, 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.
6. There was no objection to the proposed construction plans submitted to the Board either through testimony or in writing. In fact, three letters of support from neighbors were submitted with the application.

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, Barbour, and Senteno were individually polled and **VOTED** unanimously to grant a **Section 6 Finding** and **Special Permit** to add a second-floor addition to the existing dwelling on property located at **6 Neal Gate Street** in accordance with the plans, dated February 9, 2021, subject to the following:

CONDITIONS APPLYING TO ALL DECISIONS:

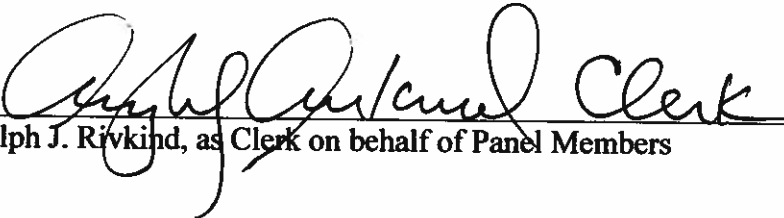
1. **RECORDING OF THE DECISION:** After receiving certification from the Town Clerk that no appeal has been taken within twenty days, or if appealed than dismissed or denied, a copy of the Board’s decision must be filed with either the Registrar of the Plymouth County Registry of Deeds to be recorded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

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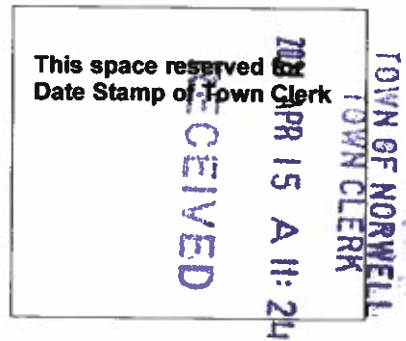
By unanimous vote of the Board of Appeals at its duly advertised meeting on September 9, 2020, its Clerk or Assistant Clerk is authorized to sign decisions on behalf of the panel members, which in this instance are:

Ralph J. Rivkind
Lois S. Barbour
Daniel M. Senteno



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

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.