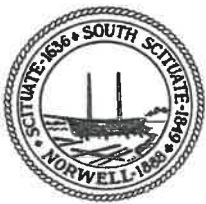


TOWN OF NORWELL
TOWN CLERK

2023 JUN 22 AM 10: 57

RECEIVED



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. 23-05

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, 9, and 10, at the Norwell Town Offices, 345 Main Street, Norwell, MA on the application of:

Robson DePaula
125 8th Street
Leominster, MA 01453

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) and a **Variance** under Section 201-3.2B and 201-9.4 A(1)(Front Yard Setback) of the Norwell Zoning Bylaw to renovate the existing first floor, raise the roof and create a livable second floor, consisting of two bedrooms, an office and two bathrooms with approx. 1000 sq ft second floor space, and to add a 16' by 8' back deck and a front entry with landing steps. The front yard setback of the existing dwelling is 14' 10" from the street; the setback of the proposed addition would be 8' 10" from the street.

The dwelling is situated on a .77-acre lot, where one acre is required. The property is located at **43 Duncan Drive** in Residential District B as shown on Assessor's Map 12D, Block 27 Lot 79, and recorded at the Plymouth County Registry of Deeds book 56754 Page 82. The dwelling was constructed in 1940.

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, Robson DePaula, presented the application and confirmed at the second continued public hearing that the Variance request had been withdrawn, as the plans had been revised to move the proposed entrance to the side of the dwelling, obviating the need for a variance.

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

1. Application, dated 3/30/23, signed by the applicant, Robson DePaula, as received and stamped by the Board of Appeals and by the Town Clerk on 4/10/23.
2. Plan Set entitled "Project/ Interior Renovation, First and Second Floor One Family/ 43 Duncan Drive Norwell MA/ Owner Name:/ New Art Plastering LLC", as prepared by MDJ Inc Engineering and Construction, 16 Woodland St., Lawrence MA, signed and sealed by Marcos A. Devers, P.E., consisting of twelve (12) revised drawings, as detailed below:

- A-0 Index and General Note
- A-1A Existing Plot Plan
- A-1B Proposed Plot Plan
- A-2 Basement
- A-3 Foundation & Details
- A-4 Existing First Floor Plan
- A-5 Proposed First Floor Plan
- A-7 Second & Ceiling Framing
- A-8 Roof Framing
- A-9 Proposed Elevation
- A-10 Proposed Elevation
- A-11 Proposed Section & Details
- A-12 Details

TOWN OF NORWELL
TOWN CLERK
2023 JUN 22 AM 10:57
RECEIVED

FINDINGS: The Board made the following findings:

1. The property is located at 43 Duncan Drive in Residential District B and includes an existing single-family, one-story dwelling that was built in 1940.
2. The lot consists of .77 acres with an existing setback from the street of 14' 10".
3. The Applicant is seeking to renovate the existing first floor, raise the roof and create a livable second floor, consisting of two bedrooms, an office and two

bathrooms with approximately 1,000 sq ft second floor space, and to add a 16' by 8' back deck and a front entry with landing steps that will be more non-conforming (8' 10") than the current front yard setback (14' 10") on a pre-existing nonconforming .77-acre lot, where one acre is required.

4. According to the revised plan, the entrance will be moved to the side yard, where it will not increase that nonconformity, obviating the need for a variance application. The Applicant agreed to withdraw the variance request as not needed at the final meeting on June 7, 2023.

5. 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.

6. As the applicant withdrew the Variance submission after revising plan, no Variance is required.

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 Lynch **VOTED** unanimously to approve withdrawal of the Variance relief requested and to grant a **Section 6 Finding** and **Special Permit** to renovate the existing first floor, raise the roof and create a livable second floor, consisting of two bedrooms, an office and two bathrooms with approximately 1,000 sq ft second floor space, and to add a 16' by 8' back deck, moving the front entry to the side of the house, per the revised plans, on property located at **43 Duncan Drive**, subject to the following:

TOWN OF NORWELL
TOWN CLERK

2023 JUN 22 AM 10:54

RECEIVED

SPECIAL CONDITION: This decision shall in no way be interpreted to allow an “accessory dwelling unit” as currently defined in the Norwell Zoning Bylaw. That use is not granted by or permitted in this decision.

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.

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


TOWN OF NORWELL
TOWN CLERK

2023 JUN 22 AM 10:50

RECEIVED

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
Stephen H. Lynch



Ralph J. Rivkind, as Clerk on behalf of Panel Members

*This space reserved for
Date Stamp of Town Clerk*

Date Filed with Office of the Town Clerk

RECEIVED
2023 JUN 22 AM 10:58
TOWN OF HOPEWELL
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.