

TOWN OF NORWELL
TOWN CLERK

2023 FEB 15 AM 11:41

RECEIVED



OFFICE OF
BOARD OF APPEALS

TOWN OF NORWELL

345 MAIN STREET, P.O. BOX 295
NORWELL, MASSACHUSETTS 02061
(781) 659-8018

Members

Lois S. Barbour, Chair
Philip Y. Brown, Vice Chair
Ralph J. Rivkind, Clerk

Associate Members

Daniel M. Senteno
William J. Lazzaro
Stephen H. Lynch
Joseph E. LaFleur

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

File No. 23-01

The PUBLIC HEARING was opened on January 25, 2023, continued to and closed on February 8, 2023, by the Norwell Zoning Board of Appeals (the Board) under General Laws, Chapter 40A, Sections 6 and 9, in person at the Norwell Town Offices, 345 Main Street, Norwell, MA, and broadcast live from the Osborn Room on Comcast Channel 9 and Verizon Channel 40 with a Zoom option on the Application of:

Rachyl Leitch and David Leitch
188 High 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 raze the 864 square ft, 3-bedroom, one-story single-family dwelling and build a 2,075 square ft, 3-bedroom, two-story single-family dwelling on a pre-existing nonconforming .46-acre lot, where one acre is required. The property is located at **188 High Street** in Residential District B as shown on Assessor's Map 11D, Block 31 Lot 21, and recorded at the Plymouth County Registry of Deeds Book 54268, Page 217. The dwelling was constructed in 1922.

The Public Hearing for this Application was duly advertised in *The Mariner* on January 4, 2023, and January 11, 2023, posted on the Town's website, and at the Norwell Town Hall as required in accordance with the Open Meeting Law.

The Applicant's Architect, Scott Melching, presented the application. Eileen Cronin of 184 High Street, a direct abutter, had expressed concern about proximity of a planned fence to their property and requested that an alternate natural barrier be considered instead, which resulted in the public hearing of January 25, 2023 to be continued to February 8, 2023 to gain resolution between the parties. At the hearing on February 8, 2023, Ms. Cronin appeared and testified that she was satisfied with the natural barrier solution being proposed and agreed to allow the project to proceed.

It should further be noted that the original panel consisted of Members Brown, Rivkind, and Barbour. However, at the end of the first meeting, Member Brown indicated he would be unavailable at the continued public hearing on 2/8/23, as he had an out-of-town commitment scheduled on that date and would be unavailable. As Member Lynch was in attendance at the opening meeting on 1/25/23 via Zoom, Chair Barbour asked the Applicant whether there would be any objection to that substitution before the meeting was continued to which Mr. Leitch indicated he did not. Chair Barbour reminded those present at the 2/8/23 meeting of the substitution of Member Lynch for Member Brown, who was out-of-town. The public hearing was able to proceed.

FILE INVENTORY:

1. Application, dated 12/09/22, signed by the Applicants Rachyl Leitch and David Leitch, date-stamped by the Town Clerk on 12/20/22.
2. Public Notice Authorization for advertising.
3. Attached to the submitted application, date-stamped by the Norwell Town Clerk on 11/17/22:
 - a. Assessor online database printout for 4 Tiffany Road
 - b. Quitclaim Deed conveying the property from Rachyl M. Leitch f/k/a Rachyl M. Goodine, to the Applicants, Rachyl Leitch and David Leitch, as recorded at the Plymouth County Registry of Deeds at Bk: 54268 Pg: 217 (1 of 2).
 - c. Declaration of Homestead, signed by the Applicants signed by the Applicants Rachyl Leitch and David Leitch on January 21, 2021 and Notarized by Roger E Hughes, Jr., Notary Public on January 21, 2021.
 - d. Property Tax Appraisal from Fiscal Year 2023 showing 188 High Street.
 - e. Architectural drawings, prepared by Scott Melching Architects of 31 Bearses Way, Kingston, MA 02364, entitled "Proposed Plans -188 High Street – New Single-Family Home", of December 7, 2022, consisting of ten (10) drawings:
 - DWG 1 Cellar Floor Plan
 - DWG 2 Ground Floor Plan
 - DWG 3 2nd Floor Plan
 - DWG 4 Attic Floor Plan (Unfinished)
 - DWG 5 Roof Plan
 - DWG 6 Building Section
 - DWG 7 Front Elevation
 - DWG 8 Right Elevation
 - DWG 9 Rear Elevation
 - DWG 10 Left Elevation

