



**CITY OF MARLBOROUGH  
ZONING BOARD OF APPEALS  
Application for Variance or Appeal Hearing**

*Variance*

**Official Use :**

Date Received : 1-21-2021 City Clerk's # \_\_\_\_\_ ZBA Case # 1474-2021

**Request for :**

Variance       Appeal

**Information :**

Property Address 194 Church St. Zoning District RB Map# 70 Parcel# 518

Applicant is:  Owner     Tenant     Prospective Purchaser     Other \_\_\_\_\_

I am the owner of the property and I have knowledge of, and consent to, this application.

Owner's signature *Ryan W. Judy* Date 1/19/21  
 Owner's name Ryan Judy Address 194 Church St. 2nd Flr.  
 State MA Zip 01752 Phone# <sup>508</sup> 740-8496 E-mail RYAN@RYANJUDY.COM

Applicant name RYAN Judy Address 194 Church St. 2nd Flr.  
 State MA Zip 01752 Phone# <sup>508</sup> 740-8496 E-mail RYAN@RYANJUDY.COM

Representative Name: DAVID Sadowski Company D.J. & Associates  
 Address 7 Cedar St. Clinton  
 State MA Zip 01510 Phone# <sup>978</sup> 875-0741 E-mail david.Sadowski.57@gmail.com

Describe below what is being requested, such as what is the proposed action, relief, or construction on the property.

- See Attached -

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Provide below all sections of the Zoning Ordinance (Chapter 650, Article(s), Section(s), Paragraph(s), Subsection(s)) which are pertinent to the Variance (see denial letter).

- See Attached -

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**Variance**

1. What is the soil condition, shape or topography of **YOUR** lot or structure which **DISTINCTLY** affects your lot, as distinguished from other lots in the zoning district which it is located.

*- See Attached -*

2. What is the **HARDSHIP** that is **CAUSED** by the soil condition, shape or topography of your lot or structure stated above. **PERSONAL INCONVIENCE** is **NOT** a hardship. A hardship imposes a substantial financial penalty or directly affects your use of the land or structure as it is zoned.

*- See Attached -*

3. State how the variance you are requesting, if granted, will not nullify or detract from the intent or purpose of the Zoning Ordinance.

*- See Attached -*

4. State how the variance you are requesting, if granted, will not diminish the public welfare or well-being.

*- See Attached -*

**Appeal**

State the specifics of the Appeal (use additional sheet if necessary).

*NIA*

**Application Packet:**

The applicant shall submit ten (8) copies of the application packet which shall contain sufficient information to illustrate and defend the applicant's case and as a minimum shall consist of the following:

- Completed Zoning Board of Appeals Application Form
- Abutters List certified by the Assessor's Office
- Copy of denial letter from City Official
- Certified Plot Plan prepared and stamped by a Massachusetts Registered Professional Land Surveyor. A mortgage plan is **NOT** a certified plot plan. The certified plot plan shall include:
  - Plan Size 8 1/2" x 11" or 11" x 17"
  - Plans drawn to accurate scale with north arrow
  - Owner names and street addresses of directly abutting lots
  - Name of streets and zoning districts.
  - Bearing and distances of subject property
  - Dimensions and property line setbacks of all structures on subject property
  - Location of driveways, parking areas and other impervious surfaces on subject property
  - Location of walls, curbing, major landscaping, fences on subject property
  - Location of easements, wetlands and floodplains on subject property, if applicable
  - Dimensions and property line setbacks of all proposed work
  - Lot Coverage (area covered by all impervious surfaces) existing and proposed
  - Location and property line setbacks of structures, fences, driveways etc. on abutting lots that are within fifteen (15) feet of subject property lines
- NIA**  Site plans of subject property showing topography and drainage structures, if regrading of the site or rerouting of runoff is proposed or if property is in Floodplain and Wetland Protection District.
- Architectural plans of new or modified building structure, if applicable.

**Filing Fee:** Filing fees are based upon the proposed **USE** of the property:

<input type="checkbox"/> Residential Non--revenue bearing .....	\$130.00
<input checked="" type="checkbox"/> Residential Revenue bearing .....	\$250.00
<input type="checkbox"/> Business, Commercial or Automotive .....	\$375.00
<input type="checkbox"/> Industrial, Limited or Full .....	\$500.00
<input type="checkbox"/> Special Permit (Flood Plain and Wetland Protection District.....	\$450.00

**Hearing Request:** I hereby request a hearing before the Zoning Board of Appeals regarding this application packet and I am aware that two (2) legal ads will be placed in the MetroWest Daily News or the Marlborough Enterprise Weekly newspaper which will be billed directly to me or my representative. I am further aware that I am responsible for sending copies of the Notice of Hearing to all the abutters on the certified list at least fourteen (14) days prior to the hearing date and that I will submit the receipts confirming this mailing to the zoning office seven (7) days prior to the hearing. Finally, I am aware that I am required to record the board's certified decision and the certified plot plan with the Registry of Deeds in order for it to take effect.

