



City of Marlborough Zoning Board of Appeals

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

ZBA Case # 1456-2019 SP
Location: 111 Brimsmead St.

Date: September 5, 2019

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

To: Christopher Amato
Address: 111 Brimsmead St.
City: Marlborough, MA 01753

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

111 Brimsmead St. Map 56, Parcel 293

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 September 5, 2019.



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Applicant: Christopher Amato
Location: 111 Brimsmead St.
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Decision Special Permit

The Zoning Board of Appeals of the City of Marlborough held a meeting on August 29, 2019. The Board hereby **GRANTS to Christopher Amato, the applicant**, a Special Permit subject to the following Findings of Fact and Conditions for the below named petition:

Special Permit request - To remove existing garage and mudroom and construct a new 2 story addition and farmers porch in Zoning District A3. The required minimum side yard setback is 15 ft. vs. the proposed 5.2 ft. The existing mudroom and garage has a pre-existing non-conforming side setback of 5.2 ft. The proposed mudroom and garage expansion of the footprint and 2nd floor addition intensifies the non-conformity. Chapter 650-41 and Table of Lot Area, Yards and Height of Structures of the City Code of Marlborough. Property is located at 111 Brimsmead Street, Map 56, Parcel 293 of the Assessor's Maps.

Finding of Fact:

1. Compatibility of the size of the proposed structure with neighboring properties is in keeping with the neighborhood. The applicant has 15,561 sq. ft. in lot area. He has one of the largest lots in the neighborhood according to the Assessor's Map.
2. The petition is not substantially more detrimental than the existing non-conforming structure (being 5.2 ft. from the side lot line) or use to the neighborhood. The existing side setback is 5.2 ft. and it will remain as 5.2 ft. with the proposed garage and the added second floor. The expansion of height to the structure will be in keeping with the same height as the existing house. (according to plans presented) The use of the structure will remain as residential.

3. Increasing the foot print of the foundation will not intensify the non-conformity or use. The enlarge footprint of the proposed addition will be within the existing driveway layout.
4. The proposed petition will be an improvement to the existing house and to the neighborhood.

Conditions:

1. The construction of the proposed attached 2 car garage with living space above, must conform to the plans presented entitled: Certified Plot Plan, 111 Brimsmead St. Prepared by Odone Survey & Mapping, Stamped by Glenn Odone Jr. Dated: June 24, 2019. Also, the applicant submitted a set of plans entitled: Demolition Plan – D1. Foundation Plan, layout of proposed structure and structural plans A1 thru A11.
2. Recording of Special Permit – The applicant at his expense shall record this Special Permit in the Middlesex South District Registry of Deeds after the City Clerk has certified that the 20-day appeal period has elapsed with no appeal having been filed and before the applicant shall apply to the Building Dept. for a building permit.
3. Applicant shall provide a copy of the recorded Special Permit to the Building Dept. and to the Zoning Board of Appeals.

Paul Giunta


Chairman
Zoning Board of Appeals



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Special Permit 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 August 27, 2019

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

Proceedings:

1. **Date of Appeal:** July 9, 2019
2. **Name and Address of Applicant:** Christopher Amato, 111 Brimsmead Street, 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 remove existing garage and mudroom and construct a new 2 story addition and farmers porch in Zoning District A3. The required minimum side yard setback is 15 ft. vs. the proposed 5.2 ft. The existing mudroom and garage has a pre-existing non-conforming side setback of 5.2 ft. The proposed mudroom and garage expansion of the footprint and 2nd floor addition intensifies the non-conformity. Chapter 650-41 and Table of Lot Area, Yards and Height of Structures of the City Code of Marlborough. Property is located at 111 Brimsmead Street, Map 56, Parcel 293 of the Assessor's Maps.
6. Section of the Zoning Ordinance involved: See above #5.
7. Notice was sent Certified Mail by the applicant 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.

9. **Findings:**

1F. The property is located in Zoning District A3. Map 56, Parcel 293 of the Assessor's maps. Also, known as 111 Brimsmead Street.

2F. Proposal: Special Permit request - To remove existing garage and mudroom and construct a new 2 story addition and farmers porch in Zoning District A3. The required minimum side yard setback is 15 ft. vs. the proposed 5.2 ft. The existing mudroom and garage has a pre-existing non-conforming side setback of 5.2 ft. The proposed mudroom and garage expansion of the footprint and 2nd floor addition intensifies the non-conformity. Chapter 650-41 and Table of Lot Area, Yards and Height of Structures of the City Code of Marlborough. Property is located at 111 Brimsmead Street, Map 56, Parcel 293 of the Assessor's Maps.

