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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. 23-03***

A public hearing was held on April 18, 2023, by the Norwell Zoning Board of Appeals under Massachusetts General Laws, Chapter 40A, Sections 6 and 10, 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:

**John Tassinari**  
**68 Blueberry Road**  
**Abington, MA 02351**

For modification of a **Variance** under Section 201-3.2B and 201-9.3A (frontage) of the Norwell Zoning Bylaw to raze the existing single-family dwelling and build a new approximately 5,000 sq ft dwelling located near the footprint of the existing dwelling with approximately 57.16 ft of frontage, where 80 ft is required. Mr. Tassinari also proposes to construct an approximate 20'x 50' greenhouse, approximate 110'x 250' horse barn and two horse paddocks on the property. The existing gravel driveway is proposed to be extended with a new 12' wide gravel driveway to the new structure.

The property is located at **64 Samuel Woodworth Road** in Residential District A as shown on Assessor's Map 9C, Block 46 Lot 40, and recorded at the Plymouth County Registry of Deeds Book 4754, Page 351. The dwelling was constructed in 1989.

The Public Hearing for this application was noticed in *The Mariner* on March 15, 2023, and March 22, 2023, and posted at the Norwell Town Hall and on the Town of Norwell website.

The Applicant, John and Laurie Tassinari, attended the hearing and were represented by counsel, Adam J. Brodsky, Esq., and Gregg Morse of Morse Engineering Co., who presented the application to the Board and responded to questions. Attorney Brodsky stated the existing structure is dilapidated and beyond repair. All setbacks for proposed buildings required will be met for zoning. All proposed accessory dwellings would be accessed by extension of a driveway. There is no intention to have commercial activities that are prohibited in this residential district.

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**PUBLIC COMMENTS:** Four members of the public spoke, expressing concerns about traffic, drainage to wetlands, and whether the proposed indoor riding rink could be converted to a business use, as follows.

**Sandra Ellsworth of 54 Samuel Woodworth Road** is concerned about the health and wellbeing of horses and whether they could be properly cared for. She has experience caring for these animals as she grew up on a horse farm.

**Andrea Chirasello of 15 Samuel Woodworth Road** expressed concern that this property is labeled on a future land use map from the Town's 2006 Master Plan as "environmentally sensitive land to be protected". Further, the existing residence is approximately 1500 sq. ft., while that proposed is to be 5000 sq. ft. with a 25,000 sq. ft. horse barn. She noted horses generate a lot of waste and expressed concern about how that waste could impact local wetlands. She is also concerned about potential traffic.

**Thomas MacCurtain of 48 Samuel Woodworth Road** spoke with Conservation Agent Will Saunders previously about his wetland concerns.

**Paul Kelly of 19 Samuel Woodworth Road** is concerned about the potential for traffic, as the proposed indoor riding rink would be similar in size to a football field. He is concerned about possible future commercial use and what could be expected from the Town about any change in use from residential.

Chair Barbour indicated the above concerns were outside of the authority of the Zoning Board. Authority over stormwater and wetlands falls within the purview of the Conservation Commission. It was noted the property does slope into the drainage basin of the Second Herring Brook. Additionally, the Building

Inspector/Zoning Enforcement Officer has the authority to ensure any building permit issued complies with the zoning bylaw. Further, Norwell is a Right to Farm Community.

Attorney Brodsky confirmed the new owner will need to apply for a Stormwater Permit from the Conservation Commission but all proposed buildings are planned to meet zoning and wetlands setback requirements, as shown on the submitted long-range plan for the property.

**FILE INVENTORY:** The Board received the following information into its files:

1. Copy of the legal notices.
2. Certified Abutters List.
3. Application, completed and signed by Applicant John S. Tassinari, date-stamped 3/7/23, by the Town Clerk.
4. Letter from the Applicant's counsel dated March 2, 2023, submitting the application and in support thereof.
5. The below documents were recorded at the Registry of Deeds in Book 4754 Page 351 on Nov 15, 1979:
  - a. Copy of Deed of prior owners, John C. Page, Jr., and Bryant R. Page, as Trustees and Individually and as administrators of estate of Jesse Reed, transferring ownership to Dexter A. Newcomb and Ann M. Bitzer.
  - b. Copy of "Decision of the Board of Appeals Hearing – September 26, 1979/ Dexter A. Newcomb and Ann M. Bitzer", stating that "this VARIANCE be granted as long as the house is built in the location of the test borings on the property, and the driveway be installed according to the plan shown to the Board at the hearing", recorded as stated in Paragraph 6 above.
  - c. "Notice of Variance", dated November 9, 1979
6. ZBA Meeting Minutes of 9/26/1979
7. Building Department Application for Permit to Build, #81-248, dated October 12, 1981.
8. Building Permit, #82-45, dated 4/8/1982.
9. Assessors Card Print-out for the lot.
10. "Site Plan to Accompany ZBA Application" for John Tassinari, dated 2/24/23, as prepared by Morse Engineering Co., Inc., signed and sealed by Jason Scott, Registered Professional Land Surveyor
11. Topographical overview of the area around the subject property that is difficult to read, provided at the public hearing.
12. Four letters were received in support of the application from abutters.
13. Written comments of Sandra Ellsworth that were read by her during the public hearing.

