



**City of Marlborough  
Zoning Board of Appeals**

**FILE COPY**

140 Main Street  
Marlborough, Massachusetts 01752  
Tel. (508) 460-3768 Facsimile (508) 460-3747

**ZBA Case # 1438-2015**  
**Location: 35 Houde St.**

**Date: November 6, 2015**

**(General Laws Chapter 40A, Section 16)**  
**WITHDRAW WITHOUT PREJUDICE**

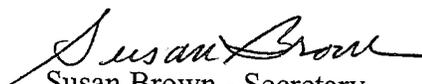
To: Anthony J. Arena  
Address: 35 Houde St.  
City: Marlborough, MA 01752

affecting the rights of the owner with respect to land or buildings at:

**35 Houde St. Map 66, Parcel 142**

And the said Board of Appeals further certifies that the decision attached hereto is a true and correct copy of its decision and of all plans referred to in the decision, have been filed with the City Clerk.

  
Paul Giunta - Chairman

  
Susan Brown - Secretary

Submitted to the City Clerks' office on November 6, 2015.



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Name: Anthony J. Arena  
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## DECISION

### Zoning Board of Appeal Withdraw Without Prejudice

The Zoning Board of Appeals, acting under the Marlborough Zoning Ordinance and Mass. General Laws, Chapter 40A, Section 16, as amended, and after a public meeting held on October 27, 2015 voted 4-0 to allow the applicant(s) to **Withdraw Without Prejudice** the below mentioned petition:

Petition: The applicant desires to construct an attached two car garage with a mud room, being 14 ft. 4 in. vs. the required minimum 20 ft. from the side lot line. Chapter 650 §41-Table of Lot Area, Yards, and Height of Structures. The property is located in Zoning District A-1, being Map 66, Parcel 142 of the Assessor's Maps. Also known as 35 Houde St.

Members present: Paul Giunta-Chairman, Theodore Scott, Ralph Loftin and Robert Levine. (Thomas Golden arrived too late, resulting in not hearing a good portion of the testimony, so Mr. Golden did not participate in the vote)

The Board voted 4-0 to allow the applicants to "**Withdraw Without Prejudice**" their petition to construct an attached 2 car garage with a mud room.

The Board finds that the stated hardship by the applicants did not constitute a "hardship" in accordance to Mass. General Law Chapter 40A, Section 10. Inconvenience, personal or financial, is not a "hardship". The Board mentioned a few options that they may have, so they do not need a variance, i.e. construct a one car garage, eliminate the mud room or place the garage on the other side of the house.

And said Board of Appeals further certifies that the decision hereto is a true and correct copy of its decision and has been filed with the City Clerk.

  
Paul Giunta - Chairman

Submitted to the City Clerk's Office on November 6, 2015.



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Date: November 6, 2015

Name: Anthony J. Arena

Location: 35 Houde St.

## Zoning Board of Appeals Record

The Zoning Board of Appeals, acting under the Marlborough Zoning Ordinance and General Laws, Chapter 40A, as amended, a meeting was held on October 27, 2015.

**Board Members present were:** Paul Giunta-Chairman, Theodore Scott, Ralph Loftin and Robert Levine. (Thomas Golden arrived late, he did not vote on the petition because he was not present for the entire testimony.)

### Proceedings:

1. **Date of Appeal:** September 18, 2015.
2. **Name and Address of Applicant:** Anthony J. Arena, 35 Houde St., Marlborough, MA 01752.
3. Administrative body from whose decision or order of appeal was taken: Building Dept.
4. Appeal filed with: Zoning Board of Appeals and City Clerks' Office
5. **Nature & Basis of Appeal:** The applicant desires to construct an attached two car garage with a mud room, being 14 ft. 4 in. vs. the required minimum 20 ft. from the side lot line. Chapter 650 §41-Table of Lot Area, Yards, and Height of Structures. The property is located in Zoning District A-1, being Map 66, Parcel 142 of the Assessor's Maps. Also known as 35 Houde St.
6. **Section of the Zoning Ordinance involved:** See above #5.
7. Notice was sent by Certificate of Mailing to parties in interest, including the petitioner, abutters, owners of land directly opposite on any public or private street or way, owners of land within 300 feet of the property lines, including owners of land in another municipality, all as they appear on the most recent applicable tax lists.
8. Original documents are on file with the Board of Appeals and the City Clerks' Office.

