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**Town of Norton  
Zoning Board of Appeals  
Minutes of Meeting Held on January 12, 2022**

The January 12, 2022 meeting of the Zoning Board of Appeals was held remotely via the ZOOM platform, with notice and access provided to interested parties and members of the public as noticed.

The meeting was called to order at 7:02 p.m. by Tom Noel, Chair. Members participating were Mr. David Wrenn and Mr. James Tenore. Mr. Lukas Wasiak was absent. Also, in attendance is Building Commissioner Nicholas Iafrate and Administrative Assistant Bryan Carmichael.

The meeting was recorded and made available to the public on the Norton Media Center YouTube page.

**PUBLIC HEARING – Variance**

ZBA File No. 12235

Property Address: 343 Reservoir Street

Applicant/Owner: Melissa Rose

The applicants Ms. Melissa Rose and Ms. Cheryl Rose are present. Mr. Noel asks the applicants if they have any objections to having Mr. Tenore sit in the place of Mr. Wasiak. There are no objections. The application states the property is in an R-60 zone though the plan states it is in an R-40 zone. The property was determined to be in a R-40 zone. The property was acquired in October 2021, the proposed use is a single family with an in-law unit. Applicant seeks to build an accessory apartment; there is an existing non-conforming use concerning frontage, lot area, and side yard setback. The non-conformities stated will be made further non-conforming. The plan of record is by Trowbridge Associates dated December 30, 2021. Mr. Tenore asks if the old submitted paper was an architectural drawing. Ms. Rose confirms it is. The plan indicates the addition to the northwest of the existing dwelling and the closest encroachment to the left is at 16.9 feet to the adjoining lot to the side which would require a variance. Since this is a pre-existing, non-conforming use it would require a variance and a finding under 1.5e.

Mr. Tenore ask if the shaded section on the plans is the proposed addition. Ms. Rose confirms. Ms. Rose confirms there is an existing garage and it will remain. Mr. Tenore asks if there will be access from the addition to the garage. This is confirmed by Ms. Rose. Mr. Noel asks if there is access from the new addition to the exterior of the house. Ms. Rose confirms. Ms. Rose states it would be on the side facing the adjacent property. Ms. Rose states it will have a walk-out step. The dwelling's side yard setback looks to be about 32 or 33 feet which would conform in an R40

or R60 zone but would not conform with the addition. The setback is the only one that does not appear to be conforming.

**Motion to allow the construction of the addition to be no closer than 16.9 feet as shown on the plan of record wear as 25 feet is required on a side yard setback in this zone as shown on the plan of record. The hardship is that it is a small lot with neighboring similarly sized lots and will pertain to just this lot according to the variance requirements in the bylaw is made by Mr. Wrenn and seconded by Mr. Tenore. Roll Call; Mr. Wrenn Yes, Mr. Tenore Yes, and Mr. Noel Yes.**

**Motion under 1.5e that this is a pre-existing non-conforming use that the plan as shown on record to construct an addition on the northwesterly side as shown in the plan of record will not render the use substantially more detrimental to the area than the existing use and construction is motioned by Mr. Wrenn and seconded by Mr. Tenore. Roll Call; Mr. Wrenn Yes, Mr. Tenore Yes, and Mr. Noel Yes.**

