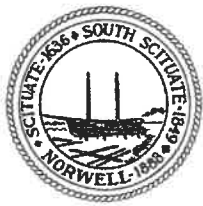


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OFFICE OF
BOARD OF APPEALS

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. 23-25

A public hearing was scheduled on December 13, 2023, and continued to January 17, 2024; and closed on February 14, 2024, 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:

Ashley Klem
78 Brantwood Road
Norwell, MA 02061

For a **Section 6 Finding** under M.G.L. c. 40A and **Special Permit** under Sections 201-3.2A, 201-3.3B, 201-4.4 B(1)(c) (Nonconformance), 201-9.2 (Lot area), and a **Variance** under Sections 201-3.2B and 201-9.4B(1)(Side yard setbacks) of the Norwell Zoning Bylaw to construct a 2-floor addition to the left rear of the existing dwelling consisting of a first floor 15.2' by 16.2' family room and a second floor bedroom, and to add a 23' by 26' garage with a 6.7' by 19.5' mudroom, with a second floor recreation room, to the right of the dwelling, with a proposed side setback of 10.3' where 20' is allowed, and a front

yard setback of 24.9' that matches the existing dwelling setback. The dwelling is located at **78 Brantwood Road** in Residential District B as shown on Assessor's Map 12D, Block 25 Lot 40, and recorded at the Plymouth County Registry of Deeds Book 50650, Page 173. The lot consists of .21-acres where one acre is required. The dwelling was built in 1958.

The application was duly noticed in *The Mariner* on 11/22/23 and 11/29/23, and posted at the Norwell Town Hall to fulfill requirements of the Open Meeting Law. The Applicant's representatives from Merrill Engineers and Land Surveyors of Hanover, MA, presented the proposed project and responded to Board members' questions.

No member of the public voiced or filed objection to this application. Two letters in support were received, as noted in the File Inventory.

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

1. Application, dated 10/23/23, signed by the Applicant, Ashley Klem, received and stamped 11/8/23 by the Town Clerk.
2. Quitclaim Deed showing conveyancing of the subject property to the applicant, as recorded at the Plymouth County Registry of Deeds at Bk: 50650 Pg: 173 (1 of 4), on 12/19/2018.
3. A 7-page Project Narrative detailing the proposed construction and setting forth the zoning requirements.
4. Plan recorded on 3/19/1952 at the Plymouth County Registry of Deeds, showing a subdivision that includes the subject lot.
5. Assessors Office printout of the subject lot with a List of Certified Abutters (4 pages), dated October 20, 2023.
6. Narrative titled "Architectural Design Description", dated Nov. 8, 2023.
7. Set of six (6) Architectural drawings, dated 11/5/2023, as follows:
 - A-1 Front and Rear Elevations with proposed basement and garage footprint
 - A-2 First Floor Plan
 - A-3 Second Floor Plan with framing detail
 - A-4 Northwest and Southwest Elevations
 - A-5 Northeast and Southeast Elevations
 - A-6 Sections One, Two, and Three detail
 - A-7 Existing Elevations with existing floor plans
8. Drawing entitled "Site Plan/ 78 Brantwood Road/ Norwell, Massachusetts 02061", dated October 24, 2023, as prepared by Merrill Engineers and Land Surveyors, signed and sealed by Deana Boumitri, P.L.S.
9. Letter from Deborah W. Keller P.E., Director of Engineering at Merrill, dated 11/30/24, as filed with the Town Clerk on 12/11/23, providing information in response to ZBA member questions relating to an adjacent, undeveloped "right of way", labeled "Stella Ave."

