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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, Assistant Clerk  
Nicholas K. Dean  
William J. Lazzaro  
Stephen H. Lynch

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

File No. 22-07

A public hearing was scheduled on June 15, 2022, 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:

Patrick Feely  
48 Prospect Street  
Norwell, MA 02061

For a Section 6 Finding under M.G.L. c. 40A and Special Permit under Sections 201-3.2A, 201-3.3, 201-4.4 B(1)(c) (Nonconformance), and 201-9.2 (Lot area) of the Norwell Zoning Bylaw to add an approximate 1100 sq foot two-story addition to the right side of the existing single-family dwelling, increasing the size of the kitchen, adding a living room, pantry and a second-floor primary bedroom. The dwelling is situated on a .49-acre lot, where one acre is required. The property is located at 48 Prospect Street in Residential

District A as shown on Assessor's Map 13C, Block 37 Lot 8, and recorded at the Plymouth County Registry of Deeds Book 42794, Page 0034. The dwelling was constructed in 1948.

The application was duly noticed in The Norwell Mariner on May 22, 2022, and June 1, 2022, and posted at the Norwell Town Hall to fulfill requirements of the Open Meeting Law.

The Applicant, Patrick Feely, 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 4/19/22, signed by the Applicant, Patrick Feely, received and stamped by the Board of Appeals on 5/3/22 and by the Town Clerk on 5/3/22.
2. "Proposed Dwelling Addition on 48 Prospect Street in Norwell, Massachusetts", as prepared by S. Robert Phinney Land Surveyors, Middleborough, MA – Signed and Sealed by S. Robert Phinney.
3. Fiscal Year 2022 Property Tax Assessment for 48 Prospect Street, Norwell, MA and stamped by the Town Clerk on 5/3/22.

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

1. The property is located in Residential District A and includes an existing single-family dwelling that was built in 1948.
2. The Applicant is seeking approval to add an approximately 1100 square foot 2 story addition to the right side of the existing single-family dwelling, increasing the size of the kitchen, adding a living room, pantry and a second-floor primary bedroom.
3. The dwelling is located on Prospect Street. The dwelling is located on a .49-acre lot, where one acre is required.
4. However, under § 201-4.4. B(1)(c), Main dwellings on nonconforming lots of less than one-acre states: Alteration, reconstruction, extension or structural change that complies with all current setback, building coverage and building height requirements provided that such alteration, reconstruction, extension or structural change does not increase the footprint or roofline of the dwelling.
5. According to the plans, the Applicant explained that what appeared to be a three-story addition due to the slope of the land is in fact an 18-inch step down into a basement, which is at this time remaining unfinished. The Applicant agreed that any future work performed to the basement would necessitate a new application with the Building Department.

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6. The Applicant stated that the existing driveway will be in the same locus but made smaller due to new stairs and landscaping being installed, and while shifting it closer to the home, it will be no closer to any abutters.
7. Further, according to the plans, the proposed structure meets the sideline setback requirements of 10 ft. for a house constructed prior to July 7, 1955, under § 201-B.(2) with the southerly sideline at 12.1 ft. and the westerly sideline at 32.1 ft.
8. 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 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.
9. 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 Rivkind, Dean and Lynch **VOTED** unanimously to grant a **Section 6 Finding and Special Permit** to add an approximately 1100 square foot 2 story addition to the right side of the existing single-family dwelling, increasing the size of the kitchen, adding a living room, pantry and a second-floor primary bedroom on property located at **48 Prospect St.** in accordance with the plans, dated June 15, 2022, 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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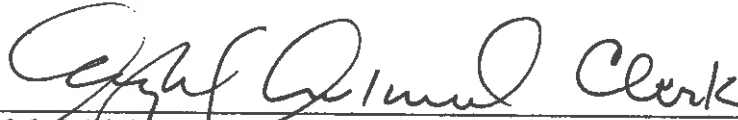
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By unanimous vote of the Board of Appeals at its duly advertised meeting on June 15, 2022, its Clerk or Assistant Clerk is authorized to sign decisions on behalf of the panel members, which in this instance are:

Ralph J. Rivkind  
Nicholas K. Dean  
Stephen H. Lynch

  
\_\_\_\_\_  
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.