### **PUBLIC HEARING – Section 6**

ZBA File No. 12329

Property Address: 173 South Worcester Street

Applicant/Owner: Valerie Nicolas

Ms. Valerie Nicolas is present for this application. The property is in an R40 zone, it is residential use. The applicant is looking to add to the property to construct for the plan of record. The side yard setback for the property is ten feet. The construction is in maroon on the plans. Mr. Noel asks what the intention of the addition is. Ms. Nicolas believes the addition will add one extra room and then they are going to sell the property. Mr. Noel reads the property has 125 feet of frontage according to the application, the total area is just under 18,000 square feet, and this is also a pre-existing non-conforming use which would need a determination the finding under 1.5e. Mr. Noel asks if the new construction encroaches further to the side yard setback. Ms. Nicolas denies that it is. Mr. Noel asks if the garage is going to stay where it is. Ms. Nicolas states it is. The construction will be built around the garage. Mr. Iafrate asks if they are building living space above the existing garage. Ms. Nicolas confirms it. Mr. Noel notes that the side yard footprint remains the same, that it is 10 feet away now and that the R40 zoning would require 25 feet side yard setback if this wasn't already pre-existing, and that the property is not encroaching further on the setback. Mr. Iafrate states the garage currently looks detached and that as an accessory building the 10-foot setback is allowed but not if it is going to be attached to the house. Mr. Noel asks to confirm with Ms. Nicolas that the house and garage are detached. Ms. Nicolas states no, there is a roof connecting the garage and house but there is no enclosed area.

Mr. Tenore asks if it matters that the applicant is changing the use of the structure. Mr. Tenore points out the garage is going to become a fully residential area. Mr. Noel asks if this will be an additional residential apartment. Ms. Nicolas states she is not planning on making it into an additional residential apartment. Mr. Noel asks if the house would still be seen as a single residential use. Mr. Tenore states it would still be a single-family residence. Mr. Noel asks if the garage is going to remain as a garage. Mr. Tenore asks how that will be as the layout doesn't

appear to have the garage functioning as a garage as it has no visible opening for the garage. Inside where the garage should be looks like it is a playroom and a kitchen. Mr. Noel asks the area will also have a bathroom. Ms. Nicolas states the house will have two bathrooms. Mr. Noel asks if the kitchen is a part of the existing structure or new construction. Mr. Tenore and Mr. Iafrate believe the kitchen is a part of the new construction. Mr. Tenore asks if converting the garage to a living space would change anything. Mr. Noel states that it would change only if the area was converted into an accessory apartment. Ms. Nicolas states that it is not going to be an accessory apartment. Mr. Iafrate suggests that the dark lines are part of the layout that will remain and the lighter lines will be part of the new addition. Mr. Noel asks where currently there is access to the garage. Mr. Nicolas states it's in the side in the front where the deck is on the plan. Mr. Noel asks to confirm that the existing one and a half story is a garage. This is confirmed by Mr. Nicolas. Mr. Noel asks how the car would enter the garage. Mr. Nicolas states that the car would go through the driveway and then on the left you would be able to go inside the garage and there is a door on the other side. Mr. Noel asks if it will remain a garage or become living space. Mr. Nicolas states it is going to become living space. Mr. Noel asks if the house will remain a single-family residential use noting that the living space has increased over 25% after making the garage living space. Mr. Noel asks if this was determined as a pre-existing non-conforming residence. Mr. Carmichael states that the property had been determined that in the previous meeting showing on the accessor's map to be built in 1900. Mr. Noel reads the property has 125 feet of frontage and 18,000 square feet in a R-40 zone confirming it is pre-existing, non-conforming. Mr. Noel suggests to the Board that they do a 1.5e finding and the living space is being increased by more than 25% that would bring in another 1.5e section. 175-1.6 says they could do this as a matter of right except that the floor area has increased by more than 25% you then go to (c) which states the building commissioner determines that the reconstruction or extension that increases the hypothetical floor area by over 25% or more a finding under section 6 shall be required to allow such reconstruction or alteration. A determination may be granted only if there's a finding that the reconstruction shall not be it's the same standard substantially more detrimental to the neighborhood in which the structure is located in the existing non-conforming structure. Mr. Tenore asks if the Board would make both findings. Mr. Noel disagrees thinking that this is not a variance as the structure is already attached to the dwelling and it's pre-existing and it is not going to encroach any further. It will be noted that the side yard setback had been encroached to ten feet and the plan of record doesn't show anything more severe.

