



**City of Marlborough
Zoning Board of Appeals**

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

ZBA Case # 1453-2019 SP
Location: 3 Jonas Court

Date: June 4, 2019

**(General Laws Chapter 40A, Section 16)
Grant of a Special Permit**

To: Fabricio DaSilva
Address: 3 Jonas Court
City: Marlborough, MA 01753

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

3 Jonas Court Map 68, Parcel 391

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 June 4, 2019.



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Zoning Board of Appeals Decision Special Permit

The Zoning Board of Appeals, acting under the Zoning Ordinance of the City of Marlborough and the Zoning Enabling Act of the Commonwealth of Massachusetts a public hearing held at the Marlborough City Hall, 140 Main St. on May 28, 2019.

Members Present: Paul Giunta – Chairman, Thomas Pope, Ralph Loftin, Thomas Golden and Robert Levine.

Proposal: Fabricio DaSilva proposes to construct a new 5 ft. x. 18 ft. front porch at 3 Jonas Ct. Map 68, Parcel 391 in Zoning District A-3. The Table of Lot Area, Yards and Height of Structures states that the use requires a minimum front yard setback of 20 ft. vs the proposed 12 ft. The existing structure at its closest point is 17 ft. to the front lot line. As a pre-existing, non-conforming lot, the construction of a new covered porch that is more non-conforming requires a Special Permit.

The Zoning Board of Appeals finds that the expansion of the existing legally non-conforming single-family structure with a proposed covered front porch is not substantially more detrimental to the neighborhood than the existing non-conforming structure, that it is an appropriate use, and that it is in harmony with the general purpose and intent of the Zoning Ordinance of the City of Marlborough.

Vote: On a vote of 5-0 with Paul Giunta-Chairman, Thomas Pope, Ralph Loftin, Thomas Golden and Robert Levine voting in the affirmative to grant a Special Permit with the following conditions:

1. The construction of the proposed covered front porch will be in accordance with plan entitled: Proposed covered Porch & Driveway, 3 Jonas Court, Marlborough, MA. Prepared by Bruce Saluk & Associates, Inc. Civil Engineering & Land Surveying, 576 Boston Post Rd. East, Marlborough, MA Dated: December 19, 2018 Rev. Jan. 30, 2019 Scale: 1" = 20'.
2. The proposed 5 ft. wide x 18 ft. long covered front porch shall not be any closer than 12 ft. to the front lot line.

2. Recording of Special Permit – In accordance with the provisions of Mass. General Laws c 40A, Section 11, the applicant at her expense shall record this Special Permit in the Middlesex South District Registry of Deeds after the City Clerk has certified that the twenty-day period for appealing the Special Permit has elapsed with no appeal having been filed, and before the Applicant shall apply to the Building Commissioner for a building permit for the proposed expansion. Applicant shall provide a copy of the recorded Special Permit to the Zoning Board of Appeals office and to the Building Department.

END OF CONDITIONS

The Board of Appeals also calls to the attention of the owner or applicant that General Laws, Chapter 40A, Section 11 (last paragraph) provides that no variance or special permit, or any extension, modification or renewal thereof, shall take effect until a copy of the decision bearing the certification of the city clerk that twenty days have elapsed after the decision has been filed in the office of the city clerk and no appeal has been filed or that, if such appeal has been filed, that it has been dismissed or denied, is recorded in the Registry of Deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The fee for such recording or registering shall be paid by the owner or applicant.

If the rights authorized by a Special Permit are not exercised within two (2) years of the date of grant of such Special Permit, such rights shall lapse; provided however, that the permit granting authority in its discretion and upon written application by the grantee of such rights may extend the time for exercise of such rights for a period not to exceed six (6) months; and provided, further, that the application for such extension is filed with such permit granting authority at least 1 month prior to the expiration of such two year period.

Respectfully submitted,


Zoning Board of Appeals
Paul Giunta – Chairman

Submitted to the City Clerk's office on June 4, 2019.



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ZBA Case # 1453-2019 SP
Name: Fabricio DaSilva
Location: 3 Jonas Court

Date: June 4, 2019

Zoning Board of Appeals Record Special Permit

The Zoning Board of Appeals, acting under the Marlborough Zoning Ordinance and General Laws, Chapter 40A, as amended, a meeting was held on May 28, 2019.

