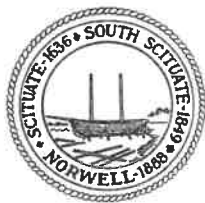


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OFFICE OF
BOARD OF APPEALS

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
Stephen H. Lynch, Vice Chair
Ralph J. Rivkind, Clerk

Associate Members

Daniel M. Senteno
William J. Lazzaro

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

File No. 23-16

A public hearing was scheduled on August 16, 2023, by the Norwell Zoning Board of Appeals (the Board) under Massachusetts General Laws, Chapter 40A, Sections 6 and 9, at the Norwell Town Offices, 345 Main Street, Norwell, MA on the Application (the Application) of:

Bob Fedus
Ballyargus, LLC
293R Washington Street
Norwell, MA 02061

For modification of the **Section 6 Finding** under M.G.L. c. 40A and **Special Permit** under Sections 201-3.2A, as previously approved in its Decision File No. 21-21, as filed with the Town Clerk on January 19, 2022, to add a 6' x 11' addition to the proposed dwelling to connect it to the existing barn. The proposed construction is not closer to the lot boundaries than the previously approved work, located on 1.22 acres, merged for purposes of zoning. The property is known as and located at **42 Central Street**, as

shown on Assessor's Map 15C, Block 47, Lots 06 and Lot 07, in Residential District A and recorded at the Plymouth County Registry of Deeds in Book 55140 Page 208.

The application was duly noticed in Mariner on 7/26/2023 and 8/2/2023, and posted at the Norwell Town Hall to fulfill requirements of the Open Meeting Law. No member of the public spoke in favor of or in opposition to this application. Brendan Sullivan, P.E. and P.L.S., presented the application on behalf of the Applicant and responded to Board questions.

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

1. Application, dated 7/10/23, signed by the Applicants, Gregory Mathieu and Morgan Gould, received and stamped 07/10/23 by the Town Clerk.
2. Letter of 7/6/23 from Brendan Sullivan of Merrill Engineers and Land Surveyors that included the application and request for relief.
3. Town of Norwell Board of Assessors Certified Abutters List with map
4. Plot Plan dated 7/28/23.
5. Letter of 5/18/23 to Brendan Sullivan from the Norwell Conservation Commission approving the proposed project modification as a minor change.
6. Quitclaim Deed conveying the property from Medici Properties, LLC to Ballyargus, LLC., as recorded at the Plymouth County Registry of Deeds on 5/13/22 at Bk: 56803 Pg: 210 (1 of 3).
7. Building plan – Merrill Engineers and Land Surveyors dated 9/23/21 stamped by Town Clerk 7/18/23.
8. Copy of the prior ZBA decision on this property, as filed with the Norwell Town Clerk on 1/19/22.

FINDINGS: The Board made the following findings:

1. The property is located in Residential District A and known and numbered as 42 Central Street, as shown on Assessors Map 15C Block 47 Lots 6 and 7, comprised of a total of approximately 1.22 acres where one (1) acre is required, that are merged for purposes of zoning.
2. The Applicant requests modification of a previously approved Section 6 Finding and Special Permit, filed with the Norwell Town Clerk on 1/19/22, to add a 6' x 11' structure to the proposed dwelling that will connect it to the existing barn.
3. As there has been confusion on both this application and the prior application relating to the two lots that are merged for purposes of zoning, the Applicant's representative agreed to prepare a M.G.L. c. 41 Section 81X plan to file with the Registry of Deeds to make clear that the two parcels are legally combined. The Applicant shall provide evidence that such plan has been filed with the Registry of Deeds prior to issuance of a Certificate of Occupancy, as agreed upon with the Applicant's representative.
4. The Board may issue a Section 6 finding pursuant to M.G.L. c. 40A and § 201-3.3. B. of the Norwell Zoning Bylaw, if it finds that:

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- 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 A, the Board finds the proposed addition will not be 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 A, 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. There was no objection to the proposed construction plans submitted to the Board either through testimony or in writing.

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 Barbour, Lynch, and Senteno **VOTED** unanimously to grant a **Special Permit** and **Section 6 Finding** to construct an addition to the existing dwelling on property located at **42 Central Street**, in accordance with the plans, dated August 16, 2023, subject to the following:

SPECIAL CONDITIONS:

1. The Applicant shall provide evidence that a M.G.L. c. 41 Section 81X Plan merging the two subject lots has been filed with the Registry of Deeds prior to issuance of a Certificate of Occupancy.
2. This decision shall in no way be interpreted to allow an "accessory dwelling unit" as defined in the Norwell Zoning Bylaw in effect at the time this decision issues. 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.

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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
Stephen H. Lynch
Daniel M. Senteno



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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OFFICE OF APPELLATE
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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.