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10. Plan entitled "Development of Land", dated November 26, 1951, prepared by C.E. Moncrief, Surveyor, of Quincy Mass., as recorded at the Plymouth County Registry of Deeds on December 10, 1951, at Bk 12415 PG 8 799.
11. A copy of the plan detailed in Paragraph 10 above, including a note "Roadway – 40 Ft.", approved by Board of Selectmen Nov. 5, 1951.
12. ANR Plan, entitled "Plan of Land in/ Norwell-Plymouth Cnty.-Mass./ Formally Knollwood Road & Stella Avenue/ Owners: Benjamin Bean et ux"/ signed by Neil J. Murphy, Reg. Land Surveyor-Oct. 7, 1965, as recorded at the Registry of Deeds on 10/27/1965.
13. Massachusetts GIS NWI and DEP wetland overlays of the Brantwood Road/Knollwood Road area.
14. Copy of the map of Town of Norwell Zoning Districts as of June 2010.
15. Letter of January 10, 2024 to the Board of Appeals from Brendan P. Sullivan, P.E., P.L.S. of Merrill, providing additional information about the undeveloped "Stella Ave", adjacent to the subject property.
16. Drawing entitled "Site Plan/ 78 Brantwood Road/ Norwell, Massachusetts 02061", dated October 24, 2023, as revised 1/9/24, signed and sealed by Deborah W. Keller, R.P.E. and signed and sealed by Deana Boumitri, P.L.S., of Merrill Engineers and Land Surveyors.
17. Letters in support of this application were submitted to the ZBA on 12/12/23, from Jenn McClelland of 82 Brantwood Road and Colleen D'Andrea of 71 Brantwood Road.

FINDINGS: The Board made the following findings:

1. The property is located at and known and numbered as 78 Brantwood Road in Residential District B with an existing single-family dwelling built in 1958.
2. The dwelling is located on a .21-acre lot where one-acre is required.
3. The proposed construction detailed in the original application included a 2-story addition with a 2-car garage that did not meet the 20' sideline setback required.
4. The current front-yard setback from Brantwood Road is 24.9' with the proposed addition setback not to exceed the current front-yard setback.
5. There was extensive discussion relating to the "Stella Avenue" shown on the plan that would have made this a corner lot that could have prevented an expansion of the dwelling outside of its existing footprint. However, as the lot was created prior to adoption of the Subdivision Control Law in Norwell, having been approved by the "Board of Selectmen", as noted in the File Inventory Paragraph 11 above, it was determined the property was not considered a "corner lot" and, in fact, "Stella Ave." remains undeveloped.
6. The sideline setback for the garage addition on the revised plan, dated 1/9/24 will be 20.2' and would, therefore, meet the 20' setback requirement.
7. The Applicant's representative requested withdrawal of the Variance that was not needed in view of the revised plan. Therefore, a Variance is not required to provide the requested relief.

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8. The Applicant appeared before the Norwell Conservation Commission that issued an Order of Conditions that has been filed with the Registry of Deeds, relating to the proposed construction.
9. 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:
 - 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 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 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 Rivkind, Lynch, and Barbour **VOTED** unanimously to grant withdrawal of the Variance and allow a **Special Permit** and **Section 6 Finding** to construct an addition to the existing dwelling on property located at **78 Brantwood Road** in accordance with the submitted plans, dated October 24, 2023, as revised 1/9/24, with a Variance not required to provide requested relief, subject to the following:

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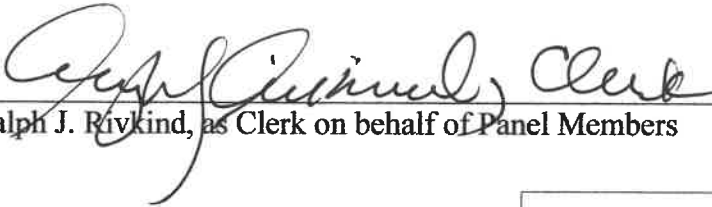
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By unanimous vote of the Board of Appeals at its duly advertised meeting on May 19, 2021, its Clerk or Assistant Clerk is authorized to sign decisions on behalf of the panel members, which in this instance are:

Lois S. Barbour
Ralph J. Rivkind
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.