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

Proceedings:

1. **Date of Appeal for Special Permit:** May 1, 2019
2. **Name and Address of Applicant:** Fabricio DaSilva, 3 Jonas Court, 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:** Fabricio DaSilva proposes to construct a new 5 ft. x. 18 ft. front porch at 3 Jonas Ct. Map 68, Parcel 391 in Zoning District A-3. The Table of Lot Area, Yards and Height of Structures states that the use requires a minimum front yard setback of 20 ft. vs the proposed 12 ft. The existing structure at its closest point is 17 ft. to the front lot line. As a pre-existing, non-conforming lot, the construction of a new covered porch that is more non-conforming requires a Special Permit.
6. Section of the Zoning Ordinance involved: Chapter 650-41 The Table of Lot Area, Yards and Height of Structures
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 400 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.

Paul Giunta stated he knows the applicant from coming into Home Depot as a customer where Mr. Giunta works part time.

Existing Conditions:

1. The petition is for an addition of a 5 ft. x 18 ft. covered porch which will increase the depth of the existing structure, thus intensifying the pre-existing non-conformity of the existing structure. The petition for covered porch will expand the non-conformity, which requires a Special Permit from the Zoning Board of Appeals.
3. The existing lot contains some 10,539 sq. ft. in area.
4. The existing lot is located in Zoning Districts A3 and RB.
5. The proposed covered porch will be 12 ft. to the front lot line where 20 ft. is required under the ordinance results in a deviation of 8 ft.

Findings of Fact:

6. The applicant presented a packet for a Special Permit to the Zoning Board of Appeals to construct a covered porch on May 1, 2019. The application packet included the following:
 - The denial letter dated April 17, 2019 from the Assistant Building Commissioner Patrick Dahlgren
 - Special Permit Application Check List
 - Form 3 – Municipal Tax paid up to date
 - Plan entitled: Proposed Covered porch & driveway, prepared by Bruce Saluk & Associates, Inc. Dated: December 19, 2018 Rev. Jan. 30, 2019. Scale 1" = 20'.
 - 2 photos of the existing house and 1 photo of an example of a porch.
7. Plans presented entitled: Proposed covered Porch & Driveway 3 Jonas Court, Marlborough, MA Prepared by Bruce Saluk & Associates, Inc. Civil Engineering & Land Surveying, 576 Boston Post Rd. East, Marlborough, MA Dated: December 19, 2018 Rev. Jan. 30, 2019 Scale: 1" = 20'.

Hearing Process:

8. The hearing was opened with the reading of the legal notice.
9. The applicant, Fabricio DaSilva, was present.
10. The Board received no written input on the petition. There was no one in the audience that spoke in favor or in opposition to the petition.
11. Copies of the application were delivered to the Zoning Board of Appeals, Police Chief, Fire Chief, City Planner (Building Commissioner), City Engineer and the Conservation Officer (if applicable) all in accordance with Section 59 of Chapter 650 of the Zoning code of the City of Marlborough. No comments were submitted to the Zoning Board of Appeals.
12. The applicant desires to construct a 5 ft. x 18 ft. covered front porch between the existing two bay windows, which will be 12 ft. vs. the minimum required 20 ft. to the front lot line. Deviation of 8 ft.
13. The proposed front porch will extend approximately 2 ft. more from the existing exterior steps to the front lot line.
14. The existing house is 17.5 ft. to the front lot line.
15. The existing house was built in 1968. The applicant has owned the house for 2 years.
16. The applicant stated he has done a considerable amount of work on the interior and exterior of his house.
17. The Board finds the petition is not substantially more detrimental than the existing non-conforming (structure or) use to the neighborhood - The exterior improvements made to the existing house and the landscape improvements are esthetically pleasing to the neighborhood. The addition of the proposed covered front porch will only enhance the existing home. The front porch and its characteristics will not be a detriment to the surrounding neighborhood or the public good.
18. Adequacy of the size of the site including, but not limited to, maximum lot or building coverage or setbacks – The lot in question contains some 10,736 sq. ft. in area. The lot contains a considerable amount of area at the left side as you face the house in question. Jonas Ct. is a dead end street with an existing total coverage 2,680 sq. ft. or 25% vs. the proposed 29.9%. The size of the existing structure is similar and in keeping with the neighboring properties.

