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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. 21-09

A public hearing was scheduled on May 19, 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 on the Application (the Application) of:

**Ryan & Caitlin Bearden**  
**4 Jefferson Ave**  
**Norwell, MA 02061**

For a **Section 6 Finding** under M.G.L. c. 40A 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 .26-acre lot, where one acre is required. The property is located at **4 Jefferson Ave** in Residential District B as shown on Assessor's Map 12C, Block 32 Lot 33, and recorded at the Plymouth County Registry of Deeds in Book 53936, Page 47. The dwelling was constructed in 1965.

The application was duly noticed in The Patriot Ledger on April 19, 2021, and *The Mariner* on April 28, 2021, and posted at the Norwell Town Hall to fulfill requirements of the Open Meeting Law

The Applicants representative, Kieran Whelan of JK Contracting of Weymouth, presented the application to the Board and responded to member questions. There was no one else present to express in favor or opposition to this application.

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

1. Application, dated 3/30/21, signed by the owner, Caitlin Bearden, received and stamped by the Board of Appeals and the Town Clerk on 4/12/21.
2. "Plot Plan/ for/ 4 Jefferson Avenue/ in/ Norwell", dated April 9, 2021, as prepared by Ross Engineering Company of 683 Main Street, Norwell, MA 02061, signed and sealed by Paul J. Mirabito, Registered Professional Land Surveyor.
3. Set of nine (9) drawings, entitled "The Bearden Project", as prepared by Tish Dixon Designs, 191 Bridge Street Suite A, Weymouth, MA 02191, not signed or sealed, including the following:
  - 1-A1 Existing House & Plot Plan; dated 12.20.2020
  - 2.0-A1 + 2.0-A1.1 Basement, 1<sup>st</sup> & 2<sup>nd</sup> Floor Plans w/Detectors; dated 02.03.2021
  - 2.0-A1 + 2.0-A1.1 First & Second Floor Plans, Proposed; dated 12.20.20
  - 6-A1 + 6-A1.1 Front & Rear Elevations – Proposed; dated 12.20.20
  - 7-A1 Framing Plan 2<sup>nd</sup> Floor Joists; dated 12.20.20
  - 8-A1 Basement Storage Space Plan; dated 02.03.2021
  - 7 A1 Framing Plan, 2<sup>nd</sup> Floor Joists; dated 03.08.2021
  - 1-A1 Existing House & Plot Plan; dated 12.20.2020
  - 7-A1.1 Framing Plan, Truss Roof; dated, 03.08.2021
4. Norwell Accessors Card for 4 Jefferson Avenue

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**FINDINGS:** The Board made the following findings:

1. The property is located at 4 Jefferson Avenue in Residential District B and includes an existing single-family, one-story dwelling that was built in 1965.
2. The Applicants are seeking to add a second floor to the existing dwelling that will not expand the existing footprint.
3. The subject property consists of a .26-acre lot, where one acre is required.
4. According to the submitted plot plan, the existing setback of 20.2' and 21.0' easterly and westerly sidelines of 61.0' and 63.3', respectively, meet the sideline

setback requirements of 20', while the closest rear line setback of 22.7' 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 B, 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 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.

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 Brown, Senteno, and Dean 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 **4 Jefferson Avenue** in accordance with the submitted plans, as detailed in File Inventory No. 3 above, 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.

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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 May 19, 2021, 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 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.