Applicant's signature: *Ryan W. Judy*

Date: 1/19/21

Print name: RYAN JUDY

and/or

Representative's signature: *David Sadowski*

Date: 1-19-21

Print Name: DAVID SADOWSKI PRINCIPAL D.J. & ASSOCIATES

**Official Use Only:**

Received from applicant, the sum of \$ 250<sup>00</sup> Check # \_\_\_\_\_

Signature of the agent of the Zoning Board of Appeals:

*Susan Brown*

Date: 1-27-2021

Susan Brown - Board Secretary  
Department - Zoning Board of Appeals  
140 Main Street  
Marlborough, MA 01752  
Tel# 508-460-3768 E-mail: sbrown@marlborough-ma.gov

The date and signature of the agent of the Zoning Board of Appeals will serve as certification as to when the COMPLETE application packet accompanied by the proper filing fee was filed with this office.

**Owner:**

Ryan Judy  
194 Church Street  
Marlborough , MA 01752  
Building Permit Application # BP-2020-000884

**Describe below what is being requested, such as what is the proposed action, relief or construction on the property:**

My request is to approve construction of a dormer 27' 9" x 4' 7" to increase the living space on the 3<sup>rd</sup> floor of my home. According to my architect, building the dormer would exceed the 2.5 story height restriction of the RB zone by 6%.

The dormer is an integral part of the property improvement project with goals being:

- To fully modernize the property for safety, comfort and energy efficiency.
- To allow space for myself on the third floor, my elderly parents on the second floor and continued rental of the first floor unit to an elderly tenant that has lived there for 23 years at very affordable rent.
- To maintain the character of this 120 year old home and its surrounding neighborhood while also having no detrimental impact on the neighbors.

**Provide below all sections of the Zoning Ordinance (see denial letter):**

The relief requested is:

- 1) The City Code of Marlborough 650-41 Height of structure Under chapter 650-5 of the City Code of Marlborough a half-story is defined as "That part of a building under a sloping roof in which the intersection of the bottom of the rafters with the interior faces of the outside walls is six feet or less on average above the floor level.

## Variance

1. **What is the soil condition, shape or topography of your lot or structure which distinctly affects your lot, as distinguished from other lots in the zoning district which it is located.**

There are several relevant and distinct factors that distinguish my lot and structure from others within my zoning district.

The shape and size of my lot is distinctly large for my area and zone. At 25,350 square feet, the lot is the 4th largest lot within 500 feet out of 117 residential lots. Thus, unlike most relief requests, the relief request does NOT relate to a lot too small in size in relation to the usage but rather uniquely, for a lot too large in size in relation to the usage. Furthermore, it is a corner lot more than double the size of the average lot size of my abutters.

The shape of my corner lot is uniquely trapezoidal - different from all the neighbors in the area and zone. The vast majority of neighboring lots are long-rectangular and narrow, allowing for much greater land use percentage.

The shape and location of my lot is distinctive in that I am disadvantaged for sub-division by being dissected into two different zones RB and A3, yet lot size alone is large enough for significant re-development.

The topography of my lot with sloping conditions away from the house foundation on the north and east sides eliminated the cost effectiveness of a third unit addition and footprint expansion in order to meet the goals of providing affordable housing and effective use of a distinctively large and shaped lot.

The shape of my structure and how it was constructed 120 years ago makes the third floor rooms currently only having one stairway egress which is not historically unusual but ideally should be improved with a second stairway egress.

2. **What is the hardship that is caused by the soil condition, shape or topography of your lot or structure stated above. Personal Inconvenience is not a hardship. A hardship imposes a substantial financial penalty or directly affects your use of the land or structure as it is zoned.**

There are several significant hardships caused by the distinctive features of the shape (and directly related, size) and topography of the lot and the shape (and directly related, size) of my structure.

For an overall and important perspective, the unique conditions and features of my property make my request for relief different from most requests. Most requests are driven by soil, shape or topography of a lot or structural characteristics related to a lot size too small that causes the hardship and requires relief. In my case, my request driven by the shape and topography of my lot and the structural characteristics are related to a lot size too large that causes my hardship and requires relief.

The hardships caused that impose a substantial financial penalty OR directly affects the use of the land or structure as zoned are:

1. Due to the shape (and directly related, characteristics and size) of the lot, the hardship(s) that impose a substantial financial penalty are the inability to subdivide the lot, and due to the topography the inability The hardship(s) that directly affects the use of the land or structure are: the zoning district changing from RB to A3 diagonally through the lot.