19. Extent of proposed increase in non-conforming nature of the structure or use – The addition of the proposed front covered porch will result in a minimal increase to the existing non-conforming nature of the structure or use.
20. Suitability of the site, including but not limited to, impact on neighboring properties – The site is residential, the addition of the covered front porch will not create an impact to the neighboring properties, such as traffic and safety. #3 Jonas Ct. is one of 3 houses on this dead end street, so traffic is light.
21. On a motion made by Robert Levine to accept the petition and plan as presented. Motion was seconded by Thomas Pope.
22. The Board voted 5-0 to accept the petition as presented on a plan entitled Proposed covered porch & driveway, 3 Jonas Court, Marlborough, MA Prepared by: Bruce Saluk & Associates, Inc. Civil Engineering & Land Surveying, 576 Boston Post Rd. East, Marlborough, MA Date: December 19, 2018 Rev. Jan. 30, 2019 Scale: 1"=20'.
23. With no other testimony taken or given, the public hearing was closed.
24. The meeting was adjourned.

PLAN & PROFILE "JONAS COURT"
NASHUA AUG. 9, 1939
CITY OF MARLBOROUGH (4-11)

N/F
183-188 ELM STREET
CONDOMINIUM
BK.31881/PG.54

N/F
LOCUS
10,735 SF
0.25 AC.
FABRICIO BERNARDES DaSILVA
& SILVANIA APARECIDA
DOS SANTOS
BK.68540/PG.58

N/F
NANCY A. SATELLO
BK.13896/PG.660

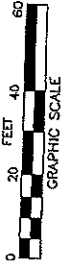
N/F
EDUARDO SANTOS
CARDOSO
BK.42112/PG.368

SPRING (VARIABLE WIDTH - PUBLIC) STREET

JONAS (40' WIDE - PUBLIC) COURT

MARLBOROUGH, MA ZONING CHART
ZONING DISTRICT "A-3" & "RB"
ASSESSOR'S MAP 68, PARCEL 391

ITEM	ZONE A3
(MIN.) LOT AREA	12,500 S.F.
FRONTAGE	100 FT
SIDE YARD	15 FT
FRONT YARD	20 FT
REAR YARD	30 FT
BUILDING HEIGHT	2 1/2 STORIES
COVERAGE	30% (max)



NOTES:

- 1.) THE PROPERTY SHOWN IS LISTED AS ASSESSOR'S PARCEL 391 ON MAP 68 AND IS LOCATED WITHIN ZONING DISTRICT A-3 & RB.
- 2.) THE PURPOSE OF THIS PLAN IS TO SHOW THE LOCATIONS OF PROPOSED PORCH AND SHOULD NOT BE USED FOR ANY OTHER PURPOSE.
- 3.) PROPOSED LOT COVERAGE = 29.9%
COVERAGE ALLOWED = 30%
- 4.) AREA OF EXISTING DRIVE, WALKS AND STEPS = 821 S.F.
AREA OF EXISTING HOUSE, OVER HANG AND BOX WINDOW = 1,869 S.F.
EXISTING TOTAL COVERAGE = 2,690 S.F.
= 25%
AREA OF EXISTING HOUSE, AND PROPOSED COVERED PORCH, WALKS AND DRIVEWAY = 3,210 S.F.
PROPOSED TOTAL COVERAGE = 29.9%

PROPOSED COVERED PORCH & DRIVEWAY 3 JONAS COURT MARLBOROUGH MA

PREPARED FOR:
FABRICIO DaSILVA
3 JONAS COURT
MARLBOROUGH, MA

PREPARED BY:
BRUCE SALUK & ASSOCIATES, INC.
CIVIL ENGINEERING & LAND SURVEYING
576 BOSTON POST ROAD EAST
MARLBOROUGH, MA 01752

DATE: DECEMBER 19, 2018
REVISED: JANUARY 30, 2019
SCALE: 1" = 20'



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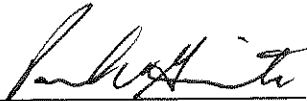
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Applicant: Fabricio DaSilva

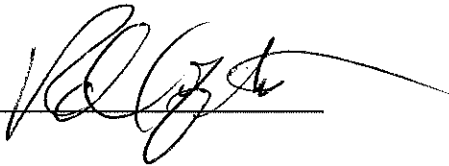
**VOTE OF THE BOARD
Signature Sheet**

In Favor

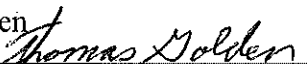
Paul Giunta



Ralph Loftin



Thomas Golden



Thomas Pope



Robert Levine



In Opposition

Paul Giunta

Ralph Loftin

Thomas Golden

Thomas Pope

Robert Levine
