



City of Marlborough Zoning Board of Appeals

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

Case # 1439-2015 Date: February 12, 2016
Name: Timothy Hannon (Hannon Real Estate, LLC)
Location: 658 Stevens St.

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 February 2, 2016 voted 5-0 to grant the applicant to **Withdraw Without Prejudice** the below mentioned petition:

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

Petition: The applicant proposes to construct an addition at the rear of the house which will be 25 ft. vs. the 30 ft. minimum required rear setback. (§650-41, Table of Lot Area, Yards and Height of Structures and §650-8, Boundaries Established; Zoning Map) The property is located in Zoning District A-3, at 658 Stevens St. being Map 19, Parcels 47 & 48 of the Assessor's maps.

The Board felt if the applicant wanted to come back to the Board with a different plan, he can do so under a withdrawal without prejudice. The applicant agreed to "withdraw without prejudice".

And the 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 Clerks' Office on February 12, 2016.



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Name: Timothy Hannon (Hannon Real Estate, LLC)
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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 February 2, 2016.

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

Proceedings:

1. **Date of Appeal:** December 11, 2015.
2. **Name and Address of Applicant:** Timothy Hannon, Hannon Real Estate, LLC, 37 Emily Road, Framingham, MA 01701.
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 proposes to construct an addition at the rear of the house which will be 25 ft. vs. the 30 ft. minimum required rear setback. (§650-41, Table of Lot Area, Yards and Height of Structures and §650-8, Boundaries Established; Zoning Map) The property is located in Zoning District A-3, at 658 Stevens St. being Map 19, Parcels 47 & 48 of the Assessor's maps.
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 / Minutes:**

1F. The property is located at 658 Stevens St. The topography of the lot slopes from 350 to 334 from left to right as you face the lot. Existing at the rear of the house is an open deck. There have been 2 other additions to the right side of the house in the past. This is a double lot, containing a total of 9,442 sq. ft. \pm with 100 ft. \pm of frontage.

2F. The abutting lots in this area are similar in topography, rectangular in shape and size. Some lots in the area are double lots and some are just single lots.

3F. The applicant, Timothy Hannon was present. An abutter, Mr. Blackler of 662 Stevens St. Marlborough, MA was also present.

4F. **Proposal:** The applicant desires to construct an addition to the rear of the house which will be 25 ft. vs. the 30 ft. minimum required rear setback. The existing open deck will be rebuilt (an open deck can be 5 ft. from a lot line). He would like to square off the back portion of the house with the addition which will be esthetically pleasing than adding to the right side of the house. (there have already been 2 additions to the right of the house and the applicant is trying to avoid another roof line to the right of the house)

5F. **Exhibits:** The applicant presented the following list of exhibits which are in the Board's file:

- 3 colored photos of the lot in question
- A plan entitled: Proposed Plot Plan, 658 Stevens St. Marlborough, MA prepared by Engineering Design Consultants, Inc., 32 Turnpike Rd. Southborough, MA, Stamped by Walter M. Lewinski-Civil Engineer, dated Dec. 4, 2015, scale 1" = 30'.
- 658 Stevens St. design plans – Sheets D-0, D-1, A-0, A-1, A-2, A-3 and A-4.

6F. **History:** The applicant gave a brief history of the house, stating it was owned by a Margaret Gardener who was in violation of the city's code in breeding dogs in this house. The house was shut down and condemned by the city.

7F. The former owner of the house mentioned to the applicant that there were 2 septic tanks on the lot which the applicant could not find. Mr. Hannon stated the house is now connected to city sewer.

8F. **Hardship** as stated by the applicant:

- With the new utilities on the right side of the house, it is not feasible to construct at the right side of the house. The original house was a cabin with 2 additions on the right side of the house. He did not want to add another roof line to that section of the house.
- Can't expand in the front of the house because of ledge.

9F. Robert Levine (Board Member) stated he walked the property and felt the lot and house needed a lot of work, i.e. rotted footings on the existing open deck, yard is horrible, the lot slopes from left to right. He felt that to grant a variance would improve the house lot and at the same time will benefit the neighborhood and the city.

10F. Theodore Scott (Board Member) stated the following:

- The Zoning Board of Appeals is governed by Mass. General Law. Chapter 40A..in making their decision on cases before the Board.
- The hardship should be directed to the shape, topography and soil condition of the lot.
- Yes, having the utilities at the right front side of the house is a problem but, that is not a hardship according to Mass General Law Chapter 40A.
- The applicant does have options, i.e. he could make the addition smaller, which would not require a variance, or he could add to the right of the house.
- He does not see that the lot in question has any distinctive characteristics that set it apart from the abutting lots.

11F. Ralph Loftin (Board Member) read a case law to the applicant in order for the applicant to better understand what the Board has to consider in granting a variance.

12F. The Board finds the lot in question is similar to other lots in the area. Some being double lots or single lots. The shapes of most of the lots in the area are rectangular in shape. The topography of the lots in the area has a similar pitch.

13F. The Board finds that the new sewer connection is located at the right side of the house and the new gas line is also at the right side of the house which somewhat prevents the applicant from adding to the right of the house. The slope may also make it more difficult to construct to the right side of the house.

14F. The Board determined the applicant has other options to expand the house:

- Construct a smaller addition in order to conform to the minimum rear setback requirement of 30 ft.
- To construct the addition to the right of the house.

15F. There was no one present to speak in favor or in opposition to the petition.

16F. The Board offered the applicant the option to “withdraw his petition without prejudice” in which he can come back to the Board with a different petition, or the Board can proceed and vote on his petition this evening. The applicant stated he would like to “withdraw his petition

without prejudice". He wrote, signed and dated something to that affect for the Board's file.

17F. On a motion by Paul Giunta and seconded by Ralph Loftin, to allow the applicant to "withdraw without prejudice". The Board voted 5-0 to allow the applicant to "withdraw without prejudice".

18F. The hearing was closed.



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Applicant: Timothy B. Hannon

VOTE OF THE BOARD
Signature Sheet

In Favor
To withdraw without Prejudice

In Opposition

Paul Giunta *Paul Giunta*

Paul Giunta _____

Theodore Scott _____

Theodore Scott _____

Ralph Loftin *Ralph Loftin*

Ralph Loftin _____

Thomas Golden *Thomas Golden*

Thomas Golden _____

Robert Levine *Robert Levine*

Robert Levine _____