**3. State how the variance you are requesting, if granted, will not nullify or detract from the intent or purpose of the Zoning Ordinance.**

· The variance **will not** nullify or detract at all from the intent or purpose of the Zoning Ordinance. The character of the building will not be altered (in fact it will be enhanced!) to follow the intent of the Zoning Ordinance for character of the neighborhood and zone. Every effort, architecturally and construction-wise has been made to match and blend the dormer with the existing structure. Also, there are already several other homes in the area with approved dormers (see photos) of similar design and construction and that have been approved as a structure exceeding 2.5 stories.

· The footprint of the building will not be altered (except to provide required egress to the third floor), maintaining the intent of the Zoning Ordinance for limiting percent usage to reasonable levels.

· The overall maximum height of the building will not be altered or increased, not detracting from the Zoning Ordinance intent to limit overall residential height.

- If granted, the variance approval will not increase the need for any additional off street parking.

**4. State how the variance you are requesting, if granted will not diminish the public welfare or well-being.**

The variance will not diminish the public welfare or well-being. In fact, the variance and dormer addition will enhance and improve the public welfare and well-being.

- The dormer will not negatively impact the neighbors at all, either in character, view or sunshine and therefore, also does not detract from the intent of the Zoning Ordinance at all.
- Due to distinctively large lot size, there will be no negative impact on abutters or the neighborhood. In fact, the overall property improvement is intended to further improve and support the neighborhood and its well-being.
- The full improvements to my home, including living space and egress will improve the safety and comfort of the tenants. It is hoped to someday add solar power to the home for more economical and eco-friendly/sustainable energy to the occupants.
- The home and yard has been largely neglected for many years and this project will improve the aesthetics of the neighborhood as a whole.
- The dormer and corresponding renovation will allow enough space for myself, my parents and to continue to provide affordable housing to my tenants, notably, my 88 year old tenant of 23 years.
- The value of the dormer and the commensurate property improvement will increase the property taxes paid and support the community and public welfare.
- The public welfare will not be diminished nor have their well being infringed on due to the fact that the property has ample off street parking.



**Summary:**

By granting the requested relief to the height restriction the zoning board will allow me to allow me to expand the property to have enough space for myself, my family and to continue renting to the long term tenant.

Granting the appeal to the story height limitation will have no impact to the surrounding neighbors and will be less detrimental than other methods of expanding the property that would greatly increase its footprint.

In summary, this variance approval will yield an improved, yet completely appropriate and better quality outcome for the property and the greater good of Marlborough and surrounding property and neighbors.





*City of Marlborough*  
**BUILDING DEPARTMENT**

140 Main Street  
Marlborough, Massachusetts 01752  
Tel. (508) 460-3776 Facsimile (508) 460-3736  
building\_dept@marlborough-ma.gov

JEFFREY COOKE  
BUILDING COMMISSIONER

PATRICK DAHLGREN  
BUILDING INSPECTOR

LAURENT LEMIEUX  
PLUMBING & GAS INSPECTOR

JOHN CAIN  
WIRING INSPECTOR

WILLIAM PAYTON  
BUILDING INSPECTOR

**ZONING DENIAL**

January 8, 2021  
Owner or Record:  
Ryan Judy  
194 Church Street  
Marlborough, MA 01752

Re: 194 Church Street

Mr. Judy,

Your application to construct a new addition at 194 Church Street Parcel #70-518, located in Residential Zoning District (RB) is denied as it does not comply with Chapter 650-41, "Table of Lot Area, Yards and Height of Structures" and requires zoning relief issued by the Zoning Board of Appeals. The table states that the maximum height of structures in Zoning District (RB) is 2 ½ stories and based upon the information on your plans the building is 3 stories tall.

Zoning relief from the Zoning Board of Appeals is required for the following conditions.:

1) Based upon the information provided on your plans you are in violation of The City Code of Marlborough 650-41 for the height of the structure. Under Chapter 650-5 of the City Code of Marlborough a half-story is defined as "That part of a building under a sloping roof in which the intersection of the bottom of the rafters with the interior faces of the outside walls is six feet or less on average above the floor level."

You have the right to appeal this decision to the Zoning Board of Appeals as stated in the City Code section 650-58.

An appeal from this denial may be taken to the Zoning Board of Appeals by filing a Notice of Appeal with the Zoning Board of Appeals within 30 days of the date of this denial letter. Further information should be obtained from the Board of Appeals secretary, Susan Brown at 508-460-3768.

The code in its entirety may be found at [www.ecode360.com/MA1056](http://www.ecode360.com/MA1056)

Sincerely,

**William Payton**

Local Building Inspector  
City of Marlborough, MA  
(508)460-3776  
[wpaynton@marlborough-ma.gov](mailto:wpaynton@marlborough-ma.gov)  
[www.Marlborough-MA.gov](http://www.Marlborough-MA.gov)

