

Zoning Board of Appeals

Minutes

December 2, 2014

Public Hearing

7:00 PM

12 Gates Ave. – Glaucia V. Reis (ZBA Case #1435-2014)

Petition: To install a driveway which will exceed the maximum 30% (724 sq. ft.) Lot Coverage (Chapter 650 §41 – Table of Lot Area, yards and Height Structures) for Zoning District Residence B. Proposed Lot Coverage is 842 sq. ft. with a deviation of 118 sq. ft. Also the proposal violates the 30% driveway grade (Chapter 650 §49B(3). Being Map 57, Parcel 151.

Board Members present were: Paul Giunta-Chairman, Ralph Loftin, Theodore Scott, Thomas Golden, and Robert Levine.

Description of lot: The lot area is 2,414 sq. ft. The lot is located at a dead end street, also known as 12 Gates Ave. The lot slopes from the rear down towards the front. It was mentioned that there is ledge on the lot in question and also on neighboring lots. It was not clear how the existing easement located between 11A Gates Ave. and 11 Gates Ave. functions for the 2 properties. There is a deteriorating stone wall at the front and side of the house. The stone wall with a stockade fence on top is located at the side property line (the applicant stated it marks the side property line).

It appears that the neighboring properties are similar in size. The abutting lots do not sit on a slope. Most of the lots on Gates Ave. have driveways which provide them with off-street parking, especially during the winter parking ban.

The applicant desires to construct an 11 ft. wide x 17 ft. Bituminous driveway with a proposed retaining wall at the head of the proposed driveway. The existing stone wall with the stockade fence will remain and the existing stone wall at the front will be removed.

List of plans and exhibits:

- Proposed Driveway Plot Plan of Land in Marlborough, MA Prepared by Atlas Land Surveying, Stamped by Todd P. Chapin, Land Surveyor. Dated 11/14/2005 Scale: 1" = 20'.
- Proposed Driveway, 12 Gates Ave. Marlborough, MA Dated: 9/30/2014 Scale: 1" = 20'. (notes handwritten on the plan)

Findings:

- In Board's file, there is a past case (ZBA Case #1336-2005) in which 12 Gates Ave received a variance for an 11 ft. x 29 ft. driveway. Variance was granted on Nov. 22, 2005 and has expired.
- Gates Ave. is a dead end street
- The applicant has owned the house for approximately 1 ½ yrs.
- During the winter parking ban, some abutters have their guests or they themselves park at the Hildreth School parking lot.

- The applicant stated she has parked at the Hildreth School parking lot, but the police told her it was not for long term parking during the winter parking ban. Some of the neighbors stated they had no problems with the police in parking at the Hildreth School. But, the applicant stated she parks there during the entire winter parking ban, not just every now and then.
- Snow plowing on Gates Ave. has always been an issue for homeowners. Snow is usually plowed to the dead end street where 12 Gates Ave is located.

Representing the applicant was Mr. Laurent (spelling is wrong) - (brother in law to applicant) 157 Second St. Framingham, MA stated:

- Almost every house in the neighborhood has a driveway. It has become a necessity for the applicant to have a driveway, because they were told by the police, they cannot park at the Hildreth School parking lot for the entire winter parking ban.
- The grade of the proposed driveway was discussed. It appears it does not meet the city's driveway grade code.
- He also mentioned that a variance was granted in the past and has expired. The applicant reduced the proposed driveway from what was approved by the ZBA in 2005. (ZBA Case # 1336-2005)
- There is no curbing or sidewalk in front of 12 Gates Ave.
- He stated the plans presented to the Board are mis-represented. The plans are not a proper representation of the lot in question and the abutting lots.
- Water run off – He stated water currently runs to a city storm drain. If a variance was granted, he could create a berm to direct the water onto the street into the city's system. The Board would like to see a plan for drainage control.
- He is willing to do a perk test.
- He is willing to produce a topo map with grades.
- On a new plan, he will show actual dimensions of house and what actually sits on the lot. Also setback measurements will be provided.
- He feels the existing front steps are pre-existing non-conforming.
- He could not understand how constructing a driveway could be a negative impact to the neighborhood.
- He stated there will not be any blasting on the property. Lowering the driveway grade will require a higher retaining wall.