**Motion under Findings 176-1.6 to allow construction as shown on the plan of record will not be substantially more detrimental to the use and the structure that is there now is made by Mr. Wrenn and seconded by Mr. Tenore. Roll Call; Mr. Wrenn Yes, Mr. Tenore Yes, and Mr. Noel Yes.**

#### **PUBLIC HEARING – Variance**

ZBA File No. 12536

Property Address: 111 Lincoln Street

Owner: Toni Susi

Applicant: Jeff Crafford

Town of Norton

Zoning Board of Appeals

Minutes of Meeting Held on January 12, 2022

Page 3 of 6

Mr. Brandon Crafford is present. Mr. Noel inquires if there is an existing dwelling and an existing foundation. Mr. Crafford states they have a detached garage from the existing dwelling and is looking for a variance for eight inches on the back right corner of the lot. The yard marker that they went off was inaccurate when built. Mr. Noel asks to confirm the foundation has been made. Mr. Crafford confirms it. Mr. Iafrate adds that the applicant came in and applied for a building permit which was approved as built as it was at the 10-foot setback. After it was poured by the civil engineer and the plan came back it was found that the foundation was poured approximately eight inches too close to the property line with the current setback of 9'4" from the property line. Under the circumstances Mr. Iafrate allowed them to backfill instead of leaving a hole open in the side yard so they would just need a side yard setback variance from the Zoning Board. Mr. Noel reads the plan of record is dated October 26, 2021 and it shows a side yard at the distance of 9.4 feet at the closest corner on the western edge of the property. The applicant is asking for 7.2 inches which was rounded to eight inches, the property is in an R80 zone which makes this an undersized lot. Mr. Iafrate states it is an undersized lot and the reasoning for no variance on the detached structure was that it was deemed uninhabitable space it was just a garage but based on the Norton by-law they would need a variance if it was habitable space. Mr. Noel states that setbacks for detached structures are 10 feet and what is there now is 9.4 feet. Mr. Noel suggests having this application would require both a finding as it is pre-existing non-conforming single-family resident and because it is undersized and a variance of eight inches. Mr. Wrenn asks to confirm that the construction was made in error and who ended up making the error. Mr. Crafford states that they had made the error when constructing believing the yard marker on the property was accurate only to be told it was eight inches off by a second engineer that was there to confirm the as built plan.

**Motion to approve a variance from 10 feet to 9.4 feet for the property's closest side yard setback on the westerly side under those conditions as shown on the plan was made by Mr. Wrenn and seconded by Mr. Tenore.**

Mr. Noel asks Mr. Crafford when the building was constructed. Mr. Crafford states the house was built in 1996. Mr. Noel asks if there was anything on the property before. Mr. Crafford believes it was an empty lot. Mr. Iafrate asks since it is uninhabitable space would the variance also need a finding. Mr. Noel states that yes there would be for any extension or alteration of a pre-existing use but the property isn't pre-existing. The Board decides to just have the variance.

**PUBLIC HEARING – Variance & Section 6 Finding**

ZBA File No. 12639

Property Address: 357 Old Colony Road

Owner/Applicant: Michael McHugh

Mr. Michael McHugh and Mrs. Ashley McHugh are present. Mr. Noel reads that this is an increase on the current square footage of the home by more than 25% and there is only 100 feet of frontage in an R40 zone where 120 feet of frontage is required. Mr. Noel asks what the applicants are planning on constructing. Mr. McHugh states they are planning to put a two-story addition onto their existing home, the zoning has changed several times since the ownership of

