



# City of Marlborough Zoning Board of Appeals

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

ZBA Case # 1487-2022  
Location: 57 Preston St.  
Applicant: Shaun McAndrews

## Notice of Public Hearing

Notice is hereby given that the Marlborough Zoning Board of Appeals will hold a public meeting on March 8, 2022, at 7:30 PM at Marlborough City Hall, 140 Main St. – 3<sup>rd</sup> Floor Memorial Hall.

Petition: To demolish a portion of the existing structure and construct a new addition. Located at 57 Preston St., Map 55 Parcel 164, Zoning District Residence B (RB). The petition does not comply with Chapter 650, Article 41, "Table of Lot Area, Yards and Height of Structures", of the City Code of Marlborough. The applicant is seeking a variance for a side yard setback of 7.7 ft. vs. the existing 10 ft. which is the minimum required. And a variance for Lot Coverage, existing is 31.5% vs. the proposed 37%. Maximum lot coverage is 30%.

For further assistance, please contact the Board at 508-460-3768. All interested persons are invited.

Applicant or representative must be present  
Ralph Loftin  
Chairman  
Zoning Board of Appeals



# City of Marlborough

## BUILDING DEPARTMENT

140 MAIN STREET  
MARLBOROUGH, MA 01752  
TEL. (508) 460-3776 FACSIMILE (508) 460-

*Rec 2-24-2022*

TIN HTWAY  
BUILDING  
COMMISSIONER

LAURENT "LARRY"  
LEMIEUX  
PLUMBING & GAS  
INSPECTOR

JOHN CAIN  
WIRING INSPECTOR

WILLIAM PAYTON  
BUILDING INSPECTOR

ETHAN LIPPITT  
BUILDING INSPECTOR

### BUILDING DEPARTMENT COMMENTS TO ZBA

February 23, 2022

Owner:

Shaun McAndrews  
57 Preston Street  
Marlborough, MA 01752

#### RE: 57 PRESTON STREET, PARCEL ID #55-164 PROPOSED ADDITION

- 1) The existing two-family dwelling property is a lawful pre-existing non-conforming lot. Corner lot with two frontages
- 2) Based upon the assessor's records, in fiscal year 2019, lots 164, 165 and 166 were merged. Additionally, land records show that the 3 parcels have been transferred together by deed since at least 1956.
- 3) Merger Theory – Substandard building lots must be combined to form one lot that will meet or more closely approximate the minimum lot area and frontage requirements of a local zoning bylaw. Protection for merger is reserved for only one and two family dwelling improved lots. Sheds and accessory structures are not protected (Adams v. Peterson).
- 4) Based upon merger theory, the interior lot lines are eliminated.
- 5) Based upon merger theory, relief for the side yard setback on the Mountain Avenue side is no longer required. This office finds the side yard setback is +/-75.0 feet.
- 6) Based upon merger theory, relief for lot coverage is no longer required. This office finds the lot coverage to be 9%
- 7) See attached table showing required, existing, and proposed conditions for the above listed property.

**57 PRESTON STREET, PARCEL ID #55-164  
PROPOSED ADDITION**

- 8) The proposed addition is extending the non-conforming front yard setback on the Mountain Avenue side of existing 15.3 feet to proposed 15.2 feet. This office would consider this an **extension** of the non-conformity and not an **aggravation** of the non-conformity (0.1 feet) and would request a Special Permit for relief from the setback requirements.

**ZONING TABLE**

ZONING DISTRICT Residence B (RB)	REQUIRED	EXISTING	PROPOSED
Min Lot Area	8000 sq ft	18051 sq ft (merged)	18051 sq ft (merged)
Min Lot Frontage	100' (Preston St)	133.5' (merged)	133.5' (merged)
	100' (Mountain Ave)	138' (merged)	138' (merged)
Min Front Yard	20' (Preston St)	10.9'	10.9'
	20' (Mountain Ave)	15.3'	15.2'
Min Side Yard	10' (pre-1969)	10' (pre-merged)	7.7' (pre-merged)
	10' (pre-1969)	77.3' (merged)	75'+/- (merged)
Min Rear Yard	N/A – Corner Lot	N/A – Corner Lot	N/A – Corner Lot
Max Height	2-1/2 stories	2-1/2 stories	2-1/2 stories
Max Lot Coverage	30% max	31.5%(pre-merged)	37%(pre-merged)
	30% max	8.0%(merged)	11.6%(merged)

Sincerely,



**William Paynton**  
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)





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

*See copy*

**Official Use :**

Date Received : 2-14-2022 City Clerk's # \_\_\_\_\_ ZBA Case # 1487-2022

**Request for :**

Variance       Appeal

**Information :**

Property Address 57 Preston street      Zoning District PB      Map# 55      Parcel# 58 164

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 [Signature]      Date 1/31/22

Owner's name Shaun McAndrews      Address 57 Preston street  
State MA      Zip 01752      Phone# 508-630-0240      E-mail Shaun@SPMdevelopment.com

Applicant name Shaun McAndrews      Address 57 Preston street  
State MA      Zip 01752      Phone# 508-630-0240      E-mail Shaun@spmdevelopment.com

Representative Name: \_\_\_\_\_ Company \_\_\_\_\_

Address \_\_\_\_\_

State \_\_\_\_\_ Zip \_\_\_\_\_ Phone# \_\_\_\_\_ E-mail \_\_\_\_\_

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

Existing back deck egress is proposed to be demolished and rebuilt to code. Current structure is not built to code, which and is failed and compromised. In order to rebuild to current code, the current back wall will need to be beyond the current structure.

