



City of Marlborough Zoning Board of Appeals

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

ZBA Case **1446-2018**
Location: **133 Ahlgren Circle**

Date: May 25, 2018

DENIAL of Variance or Special Permit or Extension Permit (General Laws Chapter 40A, Section 11)

The Board of Appeals of the City of Marlborough, MA hereby certifies that a Variance or Special Permit or Extension Permit has been DENIED:

To: Edward and Kathleen LeBlanc

Address: 133 Ahlgren Circle

City: Marlborough, MA 01752

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

133 Ahlgren Circle Map 52 Parcel 59

And the said Board of Appeals further certifies that the decision attached hereto is a true and correct copy of its decision has been filed with the City Clerk.

Any person aggrieved by a decision of the Board of Appeals or any special permit granting authority or by the failure of the Board of Appeals to take final action concerning any appeal, application or petition within the required time or by the failure of any special permit granting authority to take final action concerning any application for a special permit within the required time, whether or not previously a party to the proceeding, or any municipal officer or board may appeal to the superior court department in which the land concerned is situated.....by bringing an action within twenty (20) days after the decision has been filed in the Office of the City or Town Clerk. (Reference: Mass General Law Chapter 40A, Section 17)

Paul Giunta - Chairman

Susan Brown - Secretary

Submitted to the City Clerks' Office on **May 25, 2018.**



**City of Marlborough
Zoning Board of Appeals**

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

ZBA Case # 1446-2018

Date: May 25, 2018

Name: Edward & Kathleen LeBlanc

Location: 133 Ahlgren Circle

**Zoning Board of Appeals
Notice of Decision
Denial**

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 22, 2018.

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

Petition: The applicants proposes to construct a farmer's porch with a roof at the front of their home. The minimum front yard setback for Zoning District Rural Residential (RR) is 40 ft. vs. the 32.3 ft. proposed. Being Map 52, Parcel 59 of the Assessor's Maps. With a deviation of 7.7 ft.

Decision: After due consideration to the subject matter of the petition, the Board voted 3-2 to (Deny) the petition, on the grounds that the applicants did not show a "Hardship" according to Mass General Law Chapter 40A. The soil condition, shape or topography of their lot or structure is not distinctly different from other lots in the zoning district which it is located. Also, the Board sympathizes with the applicants in caring for an elderly parent, but finds that personal inconvenience is not a hardship when an alternative method of helping the elderly parent is available, i.e. a handicapped ramp. Desirable relief may not be granted without substantially derogating from the intent or purpose of the Zoning Ordinance.

Vote: Thomas Golden, Robert Levine and Thomas Pope voted in the affirmative. Paul Giunta and Ralph Loftin voted in the negative. The Board voted 3-2 to deny the petition.

Respectfully submitted,


Zoning Board of Appeals
Paul Giunta – Chairman

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.

Submitted to the City Clerk's office on May 25, 2018.



City of Marlborough Zoning Board of Appeals

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

ZBA Case # 1446-2018
Name: Edward LeBlanc
Location: 133 Ahlgren Circle

Date: May 25, 2018

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 May 22, 2018.

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

Proceedings:

1. **Date of Appeal:** April 17, 2018.
2. **Name and Address of Applicant:** Edward LeBlanc, 133 Ahlgren Circle, 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:** To construct a farmer's porch. The minimum front yard setback for Zoning District Rural Residential (RR) is 40 ft. vs. the 32.3 ft proposed. Being Map 52, Parcel 59 of the Assessor's Maps.
6. **Section of the Zoning Ordinance involved:** Table 650-41 of the Marlborough General Code.
7. Notice was sent by Certified Mail 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.

Findings/Record:

1. The property is located in Zoning District Rural Residential (RR).
2. The lot contains 24,328 sq. ft. \pm Located on the lot is an existing split-level ranch with an inground pool.
3. The shape and topography of the lot - The shape of the lot is almost a square. As you face the lot, there are wetlands at the rear right corner of the lot.
4. Most homes on Ahlgren Circle are similar in design and lot area.
5. **The applicants**, Edward and Kathleen LeBlanc were present.
6. **Proposal:** The applicants proposes to construct a farmer's porch with a roof at the front of their home. The minimum front yard setback for Zoning District Rural Residential (RR) is 40 ft. vs. the 32.3 ft. proposed. Being Map 52, Parcel 59 of the Assessor's Maps. With a deviation of 7.7 ft.
7. The applicants were before the Board on April 3, 2018 with the same petition, in which they Withdrew Without Prejudice. (Reference ZBA Case # 1445-2018)

At the April 3, 2018 meeting, the Board had concerns in how the applicants answered the following questions on their application:

- a. Question #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. **Answer-None.**
- b. Question #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. **Answer – None**

According to the above answers, the Board found it hard to make an informed decision on the petition. Mr. Giunta explained to the applicant what the definition of a Hardship is according to Mass General Law Chapter 40A.

