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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
William J. Lazzaro
Stephen H. Lynch

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

File No. 23-02

A public hearing was opened on March 8, 2023, and continued to April 5, 2023, by the Norwell Zoning Board of Appeals (the Board) under Massachusetts 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 1072 and Verizon Channel 39 with a Zoom option on the Application of:

Joseph Hayes and Ekaterina Nikitina
47 Jacobs Trail
Norwell, MA 02061

For a **Section 6 Finding** under M.G.L. c. 40A and **Special Permit** under Sections 201-3.2A, 201-3.3B and 201-3.3, 201-4.4 B(1)(c) (Nonconformance), and 201-9.2 (Lot Area) and a **Variance** under 201-9.4A of the Norwell Zoning Bylaw to demo the existing 255 sq ft deck and construct a 313 sq ft proposed addition, consisting of a mud room, storage area, and adding front and back landing steps, with a front yard setback that will be more non-conforming (16'6") than the current front yard setback (17'3") on a pre-existing

nonconforming .19-acre lot, where one acre is required. The property is located at 47 **Jacobs Trail** in Residential District B as shown on Assessor's Map 12D, Block 27 Lot 34, and recorded at the Plymouth County Registry of Deeds in Book 51479, Page 0269. The dwelling was constructed in 1964.

The application was duly noticed in *The Mariner* on 2/15/23 and 2/22/23 and posted at the Norwell Town Hall to fulfill requirements of the Open Meeting Law.

The Applicants, were represented by Paul J. Mirabito from Ross Engineering to the Board and responded to member questions.

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

1. Application, dated 12/08/22, signed by the owner, Joseph Hayes and received and stamped by the Board of Appeals on 1/17/23 and by the Town Clerk on 1/18/23.
2. Filing fee check copy
3. Narrative for Special Permit and Variance
4. Copy of the current deed
5. Certified list of Abutters (300' abutters)
6. Photographs of the site
7. Copy of architects proposed floor plan
 - a. 1/18/23 plan showing 16'.6" setback
 - b. 3/30/23 revised plan showing 17'.5" setback
 - i. Variance withdrawn
 - ii. Revised plan reduced sq ft to 248 sq ft instead of initial 313 sq ft
8. Plan entitled: "Plot Plan for 47 Jacobs Trail, Norwell, MA" Dated January 12th, 2023 prepared by Ross Engineering Company, a subsidiary of Grady Consulting, LLC
9. Time Limit Extension Agreement, signed by Paul J. Mirabito on 3/9/23, extending the time in which to file a Decision to 4/19/23

FINDINGS: The Board made the following findings:

1. The property is located at 47 Jacobs Trail in Residential District B and includes an existing single-family, one-story dwelling that was built in 1964.
2. The Applicants are seeking to demolish the existing 255 sq ft deck and construct per the revised plans, dated 3/30/23, a 248 sq ft proposed addition, consisting of a mud room, storage area, and adding front and back landing steps, with a front yard setback that will be less non-conforming (17'5") than the current front yard setback (17'3") on a pre-existing nonconforming .19-acre lot, where one acre is required.

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3. According to the revised plan, the existing setback of 17'3" is less than the 35' setback required and does not increase that nonconformity.
4. 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 dwelling unit, an allowed use in Residential District B, the Board finds the proposed addition complies with the front, side, 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 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.
5. As the applicant withdrew the Variance submission after revising plan, no Variance is required.

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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, Lynch, and Barbour **VOTED** unanimously to approve withdrawal of the Variance relief requested and to grant a **Section 6 Finding** and **Special Permit** to demolish the existing 255 sq ft deck and construct a 248 sq ft proposed addition, per the revised plans, dated 3/30/23, to the existing dwelling on property located at **47 Jacobs Trail** in accordance with the revised plans, as detailed in File Inventory Paragraphs 9 and 10 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.

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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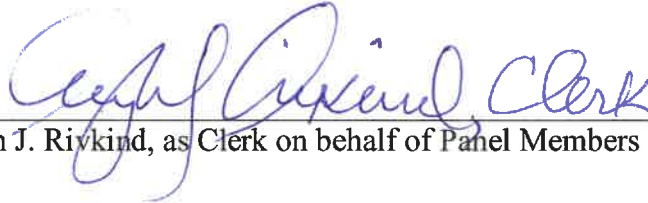
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By unanimous vote of the Board of Appeals at its duly advertised meeting on May 19, 2021, its Clerk or Assistant Clerk is authorized to sign decisions on behalf of the panel members, which in this instance are:

Philip Y. Brown
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*

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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.