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).

Chapter 650, article 41 "Table of lot area, yards and heights of structures"

**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.

The topography of the structure was currently sits in between Preston Street & Main Street which has frontage exposure on two sides of the building. Additionally, the current work that needs to be done would extend over the paved driveway calling for an addition to the proposed soil.

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.

The hardship of the driveway <sup>not shape & to porches of the</sup> will need to be extended to bring the structure to code. Without extending the driveway, the structure could potentially collapse or not brought to code and cause damage to the land, structure, and public street.

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

This is a side street, which is qualified as frontage. There is ample amount of space in the rear of the property to allow extra usage of the lot.

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

This rear porch will not diminish the public welfare or well-being. A new structure will enhance the community as it is not only dangerous, it is an eye sore to the community.

**Appeal**

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**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
  - 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:

- Residential Non--revenue bearing ..... \$130.00
- Residential Revenue bearing ..... \$250.00
- Business, Commercial or Automotive ..... \$375.00
- Industrial, Limited or Full ..... \$500.00
- 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.



ZBA Case # \_\_\_\_\_

Applicant's signature:   
Print name: Shaun McAndrews  
and/or  
Representative's signature: \_\_\_\_\_  
Print Name: \_\_\_\_\_

Date: 1/31/22  
Date: \_\_\_\_\_

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

Date: 2-14-2022

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.



# City of Marlborough

## BUILDING DEPARTMENT

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

TIN HTWAY  
BUILDING COMMISSIONER

LAURENT "LARRY" LEMIEUX  
PLUMBING & GAS INSPECTOR

JOHN CAIN  
WIRING INSPECTOR

WILLIAM PAYTON  
BUILDING INSPECTOR

ETHAN LIPPITT  
BUILDING INSPECTOR

MICHAEL LEEDS  
BUILDING INSPECTOR

## ZONING DETERMINATION

January 20, 2022

Owner:  
Shaun McAndrews  
57 Preston Street  
Marlborough, MA 01752

**RE: 57 PRESTON STREET PARCEL ID #55-164  
PROPOSED ADDITION**

Mr. McAndrews,

Based upon the certified plot plan prepared by Dunn-McKenzie, Inc. dated 1/18/2022, the proposed demolition of a portion of the existing structure and proposed construction of a new addition at the property listed above, located in zoning district (RB) does not comply with Chapter 650, Article 41, "Table of Lot Area, Yards and Height of Structures", of the City Code of Marlborough. This office offers the following comments:

1. The proposed new non-conforming front yard setback of 15.2 feet is being created. Based on the certified existing conditions plot plan prepared by Dunn-McKenzie, Inc. dated 6/15/2021, the existing front yard setback is pre-existing non-conforming at 15.3 feet. This office would consider this an extension of the non-conformity and would require a Special Permit.
2. A new non-conforming side yard setback of 7.7 feet is being created. Based on the certified existing conditions plot plan prepared by Dunn-McKenzie, Inc. dated 6/15/2021, the existing side yard setback is conforming at 10.0 feet. This office would consider this a new non-conformity and would require a Variance.
3. The maximum allowable lot coverage in zoning district (RB) is 30%. The property has a pre-existing nonconforming lot coverage of 31.5%. The proposed new lot coverage is 37%, increasing the non-conforming lot coverage by 5.5%. This office would consider this an aggravation of the non-conformity and would require a Variance.



## 57 PRESTON STREET - PROPOSED ADDITION

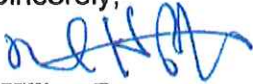
Your proposed addition will require relief in the form of a Variance and/or Special Permit issued by the Zoning Board of Appeals. Detailed plans showing the existing conditions and the proposed addition will be required with your application to the ZBA.

You have the right to appeal this determination to the Zoning Board of Appeals as stated in the City Code section 650-57.

