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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. 23-19***

A PUBLIC HEARING was opened on September 27, 2023, continued to October 25, 2023, and closed on November 8, 2023, by the Norwell Zoning Board of Appeals under MA General Laws, Chapter 40A, Sections 6 and 9, on the application of:

**J. Stephen Bjorklund**  
**861 Main Street**  
**Norwell, MA 02061**

For a **Section 6 Finding** under M.G.L. c. 40A and **Special Permit** under Sections 201-4.5A and B (Isolated Lots), 201-9.1B (Lot change), 201-9.3 (Lot frontage and width), and 201-9.5 (Lot shape) of the Norwell Zoning Bylaw to sub-divide from a total of 85,603 sq. ft. or 1.97 acres of the existing lot, in order to create a separate parcel consisting of 40,748 sq. ft., that will leave the existing dwelling on 1.03 acres with 55.35' of frontage.

The dwelling is located at **861 Main Street** in Residential District A, as shown on Assessor's Map 15D, Block 51, Lot 22 and recorded at the Plymouth County Registry of Deeds Book 53207, Page 180. The dwelling was built in 1948.

The application was duly noticed in *The Mariner* on 9/6/23 and 9/13/23 and posted at the Norwell Town Hall to fulfill requirements of the Open Meeting Law.

The Applicant and property owner, J. Stephen Bjorklund, presented the application and responded to member questions at the first two public hearing meetings but attended via Zoom at the closing public hearing, where he was represented by Walter Sullivan, Esq. This application garnered much interest by abutters of property on Mayelm Lane and Main Street.

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

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1. Application, dated 8/9/23, signed by the Applicant, as received and stamped by the Board of Appeals and by the Town Clerk on 8/21/23.
2. Massachusetts Fiduciary Deed conveying the subject property to the current owner, as recorded at the Plymouth County Registry of Deeds at BK: 53207 Pg: 180 Page: 1 of 3, on August 6, 2020.
3. Assessors card for 861 Main Street.
4. Plan of Land for 861 Main Street, Norwell, Mass, prepared by Grady Consulting, L.L.C., signed and stamped by Paul J. Miribito on 7/25/23.
5. Title abstract with information on chains of title for abutting properties, with an opinion by Andrea Scott, Title Examiner by Meridian Title & Research, LLC., that “[a]t no time was the subject parcel held in common ownership from 1951 to date.”

**FINDINGS:** The Board made the following findings:

1. The property is known and numbered as 861 Main Street in Residential District A and includes an existing single-family, one-story dwelling with an attached garage that was built in 1948 (“Property”).
2. The Property consists of approximately 85,603 sq. ft., where 43,560 sq. ft. is required to meet dimensional requirements of one-acre.
3. The Property does not comply with current frontage requirements on Main Street.
4. The Property also does not fully conform to other zoning dimensional requirements.
5. The Applicant provided evidence to establish that the Property was created as separate lot and added the existing dwelling on or before zoning was adopted in Norwell.
6. The Board determined that the Property with the dwelling is a lawfully nonconforming situation.
7. The Applicant seeks to divide the Property into two new parcels.
8. One parcel, Lot 1, would have the dwelling located on it and would have an area of 1-acre or 43,560 sq. ft. Lot 1 still be nonconforming as to frontage and other dimensional requirements but would have no new nonconformities.
9. One parcel, Parcel 1, would be a new nonconforming parcel with less than one acre of area (approximately 40,748 sq. ft.) and no frontage.
10. The Board may issue a Section 6 finding pursuant to M.G.L. c. 40A and a Special Permit under § 201-3.3. B. of the Norwell Zoning Bylaw, if it finds that the proposed change to a lawfully nonconforming situation if:
  - a. “The conduct of the proposed use will not be detrimental to the neighborhood and zoning district . . .”

**Finding:** As the new Lot 1 would be used as a dwelling unit, an allowed use in Residential District A, the Board finds the proposed use would not be a change in use and also would not increase any front, side, or rear setbacks or other pre-

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existing nonconformities for the existing dwelling and garage footprints and, therefore, the division of the Property to use Lot 1 in the proposed manner would 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:** As the Property is located in Residential District A, the Board finds the proposed division of the Property would not change the existing residential use that is allowed by right and would, 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 division of the Property to create Lot 1, on which the dwelling will continue to be sited and used as residential and as Parcel 1 would be a non-buildable lot unless and until its nonconformities are appropriately addressed in the future, the Board finds the proposed division would not be injurious, noxious, or offensive to the neighborhood, as a continuing allowed use.

- d. The Board expressly finds that Parcel 1, a newly created undersized parcel, would not be buildable without further relief to appropriately address its nonconformities.

**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 Rivkind, Lynch, and Barbour **VOTED** unanimously to grant a **Section 6 Finding and Special Permit** to divide the Property, land currently known as **861 Main Street**, subject to the following:

**SPECIAL CONDITIONS:**

- 1. The newly created non-conforming parcel (Parcel 1) is not a buildable lot without further appropriate relief.
- 2. 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.

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By unanimous vote of the Board of Appeals at its duly advertised meeting on October 25, 2023, its Clerk is authorized to sign decisions on behalf of the panel members, which in this instance are:

Lois S. Barbour  
Ralph J. Rivkind  
Stephen H. Lynch

*Ralph J. Rivkind, Clerk*

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



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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.