The Board's concerns:

- The Board did not like the plans presented this evening. It did not show contours, setbacks, easements, etc.
- It was determined by the Board that the applicant also needed a variance for driveway grade.
- The Board was not sure if the proposed driveway will go over the existing easement which is located on 11A Gates Ave.
- The Board was not sure if the proposed driveway will be on city property or if vehicles will have to go over city property to enter the proposed driveway. The Board wanted to see accurate property lines on a plan.
- The Board would like to see how water run-off will be directed if the new driveway as constructed.
- There was some discussion about the existing deck which is canter livered over the proposed driveway.
- Board Member, Ted Scott discussed Chapter 649-B(3) Grades and Chapter 649-B(4) Paving Material.
- A Board Member, Paul Guinta, suggested that the neighbors should ask their city councilor about the possibility of long term winter parking at the Hildreth School's parking lot.

Abutters speaking:

- 10 Gates Ave. – Paul Skoog stated the existing deck was built approximately 5 yrs. ago.
- 10 Gates Ave. – Ms. Kelly Skoog showed some pictures of the lot when it was on the market for sale. She felt that the abutting condo units have a drywell at the rear of the lot and water drains to the center.
- 45A Curtis Ave. – Karen Callahan She is located at the rear. She stated she has concerns about water run-off onto her unit. How the lot in question will be graded and what type of vehicles will be parked at this location.

Abutters speaking in opposition:

- 11 Gates Ave. – Elnad Headberg She stated she owns the right of way on the driveway to 11A Gates Ave. The proposed driveway will go over the existing driveway. The front stone wall will be removed, this is 7 ½ feet from her property. She was concerned about commercial vehicles being parked in the proposed driveway.
- 11A Gates Ave. (condo units) – Julie Crawford - She stated she owns a condo that has a right of way on the drive to the school lot. She assumes the wall was on the petitioner's property line. 11A Gates Ave. has an easement on that drive to the school, alongside her property. The driveway into the condo units is stated in her deed. Her concerns were:

- A safety issue – to exit out of her driveway, it will be difficult to see cars exiting out of the proposed driveway.
- There is an existing retaining wall with a fence on top, which hinders visibility for cars exiting from 11A Gates Ave.
- The city pushes snow to the dead end street. She would like to know where the snow will be removed from the proposed driveway.
- The retaining walls on the side and front are in need of repairs. She stated the retaining wall on the side property line belongs to the applicant (12 Gates Ave.). She owns a condo that has a right of way on the drive to the school lot.
- She also stated that when she parks at the Hildreth School parking lot, it is approximately a 2-3 min. walk to her house. Number 11A has an easement on that drive to the school, alongside her property.

Speaking in favor of the petition:

- Alda Morans – 92 Emer Rd. Marlborough, MA- stating that the proposed driveway will take additional cars off the street.

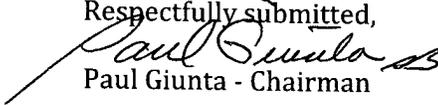
The Board would like to see on a revised plan:

- How this proposed driveway will be constructed. (the grade, retaining wall(s) if needed and material to be used for the proposed driveway.
- Existing curbing on Gates Ave.
- Contours of the lot. (The Board did not want to see spot grades)
- How the water will run off from the site. Water cannot be directed to neighboring lots or onto city streets or property.
- On the plan, show an accurate description of what is on the lot, and what is proposed for the lot.
- Chairman Paul Giunta suggested having the revised plans show the existing easements in and around the lot in question.
- Show the adjacent abutters property lines in relation to 12 Gates Ave. (10 Gates Ave, 11A Gates Ave and 11 Gates Ave.)
- A letter from the city's engineer about a proposed curb cut.
- A perk test should be performed. When this test is performed, an independent witness should be present.

With no other testimony taken, the hearing was continued to January 6th, 2015 in order for the applicant to provide a revised plan with the items mentioned above.

The Board voted 5-0 to continue the public hearing to January 6th, 2015 at 7:00 PM.

Respectfully submitted,


Paul Giunta - Chairman