9. **Findings of Fact:**

1F. Present this evening were the applicants Anthony and Margaret Arena, 35 Houde St. and Andre Blais, 8 Houde St., Marlborough, MA.

2F. There was no one present to speak in favor or in opposition to the petition.

3F. The lot in question is 22,949 sq. ft. in area. The existing house is positioned more toward the left side lot line; there is a 15 ft. city easement on the property before the right side lot line. The house was built in 1983. The topography of the lot slopes down from the rear of the property to the front.

4F. The lot in question is surrounded by house lots to the left and right of the lot in question. To the rear of the lot is city owned land "Korean Veterans Field".

5F. **Proposal:** The applicant desires to construct an attached mud room with a two car garage.

6F. **Plans:**

- The applicant submitted a Plot Plan entitled: Required Variance, 35 House St., Marlborough, MA Prepared for Andre Blais, 8 Houde St. Marlborough, MA Prepared by: Bruce Saluk & Assoc., Inc. Dated: Rev. Sept. 10, 2015.
- At the hearing, the applicant showed a Mortgage Plot Plan (not in Board's file)

7F. **Hardship:** The applicant stated hardship is that the existing house was built close to the left side lot line, thus creating their hardship in trying to construct an attach 2 car garage with a mud room. The existing driveway is located at the left of the house. It is not feasible to construct on the right side of the house, because of a chimney and the living room is located on that side. At the rear is the pool. A one car garage is not feasible, because they have 2 cars.

8F. The applicant thought their Mortgage Plot Plan was an accurate plan showing that they had more footage between the proposed garage to the side lot line. The Board explained that this type of plan is a visual survey (not an instrument survey) and may not accurately indicate distances from the structure to the lot lines.

9F. The applicant indicated that previously a section of the southeast (left rear) stonewall had fallen over and that he reset the stones, not knowing that one of the stones had a drill hole that was the property corner marker. The applicant further indicated that his surveyor may have erroneously used the new location of the drill hole. The Board suggested that the applicant secure the subdivision plan indicated in his deed to see if there are property line bearings and if these bearings match the bearings on their surveyors certified plot plan.

10F. Andre Blais, a friend helping them out, was present. He stated the mud room is necessary because of the difference in elevation between the first floor of the house and the proposed garage floor.

11F. The Board informed the applicant that the stated hardship does not meet the criteria for a variance. The Board explained to the applicants that inconvenience, personal or financial, is not a "hardship". The Board mentioned a few options that they may have, so they do not need a variance, i.e. construct a one car garage, eliminate the mud room or place the garage on the other side of the house.

12F. There was much discussion about the survey boundary lines, the Mortgage Plot Plan and the Plot Plan.

13F. The Board informed the applicants that they felt there was no "hardship" according to Mass. General Law Chapter 40A, Section 10 as stated by the applicant. The Board also felt they have other options to acquire a 2 car garage for their house without a variance.

14F. The Board suggested to the applicants to either "Withdraw Without Prejudice" or they can continue the public hearing if they want to come back to the Board with additional information.

15F. The applicants agreed to "Withdraw Without Prejudice". They stated they will try to find the original subdivision plan for the house lots on Houde St. This plan may reveal more information concerning the location of the property lines.

16F. The Board voted 4-0 to grant the applicant to "Withdraw Without Prejudice".

17F. With no other testimony taken or given, the public hearing was closed.



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**Applicant: Anthony J. Arena**

VOTE OF THE BOARD  
 Signature Sheet

**In Favor**

*To withdraw without prejudice!*

**In Opposition**

Paul Giunta

*Paul Giunta*

Paul Giunta

Theodore Scott

*Theodore Scott*

Theodore Scott

Ralph Loftin

*Ralph Loftin*

Ralph Loftin

Thomas Golden

Thomas Golden

Robert Levine

*Robert Levine*

Robert Levine