the property and presently live on a 712 square foot home and are looking to increase the footprint of the home. Mrs. McHugh also notes that the side setback they are going off of is going by R40 zoning currently with the addition is 23.2 feet where they would need 25 feet. Mr. Noel points out to the left that there is an existing shed and wondering if the shed will be demolished. Mr. and Mrs. McHugh confirm that the shed will be demolished. Mr. Noel states that the red section looks to be the addition. Which Mr. and Mrs. McHugh agree with. Mr. Noel asks if there is a difference between the red dotted area and the area that is only in red. Mr. McHugh states that the solid structures are the existing house and the proposed edition is in the red dotted box. Mr. Noel asks about the L shaped area that is not shaded. Mrs. McHugh states that the shape is a part of the current front porch. Mr. Noel asks if the porch is open and with a roof. Mr. McHugh confirms this. Mr. Noel asks about the structure next to the porch. Mr. McHugh states that structure is the existing deck. Mr. Tenore asks what the structure to the left of the building is. Mr. McHugh states that structure is an existing staircase. Mr. Noel asks if the staircase is present construction which is confirmed by Mr. McHugh. Mr. McHugh states the house was built in 1925 so it was pre-existing and the staircase was there prior to their purchase of the property and will be removed when the addition is constructed. Mr. Noel asks to confirm that the 23.2 feet is going to be the closest point to the side yard setback. Mr. McHugh confirms that it is. Mr. McHugh states that there is an existing driveway leading up to the pre-existing stairs which is not on the plan but will also be removed. Mr. Wrenn asks if this would make more than 25% of habitable areas. Mr. McHugh states that it is. Mr. Noel asks if there will just be a driveway and not an enclosed garage. Mr. McHugh states the side not facing the road will have a driveway leading to a first-floor garage and above it will be living space. Mr. Noel asks Mr. Iafrate if the driveway needs to be on the plot plan. Mr. Iafrate states it does not have to be. Mr. Noel states that this application would be found under a 1.6 finding because the floor space is being increased by more than 25%. Mr. McHugh asks the Board if they want to see the Permit Set Drawings. The Board declines. Mr. Noel asks if the property is in a Commercial zone. Mrs. McHugh confirms it is. Mr. Noel asks where the R40 zone that is closest to it located. Mrs. McHugh states it is behind the property on North Worcester Street as well as Farm Lane. Mr. McHugh adds that the zoning had changed during their ownership which was Village Commercial. Mr. Noel reads under Commercial Zoning the side yard setback would be 15 feet, for R40 it is 25 feet. Mr. Noel asks the board if they should treat this like a Commercial Property as the property is currently in that zone. Mr. Noel finds that the setback is within the Commercial Zone and would just need a finding under 1.6. Mr. Wrenn asks what the frontage is. Mr. McHugh states the property is 100 feet when 120 feet is required.

**Motion to approve the application under 175-1.6C increase in non-conforming nature or increasing habitable floor area by 25% or more in a residential structure single or two family, a determination may be granted by the board of appeals only if there is a finding by the board that the reconstruction, extensive alteration shall not be more detrimental to the neighborhood in which the structure is located than the existing non-conforming structure as shown on the plan of record and described by the applicants is made by Mr. Wrenn and seconded by Mr. Tenore. Roll Call; Mr. Wrenn Yes, Mr. Tenore Yes, and Mr. Noel Yes.**

### **General Business**

Mr. Noel reminds the Board of the new Finding 175-1.6 which was used for two applications this meeting. Mr. Noel adds that the Board should confirm that the property is pre-existing non-conforming before making a finding which calls the property such. Mr. Noel asks the Board if they have had the chance to look over minutes. Mr. Wrenn states he has gotten to December. Mr. Tenore abstains as he was not present at the December meeting. Mr. Noel notes for the corrections that is someone's marital status is unknown to use "Ms." and to add the location of the meeting place.

**Mr. Noel moves to accept the minutes with corrections for the December 8, 2021 meeting and Mr. Wrenn agrees.**

**Adjournment**

**Motion to adjourn at 8:25 by Mr. Wrenn and seconded by Mr. Tenore. Roll Call; Mr. Wrenn Yes, Mr. Tenore Yes, and Mr. Noel Yes.**

Minutes contemporaneously typed by: Bryan Carmichael, Administrative Secretary for the Planning and Zoning Board of Appeals.

Edited and Respectfully Submitted,



Bryan Carmichael  
Administrative Secretary, Norton Zoning Board of Appeals

Approved by Committee on: February 9, 2022