The applicants "Withdrew Without Prejudice".

8. This evening, May 22, 2018, they are back with the same petition, but with a different explanation of their "hardship" as noted on their application.

9. The applicants presented a petition with 14 signatures. Petition stated in part "by signing this petition you are indicating you are in favor of allowing Edward J LeBlanc and Kathleen M LeBlanc to construct a farmer's porch at 133 Ahlgren Circle". (Petition is in Board's file)
10. The applicants stated that when they purchase this house (133 Ahlgren Circle) it was located in Zoning District A1, which allows for a 30-ft. front yard setback. Now it is currently in a Rural Residential Zoning District. They provided copies of the City's Assessor's cards, it does state it is in Zoning District A-1.

According to the city's assessor's maps, most homes on Ahlgren Circle are in Zoning District Rural Residential. It appears that 2 corner lots are in Zoning District A-1.

11. The stated **hardship** by the applicants were the following:
 - a. The farmer's porch will include a 6-ft. wide stair entry and sliding railing for handicap van drive up access. The applicant's mother has end stage of Parkinson's and is confined to a wheelchair. As her illness progresses, they are planning on having her move in for constant care. This would include the ability to get her to and from doctor appointments.
 - b. Adding a farmer's porch will be very tasteful to the house and the neighborhood vs. a handicapped ramp.
12. The Board asked if they had an alternative if a variance was not granted. They stated maybe a wheel chair lift.
13. Ralph Loftin, Board Member, stated according to Mass General Law Chapter 40A, the law states clearly that the applicants do not have a "hardship" that is caused by the soil condition, shape or topography of their lot. And the soil condition, shape or topography of their lot or structure which distinctly affects their lot as distinguished from other lots in the zoning district which it is located. He proceeded to state that Personal inconvenience is not a hardship. Also, a variance should not be granted, because it does not affect the applicants "use" of their property as zoned.
14. Speaking in Favor:
 - 145 Ahlgren Circle – Michelle Byrne, stated the applicants put in a lot of time and money into this filing. The applicants were before the Board a month ago and they were given false hope that if they re-filed because their original application was incomplete, that the Board would look favorably on their petition. Considering there are no abutters speaking in opposition to their petition, the Board should take that into consideration in their vote. Also, if the lot in question was zoned A-1, the lot should be "grandfathered" as being located in an A-1 zoning district with a minimum required 30 ft.

front yard setback. The proposed farmer's porch would improve the neighborhood and add to the applicant's property value.

15. Speaking in Opposition: No one was present to speak in opposition
16. On a motion made by Robert Levine and seconded by Thomas Pope to approve the petition. After some discussion, the Board voted 3-2 not to grant a variance.
17. The Board finds that the applicants had other alternatives to help their ailing mother into the house, i.e. a handicapped ramp.
18. With no other testimony taken or given, the public hearing was closed.

Plans:

Ahlgren Circle, Certified Plot Plan, located at 133 Ahlgren Circle, Assessor's Parcel #52-59. Marlborough, MA. Prepared by Continental Land Survey, LLC, 105 Beaver Street, Franklin, MA Scale 1" = 30' Dated: November 2, 2017.



City of Marlborough
Zoning Board of Appeals
140 Main Street
Marlborough, Massachusetts 01752
Tel. (508) 460-3768

ZBA Case # 1446-2018
Location: 133 Ahlgren Circle

Applicant: Kathleen Leblanc

VOTE OF THE BOARD
Signature Sheet

**In Favor of a
DENIAL**

**In Opposition of a
DENIAL**

Paul Giunta 

Paul Giunta _____

Theodore Scott _____

Theodore Scott _____

Ralph Loftin 

Ralph Loftin _____

Thomas Golden _____

Thomas Golden 

Thomas Pope _____

Thomas Pope 

Robert Levine _____

Robert Levine 