



# City of Marlborough Zoning Board of Appeals

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

ZBA Case # 1419-2013  
Name: John DeGiacomo  
Location: 12 Orchard St.

Date: **August 16, 2013**

## Zoning Board of Appeals Notice of Decision

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, after a public hearing held at the Marlborough City Hall, 140 Main St. on July 30,, 2013, with a continuation date of August 6, 2013.

**Applicant:** John DeGiacomo, 12 Orchard St., Marlborough, MA 01752

**Petition:** John DeGiacomo proposes to expand his existing driveway. Section 650-48.5(b)(1) proposes 0 ft. vs. the minimum required 5 ft. from the side property line. Section 650.48.5(c) proposes to be 3.5 ft. vs. the minimum required 5 ft. from the structure. Section 650-41 Table of Lot Area, Yards and Height of Structures – Lot Coverage maximum 30%, proposes to expand the non-conformity with the additional paving. The property is located in Zoning District Residence C, being Map 68, Parcel 170 of the Assessors' Maps. Also known as 12 Orchard St.

After due consideration to the subject matter of the petition, the Board voted to (GRANT) variance(s), on the ground that a literal enforcement of the Ordinance would involve substantial hardship to the petitioner and that desirable relief may be granted without substantially derogating from the intent or purpose of the Zoning Ordinance.

Therefore, the Board voted 4-0 with John Sahagian-Acting Chairman, Ralph Loftin, Mitchell Gorka and Jay Whittaker voting in the affirmative to grant a variance(s) on the following terms and conditions:

1. A portion of the expansion of the existing driveway will be 16 ½ ft. wide from his front property line for a distance of 51 ft. long towards the rear and ending at the rear corner of his existing house foundation.
2. Continuing, the other portion of the expansion of the existing driveway will be from the rear corner of the house to the existing garage for a distant of 26 ft. long and 12 ft. wide.
3. They will maintain a 1 ft. wide strip along the side lot line and the proposed expansion of the driveway.
4. They will maintain a 3 ft. wide strip along the house foundation and the proposed driveway expansion.

5. No Building Permits can be issued until such time as the applicant presents to the Building Inspector evidence that said variance with its restrictions has been filed with the Registry of Deeds or Land Court as applicable.

The Board of Appeals also calls to the attention of the owner or applicant that General Laws, Chapter 40A, Section II (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 variance are not exercised within one (1) year of the date of grant of such variance, 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 prior to the expiration of such one year period.

Respectfully submitted,

John Sahagian  
Acting Chairman

Submitted to the City Clerk's office on **August 16, 2013.**