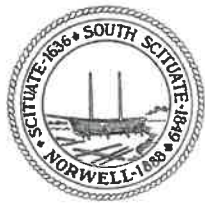


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OFFICE OF
BOARD OF APPEALS

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. 23-08

A public hearing was opened on June 7, 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:

Tim Russell Jr. and Lucy Russell
44 Falkland Street
Brighton, MA 02135

For a **Section 6 Finding** under M.G.L. c. 40A and **Special Permit** under Sections 201-3.3 and 201-4.4 B(1)(a) (Nonconformance) of the Norwell Zoning Bylaw (the "Zoning Bylaw") to demolish the existing garage and shed located on the property, convert the existing dwelling into an accessory structure, and construct a new single-family dwelling to meet all zoning setback requirements. The existing dwelling would become an accessory

structure to the proposed new dwelling. The property is located at 492 Mount Blue Street in Residential District A as shown on Assessor's Map 2D, Block 5 Lot 6, and recorded at the Plymouth County Registry of Deeds Book 4046, Page 697. The existing dwelling was constructed in 1776. The property is owned by the Estate of B. Jean Snow, which provided written authorization for the application.

The application was duly noticed in *The Mariner* on 5/17/23 and 5/24/23 and posted at the Norwell Town Hall to fulfill requirements of the Open Meeting Law.

The Applicants were represented by Jeffery A. Tocchio, Esq. from Drohan Tocchio & Morgan, P.C. and Tim Russell Sr., registered architect, to the Board and responded to member questions. Glenn Ferguson of 498 Mount Blue Street, a direct abutter, appeared at the hearing to state that he appreciated the outreach that he received from the Applicant and provided comment on the application, including with regard to the location of the new single-family dwelling and whether the relocation of the new dwelling would undergo review for consistency.

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

1. Application, dated 4/19/23, signed by the Applicants as authorized by the Owner and received and stamped by the Board of Appeals on 4/19/23 and by the Town Clerk on 4/19/23;
2. Supplemental Letter in Support of Application for Special Permit;
3. Copy of Deed, recorded at Book 4046, Page 697;
4. Copy of Subdivision Plan Land, recorded at Plymouth County Registry of Deeds in Plan Book 29, Page 285;
5. Property Owners Authorization;
6. Certified List of Abutters (300' abutters);
7. Public Notice Authorization;
8. Filing Fee check;
9. Copy of Proposed Conditions Site Plan, prepared by Grady Consulting, L.L.C., dated May 29, 2023; and
10. Copy of Existing Conditions Site Plan, prepared by Grady Consulting, L.L.C., dated May 29, 2023.

FINDINGS: The Board made the following findings:

1. The property is located at 492 Mount Blue Street in Residential District A.
2. The 1.93± acre property is conforming as to lot area, lot width and frontage pursuant to Article 9 of the Zoning Bylaw.
3. The property is improved with a 2,340± sq. ft., one- and three-quarter story, single-family dwelling that was built circa 1776 (the "Building"), a well as an accessory garage and shed.
4. The Building is non-conforming as to the front yard setback.

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5. The Building is a pre-existing non-conforming structure pursuant to M.G.L. c 40A, §6 and Norwell Zoning Bylaw Section 201-4.4 B(1)(a).
6. The Applicants are seeking to demolish the existing garage and shed on the property, convert the Building into an accessory structure and construct a new single-family dwelling at a centralized location on the property.
7. The Applicants propose to convert the Building into a workshop or other similar use which would be devoted exclusively to a use subordinate to and customarily incidental to the principal use.
8. The alteration of the existing single-family dwelling use to an accessory use will preserve the existing footprint of the Building and will not extend or otherwise increase its non-conformity under the Zoning Bylaw.
9. The Board may issue a Section 6 Finding pursuant to M.G.L. c. 40A and §201-3.3 and §201-4.4 B(1)(a) of the 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 with an accessory structure, an allowed use in the Residential District A, the Board finds that the proposed conversion of the Building to an accessory structure and construction of a new single-family dwelling at a centralized location on the property will not be more detrimental to the neighborhood and zoning district.

- b. “The conduct of the proposed use will not significantly alter the character of the zoning district; and”

Finding: The Board finds, as the property is located in Residential District A, the existing use as a residence with accessory structures 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 with an accessory structure, the Board finds that the proposed conversion of the Building to an accessory structure and construction of a new single-family dwelling at a centralized location on the property 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, upon a motion duly made and seconded, Member Lazzaro, Lynch, and Barbour **VOTED** unanimously to grant a **Section 6 Finding** under M.G.L. c. 40A and **Special Permit** under Sections 201-3.3 and 201-4.4 B(1)(a) of the Zoning Bylaw, to demolish the existing garage and shed located on the property, convert the existing dwelling into an accessory structure,

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and construct a new single-family dwelling to meet all zoning setback requirements, in accordance with the submitted plans, subject to the following:

SPECIAL CONDITIONS:

1. The existing dwelling shall be converted to an accessory structure, as proposed, for that use only. This converted structure shall not be considered an “accessory dwelling unit” as defined in the current Norwell Zoning Bylaw as that use is not granted in or permitted by this decision.
2. The new single-family dwelling shall be constructed at a centralized location on the property, as shown on the submitted plans. In the event that the location of the new single-family dwelling is adjusted on the property, the Applicant shall provide notice to the Board as to the relocation.

CONDITIONS APPLYING TO ALL DECISIONS:

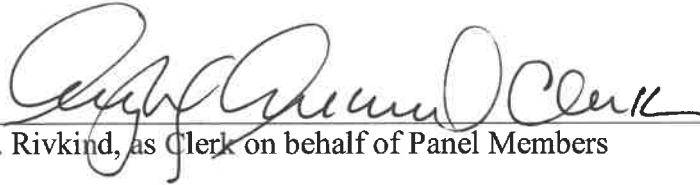
1. **RECORDING OF THE DECISION:** After receiving certification from the Town Clerk that no appeal has been taken within twenty days, or if appealed than dismissed or denied, a copy of the Board's decision must be filed with either the Registrar of the Plymouth County Registry of Deeds to be recorded 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:

Lois S. Barbour
William J. Lazzaro
Stephen H. Lynch



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.