3F. The Building Dept. determined the following:

- The side yard setback is not in conformance with city Code of Marlborough 650-41. The required minimum side yard setback is 15 ft. Proposing and already existing is 5.2 ft. vs. the required minimum 15 ft.
- The proposed mudroom and garage expansion of the footprint and 2nd floor addition intensifies the non-conformity and requires relief.
- Existing Lot Coverage is 17.5 % . Proposed Lot Coverage is 18.7%

Description	Existing	Proposed	Minimum Required
Lot Area	15,561 sq. ft.		12,000 sq. ft.
Height of structure	2 stories	2 stories	2 ½ stories
Side setback for propose garage with room above	5.2 ft.	5.2 ft.	15 ft.
Front yard setback for propose front porch	30.7 ft.	22.5 ft.	20 ft.
Front yard setback for propose garage and room above		30.4 ft.	20 ft.
Lot Coverage	17.5%	18.7%	30 %

4F. Lots in the area are similar in size, shape and topography.

5F. The majority makeup of the neighborhood are single family homes.

6F. The applicant, Christopher Amato was present and represented himself.

7F. **Plans:** The applicant provided a plan entitled Certified Plot Plan, 111 Brimsmead St. Prepared by Odone Survey & Mapping, Stamped by Glenn Odone Jr. Dated: June 24, 2019.

8F. The applicant also submitted a set of plans entitled:

- Demolition Plan – D1

- Foundation Plan, layout of proposed structure and structural plans A1 thru A11
9. The applicant, Christopher Amato stated the following:
- House was built in 1949
 - He has lived there for 13 years.
 - He and his family hope to remain in Marlborough.
 - The proposed structure will have the same roof line as the existing house. Structure will be 2 stories in height.
10. The Board asked the audience if there were any questions. Answer - None
11. Speaking in **opposition**: **None**
12. Speaking in **favor**:
- Edward Clancy – Councilor of Ward 6 – He stated he has no opposition to this petition. He also stated that in conversation with Nancy Stevens of 107 Brimsmead St., the abutter to the right, Ms. Stevens has no opposition to the petition. It should be noted that in Board's file, an e-mail address to Susan Brown from Nancy Stevens, stating she has no opposition to the petition. (e-mail was read into the file and placed in Board's file)
 - Wayne Simpson – 132 Prospect St. stated he is in favor of the petition. He has lived in this neighborhood for 50 yrs. The proposed improvement to 111 Brimsmead St. will be an asset to his lot and to the neighborhood.
13. With no other testimonies taken, the public portion of the public hearing was closed.
14. After some discussion the Board finds the following:
1. Compatibility of the size of the proposed structure with neighboring properties is in keeping with the neighborhood. The applicant has 15,561 sq. ft. in lot area. He has one of the largest lots in the neighborhood.
 2. The petition is not substantially more detrimental than the existing non-conforming structure (being 5.2 ft. from the side lot line) or use to the neighborhood. The existing side setback is 5.2 ft. and it will remain 5.2 ft. with the new proposed garage with the added second floor. The expansion of height to structure will be in keeping with the same height as the existing house. The use of the structure will remain as residential.
 3. In increasing the foot print of the foundation will not intensify the non-conformity or use. The enlarge footprint of the proposed addition will be within the existing driveway layout.
 4. The proposed petition will be an improvement to the existing house and to the neighborhood.

15. Ralph Loftin made a motion to close the public hearing. Thomas Golden seconded that motion. The Board voted 5-0 to close the public hearing.



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**VOTE OF THE BOARD
Signature Sheet**

In Favor

Paul Giunta



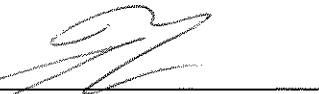
Ralph Loftin



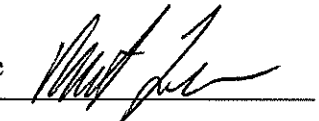
Thomas Golden



Thomas Pope



Robert Levine



In Opposition

Paul Giunta

Ralph Loftin

Thomas Golden

Thomas Pope

Robert Levine