TOWN OF NORWELL
TOWN CLERK

2023 FEB 15 AM 11:41

RECEIVED

- f. Plot Plan entitled “#188 High Street, Norwell Massachusetts” as prepared by Grady Consulting, LLC, 71 Evergreen Street, Suite 1, Kingston, MA, 02364, dated December 1, 2022 (1 of 1)
- g. Architectural Plan revised drawings, dated 06 February 2023, consisting of four drawings, as prepared by Scott Melching, Architect, including:
 - DWG 11 Architectural Site Plan
 - DWG 12 Existing Photos – Google Maps
 - DWG 13 Existing Photos – Google Maps & Recent Photos
 - DWG 14 Proposed Evergreen Trees

FINDINGS:

1. The subject property known as 188 High Street is located in Residential District B, consisting of 0.46 acres where one-acre is required under current zoning.
2. The existing dwelling was constructed in 1922, prior to zoning.
3. The ZBA understands the proposed 3-bedroom structure meets all requirements for the existing septic system. The Applicant and others involved in the proposed project must meet any and all additional requirements of other town, state, or federal statutes or regulations.
4. The proposed project to construct a single-family dwelling will meet required front, rear, and side setbacks.
5. At the opening of the public hearing on 1/25/23, Member Brown suggested that the Applicant and the abutters in attendance from the adjacent 184 High Street property meet to resolve the screening concerns between the two properties. Subsequently, at the 2/8/23 continued public hearing, Ms. Cronin of 184 High Street indicated that she was satisfied with the proposed natural screening in accordance with the revised plan submitted at that meeting.
6. The Board may issue a Section 6 finding pursuant to M.G.L. c. 40A and Special Permit under § 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 residential dwelling unit, an allowed use in Residential District A, the Board finds the proposed construction of a new residential dwelling complies with sideline and rear setback requirements and will not be more 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 residential dwelling unit 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 residential dwelling unit, the Board finds the proposed addition will not be injurious, noxious, or offensive to the neighborhood, as an allowed use.

TOWN OF NORWELL
TOWN CLERK

2023 FEB 15 AM 11:41

RECEIVED

DECISION OF THE BOARD:

Based on the evidence presented and its findings above and incorporated by reference herein, upon a motion duly made and seconded, Members Rivkind, Barbour, and Lynch **VOTED** unanimously to grant 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) to reconstruct a pre-existing nonconforming single-family dwelling on a 0.46acre lot, subject to the following:

SPECIAL CONDITIONS:

1. The proposed construction shall comply with the submitted plans, detailed in Paragraphs 3(e), (f) and (g) of the File Inventory.
2. The final project shall include the plantings shown on the revised construction plans, shown in Paragraph 3(g) of the File Inventory as an accommodation agreed upon with the direct abutters.

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 then dismissed or denied, a copy of the Board’s decision must be filed with either the Register 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 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:** This Decision shall take effect only at such time as a copy of the Decision, certified by the Office of the Town Clerk of the Town of Norwell, is recorded with the Register of Deeds or Recorder of the Land Court.
4. **EXPIRATION:** The applicant shall exercise any Decision granted by the ZBA within two (2) years from the date of the Decision or it shall lapse.

TOWN OF NORWELL
TOWN CLERK


2023 FEB 15 AM 11:41

RECEIVED

----- The remainder of this page is intentionally left blank -----

By unanimous vote of the Board of Appeals at its duly advertised meeting on August 8, 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
Stephen H. Lynch
Lois S. Barbour



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

RECEIVED

2023 FEB 15 AM 11:41

TOWN OF NORWELL
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.