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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. 23-04

A PUBLIC HEARING was opened on May 10, 2023, and continued to June 7, 2023, by the Norwell Zoning Board of Appeals under MA General Laws, Chapter 40A, Sections 6 and 9 at the Norwell Town Offices, on the application of:

**Stephanie and Tanner Chesney
14 Duncan Drive
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) and (d) (Nonconformance), 201-9.2 (Lot area), and 204-9.4 A(1) (Front Yard Setback) of the Norwell Zoning Bylaw to add a 785 sq foot two-story addition to the left-side and rear of the existing single-family dwelling to include a first-floor family and mud rooms and a second-floor bedroom with bath. The front yard setback of the existing dwelling is 18' 9"; the setback of the proposed addition would be 26' 5" from the street. The Applicant also proposes to construct a 1,100 sq foot detached

garage with a 530 sq ft second-floor bonus room consisting of a finished living room and bathroom that would meet current setback requirements.

The dwelling is situated on a .41-acre lot, where one acre is required. The property is located at **14 Duncan Drive** in Residential District B as shown on Assessor's Map 12D, Block 27 Lot 64, and recorded at the Plymouth County Registry of Deeds book 48687 Page 280. The dwelling was constructed in 1935.

The application was duly noticed in *The Mariner* on 4/19/23 and 4/26/23 and posted at the Norwell Town Hall to fulfill requirements of the Open Meeting Law. The Applicant's architect, Paulette O'Connell, presented the application at the opening of the public hearing and returned to discuss changes required by the Board of Health on 6/7/23.

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

1. Application, dated 3/31/23, initialed by the owner, and the owner's representative, received and stamped by the Town Clerk on 4/4/23.
2. Revised Architectural Plan Set entitled "14 Duncan Drive", as prepared by OCO architecture::design, P O Box 709, Hingham, MA 02043, unsigned, consisting of six(6) drawings, as detailed below:
 - A-101 Basement & First Floor Plans
 - A-102 Second Floor & Roof Plans
 - A-103 Garage Plans
 - A-201 Front and left-Side Elevations
 - A-202 Rear and right-Side Elevations
 - A-203 Garage Elevations
3. Site Plan for 14 Duncan Drive, prepared by Merrill Engineers and Land Surveyors, stamped and signed by Brendan P. Sullivan, certified RLS and PE.

FINDINGS: The Board made the following findings:

1. The property is located at 14 Duncan Drive in Residential District B and includes an existing single-family, one-story dwelling that was built in 1935.
2. The lot consists of .41 acres with an existing setback from the street of 18' 9",
3. The Applicant is seeking to add a 785 sq foot two-story addition to the left-side and rear of the existing single-family dwelling to include a first-floor family and mud rooms and a second-floor bedroom with bath.
4. The front yard setback of the existing dwelling is 18' 9"; the setback of the proposed addition would be 26' 5" from the street.
5. The Applicant also proposes to construct a 1,100 sq foot detached garage with a 530 sq ft second-floor "bonus" room consisting of a finished living room and bathroom that would meet current setback requirements.

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6. The Applicant has now received approval from the Board of Health as the Applicant has revised the plan and relabeled the space above the garage. The “bonus” room is now an “office/gym” on the revised plans and has subsequently received Board of Health approval.
7. Member Rivkind conveyed that the building inspector wants the decision to stipulate there is to be no overnight sleeping in the garage area and this structure shall not be considered an “accessory dwelling unit” as currently defined in the Norwell Zoning Bylaw.
8. 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.

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, Rivkind, and Barbour **VOTED** unanimously to approve withdrawal of the Variance relief requested and to grant a **Section 6 Finding** and **Special Permit** to add a 785 sq foot two-story addition to the left-side and rear of the existing single-family dwelling to include a first-floor family and mud rooms and a second-floor bedroom with bath; and to construct a 1,100 sq foot detached garage with a 530 sq ft second-floor office/gym on property located at **14 Duncan Drive**, in accordance with the revised plans, as approved by the Board of Health, subject to the following:

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SPECIAL CONDITION:

1. This decision shall in no way be interpreted to allow an “accessory dwelling unit” as currently defined in the Norwell Zoning Bylaw in the proposed garage. That use is not granted by or permitted in this decision.
2. There shall be no overnight accommodations allowed in the space above the garage.

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.

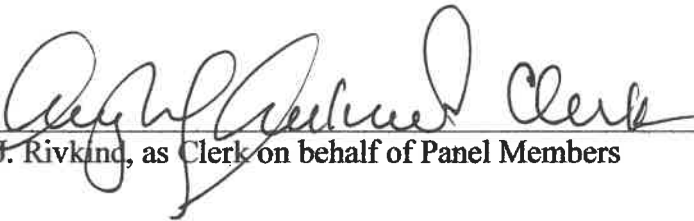
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By unanimous vote of the Board of Appeals at its duly advertised meeting on May 19, 2021, its Clerk or Assistant Clerk is authorized to sign decisions on behalf of the panel members, which in this instance are:

Philip Y. Brown
Ralph J. Rivkind
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.