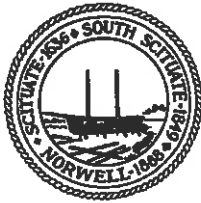


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OFFICE OF
BOARD OF APPEALS

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

Daniel M. Senteno
Nicholas K. Dean
William J. Lazzaro
Stephen H. Lynch

FINDINGS AND DECISION OF THE NORWELL BOARD OF APPEALS

File No. 22-03

A public hearing was scheduled on March 9, 2022, 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:

Gerardo Morales and Lourdes Landa
31 Gerard Rd
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 290 sq foot two floor addition to the left rear side of the existing single-family dwelling, increasing the size of the first and second floor bedrooms and creating an office space, playroom and an additional bathroom on the second floor. The dwelling is situated on a .18-acre lot, where one acre is required. The property is located at **31 Gerard Road** in Residential District B as shown on Assessor's Map 6C, Block 21 Lot 30, and recorded at the Plymouth County Registry of Deeds Land Certificate # 132116. The dwelling was constructed in 1952

The application was duly noticed in The Mariner on February 16, 2022, and on February 23, 2022, and posted at the Norwell Town Hall to fulfill requirements of the Open Meeting Law

Gerardo Morales and Lourdes Landa presented the application to the Board and responded to member questions. There was no one else present in favor or opposed to this application.

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

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1. Application, dated 1/31/21, signed by the owners Gerardo Morales and Lourdes Landa, received and stamped by the Board of Appeals and the Town Clerk on 1/31/22.
2. Norwell Accessors Card for 31 Gerard Rd
3. "As-Built for 31 Gerard Road in Norwell", dated July 29, 2015, as prepared by Morse Engineering Company Inc. of 19 Union Street PO Box 92, Scituate, MA 02066, signed and sealed by Gregory J. Morse, Registered Professional Engineer.
4. Set of seven (7) drawings, entitled "Morales Residence", as prepared by Scott M. Cerrato, Professional Land Surveyor, dated 1/5/2022, including the following:
 5. A1 Perspective View & Aerial View; not dated
 6. LS-00 1st & 2nd Floor Plans w/Detectors.
 7. Existing Plot Plan, dated 1/5/2022
 8. Proposed Plot Plan with setbacks, dated 1/5/2022
 9. As-Built Plans showing the existing structure and proposed addition
 10. Demolition Plan
 11. A-101 Proposed Floor Plan
 12. A-200 Existing House elevations & Proposed House elevations
 13. Norwell Sign off of approval from Norwell Board of Health and Norwell Conservation

FINDINGS: The Board made the following findings:

1. The property is located at 31 Gerard Rd in Residential District B and includes an existing single-family, one-story dwelling that was built in 1952.
2. The Applicants are seeking to add a second floor to the existing dwelling that will expand the existing footprint.
3. The subject property consists of a .18-acre lot, where one acre is required.
4. According to the submitted plot plan, the existing setbacks will remain Front Yard 27.0' & Lot Frontage 80.01' the westerly proposed setback will adjust from 10.4' to 10.3' where the requirement of 20.0' is required, while the closest rear line

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setback of 35.9' 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.

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 **31 Gerard Road** in accordance with the submitted plans, 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.

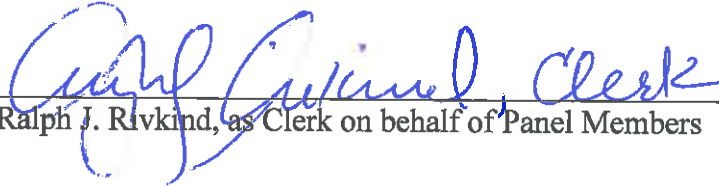
2. **RECORDING RECEIPT:** A copy of the recording fee receipt must be returned to the Board of Appeals. **NOTE: No building permit shall be issued without such evidence.**
3. **EFFECTIVE DATE OF APPROVAL:** The zoning relief granted by this Decision shall take effect only at such time as a copy of this 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 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

This space reserved for
Date Stamp of Town Clerk

Date Filed with Office of the 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.