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**FINDINGS:**

1. The property is known as and numbered 64 Samuel Woodworth Road and consists of approximately 43 acres of which it has been represented include 31.24 acres of upland and 12.41 acres of wetlands, located in the Residential A zoning and Flood Plain districts.
2. The Norwell Zoning Board of Appeals, as it was then constituted, held a public hearing and granted a Variance on September 26, 1979, as requisite frontage under the existing bylaw had not been met. This prior approval addressed similar concerns to those expressed at the public hearing held on April 18, 2023, relating to wetlands and proper siting of a proposed residence.
3. Although concerns were expressed by residents of Samuel Woodworth Road, as specified above, about wetlands, traffic, and potential future business use, none of which fall within the expressed authority of this Board but are more appropriately within the purview of other State and/or Town boards and departments.
4. In its deliberations, the Board carefully examined the strict criteria for granting of modification of a variance under M.G.L c. 40A, §10 and the Norwell Zoning Bylaw §201-3.2B (1), (2) and (3), and determined the submitted evidence and testimony demonstrate the application meets all such criteria, as described below.

**Section 201-3.2B (1), Substantial Hardship to Applicant:** As a prior Zoning Board of Appeals had already granted a Variance, required solely for frontage, the current Board concurred with the original Board and will not disturb those findings on this section of the bylaw. However, the Applicant proposes to demolish the current structure and move the location of a new residential structure to nearby site on the property that would continue to meet zoning bylaw setback requirements. The current structure is in poor condition and would not accommodate the needs of the Applicant's young family that require an updated structure with adequate space.

**Section 201-3.2B (2), Soil Conditions, Shape, or Topography:** A prior Zoning Board of Appeals has already ruled on this section of the bylaw and the current Board concurred with the original Board and will not disturb the original findings as to this requirement, as the Variance modification requested applies only to frontage on this approximately forty-three (43) acre property and to allow relocation of the proposed residential dwelling. As prior concerns of building siting are outside of the Board's authority and now more appropriately addressed by other State and/or Town departments, boards, and commissions, such as the Conservation Commission, Board of

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Health, and the Building Office, the Board respectfully defers to their respective authority.

**Section 201-3.2B (3), Detriment to the Public Good or Derogate from the Purpose of the Bylaw:** Granting the variance modification will not pose a substantial detriment to the public good or nullify or substantially derogate from the intent or purpose of the bylaw. Other than the frontage requirement, this property complies with the Norwell Zoning Bylaw in all other respects. It is a sizeable lot, located in a residential area consisting of traditional and larger sized homes. For this reason and the fact that a prior Board granted the original variance, this Board concludes that modification of the existing Variance will not derogate from the purpose of the Norwell Zoning Bylaw nor be a detriment to the public good.

### **DECISION OF THE BOARD:**

Based on the evidence presented and its findings delineated above, upon a motion duly made and seconded, Members Rivkind, Senteno, and Barbour **VOTED** unanimously to grant the requested **Variance modification** from requirements of **Section 201-3.2B and 201-9.3A (frontage)** of the Norwell Zoning Bylaw on property known as **64 Samuel Woodworth Road**, so that a building permit may be issued for one residential dwelling and any appurtenant structures allowable under the Norwell Zoning Bylaw, subject to the following:

### **CONDITIONS APPLYING TO ALL VARIANCES:**

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 shall 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 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 Variance modification 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. **EXPIRATION:** The applicant shall exercise any variance modification granted within one (1) year from the date the decision is filed with the

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Town Clerk, or by extension, or it shall lapse. The Board of Appeals may authorize only one six-month extension of a variance without a new application required.

By unanimous vote of the Board of Appeals at its duly advertised business meeting on July 23, 2020, its Clerk or Assistant Clerk is authorized to sign decisions on behalf of the panel members, which for this case are:

Ralph J. Rivkind  
Daniel M. Senteno  
Lois S. Barbour

  
Ralph J. Rivkind, as Clerk

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 appeal 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.