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)

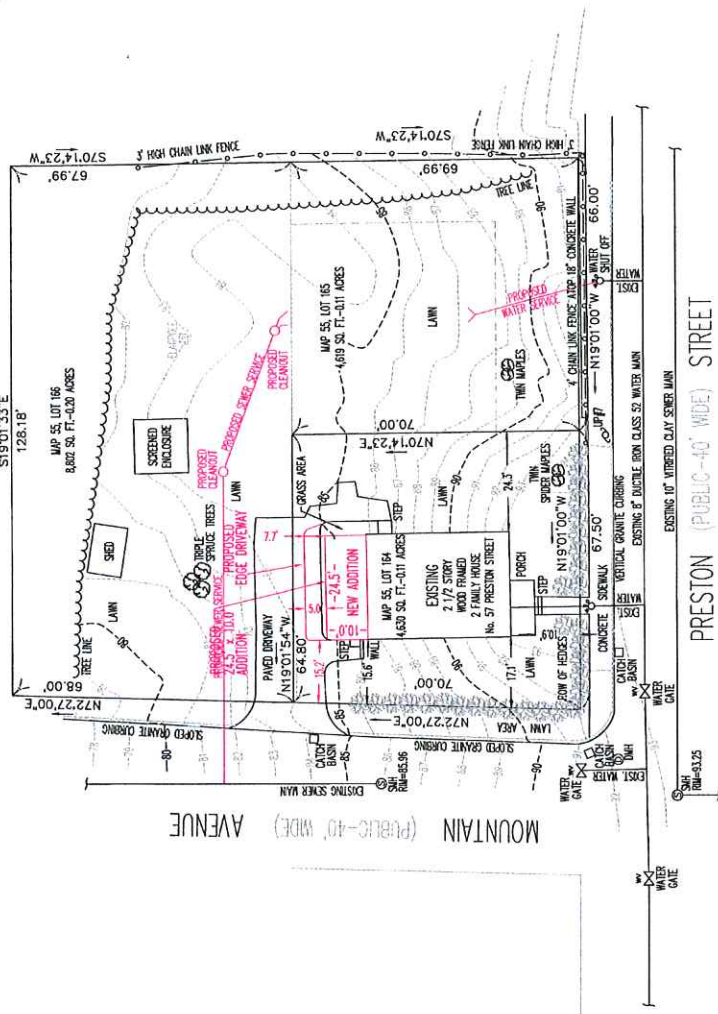
Sincerely,



**William Paynton**  
**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)



1-18-2022



Know what's below.  
Call before you dig.

FLOOD ZONE LOCATION  
THIS SITE LIES WITHIN FLOOD ZONE 'X' AS INDICATED ON THE FLOOD INSURANCE RATE MAP PUBLISHED BY F.I.D. ZONE 'X' IS INDICATED AS AREA OF MINIMAL FLOODING. COMMUNITY-PANEL #50040807-7 & HAVING A MAP REVISION DATE OF JULY 7, 2014.

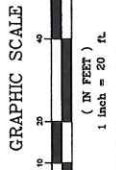
ZONING CRITERIA  
RESIDENCE B.  
MINIMUM LOT SIZE 8,000 S.F.  
STREET FRONTAGE 100'  
FRONT YARD SETBACK 20'  
SIDE YARD SETBACK 15'  
REAR YARD SETBACK 30'  
MAXIMUM LOT COVERAGE 30%

**Dunn · McKenzie, Inc.**  
LAND SURVEYING AND CIVIL ENGINEERING  
206 DEDHAM STREET, R1.1A ct R1.15  
NORFOLK, MASSACHUSETTS 02056  
(508) 384-3990 - FAX (508) 384-3905  
jimmy@dunnmckenzie.com

RESEARCH BY: JWN  
FIELD SURVEY: KGM/JWN  
COMPUTED BY: JWN  
DRAFTED BY: DRD  
DESIGNED BY: ---  
CHECKED BY: JWN/KGM

DEED REFERENCE: BOOK 6683, PAGE 346  
RECORDED AT THE MIDDLESEX REGISTRY OF DEEDS, SOUTHERN DISTRICT.  
PLAN REFERENCE: No. 1062 of 2007  
RECORDED AT THE MIDDLESEX REGISTRY OF DEEDS, SOUTHERN DISTRICT.

REFERENCES



GRAPHIC SCALE

I CERTIFY THAT THE EXISTING DWELLING IS LOCATED AS SHOWN HEREON AND THAT THE EXISTING DWELLING MEETS THE APPLICABLE SETBACK REQUIREMENTS OF THE ZONING BY-LAWS FOR THE TOWN OF MARLBOROUGH, MASSACHUSETTS.

*James W. Neva*  
JAMES W. NEVA, P.L.S. #59399

\*EXISTING DWELLING IN NON-CONFORMING AS TO SIDE SETBACK REQUIREMENTS.

REVISED 8/19/2020	MOVE THE EDGE OF THE DRIVEWAY
REVISED 6/14/2021	ADDED OFFSETS
REVISED 1/17/2021	ADD LOT COVERAGE

<b>BUILDING PERMIT PLAN</b>	
Of Land Located in The Town Of	
<b>MARLBOROUGH, MASSACHUSETTS 01752</b>	
SHEET NO.	DATE
1 OF 1	JULY 23, 2020
JOB NO.	5496

SITE LOCATION:  
57 PRESTON STREET  
MARLBOROUGH, MASSACHUSETTS 01752  
PREPARED FOR & OWNER OF RECORD:  
SHAWN P. McANDREWS  
57 PRESTON STREET  
MARLBOROUGH, MASSACHUSETTS 01752  
PHONE #508 855-1707

ASSESSORS REFERENCE  
MAP 55, LOT 164  
ZONING REFERENCE  
RESIDENCE B.