



City of Marlborough Zoning Board of Appeals

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

ZBA Case # 1444-2017
Location: 24 Hager St.

Date: May 9, 2017

Chapter 650 §23 "Floodplain and Wetland Protection District" Special Permit

To: Lourival Santos

Address: 24 Hager St.

City: Marlborough, MA 01752

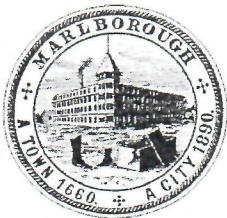
affecting the rights of the owner with respect to land or buildings at:
24 Hager St. - Map 62, Parcel 6

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.


Ralph Loftin - Acting Chairman


Susan Brown - Secretary

Submitted to the City Clerks' office on May 9, 2017.



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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 April 25, 2017 with a continuation meeting on May 8, 2017.

Nature & Basis of Appeal: Proposes to remove and reconstruct an existing barn at 24 Hager St. (map 62, parcel 6) in the Riverfront Area, next to wetlands and the 100-year floodplain.

After due consideration to the subject matter of the petition, the Board (Ralph Loftin-Acting Chairman, Thomas Pope, Thomas Golden, Robert Levine and Jared Falcon) voted 5-0 to (GRANT) a **Special Permit in accordance to Chapter 650 §23 "Floodplain and Wetland Protection District", on the following terms and conditions:**

1. The applicant will comply with the plan presented entitled: The applicant provided a plan entitled: Notice of Intent, 24 Hager St. Marlborough, MA 01752. Sheet 1 of 1, Dated: 2/3/2017 Scale 1"=30'.
2. The applicant will comply with the Conservation Commission's Order of Conditions (212-1184).
3. No Building Permits can be issued until such time as the applicant presents to the Building Inspector evidence that said variance with its restrictions and has been filed with the Registry of Deeds or Land Court as applicable.

End

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,


Zoning Board of Appeals ss
Ralph Loftin – Acting Chairman

Submitted to the City Clerk's office on May 9, 2017.



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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 April 25, 2017. With a continuation meeting on May 8, 2017.

Board Members present were: On April 25, 2017 - Paul Giunta – Chairman, Ralph Loftin, Thomas Pope, Thomas Golden and Robert Levine (Jared Falcon – new alternate who sat in on the meeting).

On May 8th members present were: Ralph Loftin – Acting Chairman, Thomas Pope, Thomas Golden, Robert Levine and Jared Falcon.

Proceedings:

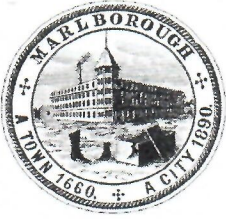
1. **Date of Appeal:** March 20, 2017
2. **Name and Address of Applicant:** Lourival Santos, 24 Hager St., Marlborough, MA 01752
3. Administrative body from whose decision or order of appeal was taken: Building Dept.
4. Appeal filed with: Zoning Board of Appeals and City Clerks' Office.
5. **Nature & Basis of Appeal:** Proposes to remove and reconstruct an existing barn at 24 Hager St. (map 62, parcel 6) in the Riverfront Area, next to wetlands and the 100-year floodplain.
6. Section of the Zoning Ordinance involved: Chapter 650 §23 "Floodplain and Wetland Protection District".
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 of Fact:**

- 1F. The meeting was opened with the reading of the legal ad by Board Member, Thomas Golden. The applicant was not present. The secretary tried to call him, but no answer. There were 3 abutters in the audience. The meeting was continued to May 2nd at 7:00 PM. The Board requested that the secretary inform the applicant of the continued date. The Chairman made a motion to continue the meeting to May 2nd motion was seconded by Ralph Loftin. The Board voted 5-0 to continue the public meeting to May 2nd at 7:00 PM.
- 2F. The hearing was again continued to May 8th at 7:00 PM. The secretary forgot to post the public hearing on the City's web page.
- 3F. **May 8th**, the public hearing was held with the reading of the legal ad by Board Member, Thomas Golden.
- 4F. The property is located in Zoning District Rural Residential (RR).
- 5F. The lot contains 1.85 acres.
- 6F. This is a corner lot with 2 frontages and 2 sides, with no rear yard located at the intersection of Wayside Inn Rd., Boston Post Rd. East and Hager St.
- 7F. The lot in question is surrounded by single family homes, a small plaza (Wayside Inn) with wetlands and water bodies.
- 8F. Representing himself was the applicant, Lourival Santos.
- 9F. There was no one present to speak in favor or in opposition to the petition.
- 10F. **Proposal:** The applicant proposes to remove and reconstruct an existing barn at 24 Hager St. (Map 62, Parcel 6) in the Riverfront Area, next to wetlands and the 100-year floodplain. The applicant is before the Zoning Board of Appeals for a Special Permit under Chapter 650 §23 "Floodplain and Wetland Protection District. This lot is located in a Rural Residential Zone (RR).
- 11F. **Plan:** The applicant provided a plan entitled: Notice of Intent, 24 Hager St. Marlborough, MA 01752. Sheet 1 of 1, Dated: 2/3/2017 Scale 1"=30'.
- 12F. The applicant presented to the Board a photo of the existing barn with also a sketch of what the new proposed barn will look like. (These are in the Board's file)

- 13F. The resource areas on this project include, Bordering Vegetated Wetland (BVW), Riverfront Area, Land Subject to Flooding (LSF). The project involves the removal of a barn and replacement of the barn on the same footprint and elevation, so there will be no additional impacts to the LSF, the Riverfront or buffer zone.
- 14F. This site falls within the Floodplain and Wetlands Protection District (City Code 650-23) needing to file and receive approval for a Special Permit with the Zoning Board of Appeals, because a portion of the barn will be within the floodplain as shown on the most recent FEMA maps. The barn is located outside the 30 ft. no build zone from the stream in this district and is not located in a floodway.
- 15F. The applicant will need to meet the requirements of the Building Department and the Conservation Dept. (Order of Conditions-DEP 212-1184) which he must follow. The Board finds that the petition will not derogate from the intent and purpose of this district nor endanger the health and safety of the public nor the legitimate use of other land in the city.
- 16F. Further, the proposed construction will not obstruct or divert flood flow, reduce natural storage or increase storm water runoff to the extent of raising high water levels on any other land to any significant degree.
- 17F. The applicant stated the following:
- The proposed construction of the new barn will have NO changes in grade.
 - The proposed height of structure will remain the same as the existing structure.
 - The proposed foundation will be the same size as the existing foundation.
 - The foundation will be of concrete with a rubber matt.
 - Currently, the applicant has chickens, pigs and ducks on this property. In the future, he hopes to have horses.
- 18F. In Board's file is an e-mail from Thomas DiPersio, City Engineer, dated April 24, 2017 RE: No further comments to the Special Permit Application and a letter from the Board of Health, Cathleen Liberty, dated April 11, 2017 RE: No comment to the Special Permit request.
- 19F. With no other testimony taken or given, the public hearing was closed.

- 20F. A motion was made by Robert Levine, seconded by Thomas Pope to grant the special permit. The Board voted 5-0, to grant a special permit.
- 21F. The meeting was adjourned at 7:30 P.M.



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VOTE OF THE BOARD
Signature Sheet

In Favor

Jared Falcon

Ralph Loftin

Thomas Golden

Thomas Pope

Robert Levine

In Opposition

Jared Falcon

Ralph Loftin

Thomas Golden

Thomas Pope

Robert Levine