



**City of Marlborough
Zoning Board of Appeals**

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

ZBA Case # 1457-2019 SP
Location: 18 Chestnut St.

Date: October 15, 2019

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

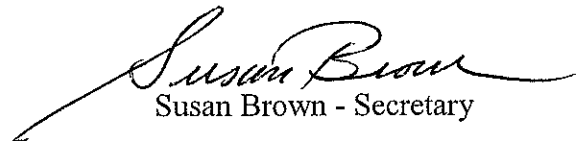
To: Osanir De Oliveira
Address: 133 Lincoln St.
City: Marlborough, MA 01753

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

18 Chestnut St. Map 69 Parcel 301

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 October 15, 2019.



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Date: October 15, 2019

Applicant: Osanir De Oliveira
Location: 18 Chestnut St.
ZBA Case # 1457-2019 SP

Special Permit Decision

The Zoning Board of Appeals of the City of Marlborough held a meeting on August 27, 2019 with a continuation meeting on October 1, 2019. The Board hereby **GRANT** the applicant a Special Permit to construct a new 2 family duplex home at 18 Chestnut St., Map 69, Parcel 301 of the Assessors Maps. Located in Zoning District Residence B (RB) subject to the following Findings of Fact and Conditions.

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

Finding of Fact:

1. The Board finds that the proposed 2 family duplex is not any more detrimental to the neighborhood than the demolished single family home. The demolish single family home was narrow and long vs. the proposed duplex which is wider and shorter in length. The proposed increase in foot print of the 2-family duplex is minor.
2. The proposal is an appropriate use to this Zoning District Residence B and is in harmony with the general purpose and intent of the Zoning Ordinance of the City of Marlborough.
3. The Board finds that the Application for the Special Permit does not derogate from the intent or purpose the Zoning Ordinance of the City of Marlborough.
4. The neighborhood appears to be of single-and 2 family's homes and a couple of multi-family structures. Existing lots are small with lot area not

conforming to the current zoning code and structures not in conformance to current setback requirements.

5. The Board finds that the new structure will be an improvement to the neighborhood of older homes.
6. The Board finds that the propose use, residential, is in tune with the rest of the neighborhood.

A motion was made by Thomas Pope to grant a Special Permit for a 2-family duplex. Thomas Golden seconded the motion. A vote of 4-0 to grant a Special Permit with the following conditions:

Conditions:

1. Prior to the issuance of a Building Permit, the applicant will have his plan entitled: Proposed Conditions Plot Plan, 18 Chestnut St. Marlborough, MA Prepared by Bruce Saluk & Associates, Inc. Dated Revised: Sept. 25, 2019, reviewed and approved by the Building Department showing 33% Lot Coverage. Lot Coverage is the only zoning relief granted. Copy of such plan will be provided to the Zoning Board of Appeals for their file.
2. To achieve the 33% Lot Coverage, the applicant will eliminate the 2 open decks at the rear of the house and remove the 4 ft. wide paved walkway at the front of the house. Thus, creating a Lot Coverage of 33% vs. the proposed 39% as shown on this revised plan dated Sept. 25, 2019.
3. The 2-family duplex will be constructed according to the revised plan that is approved by the Building Department showing Lot Coverage of 33%.
4. Recording of Special Permit – 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 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.

Respectfully submitted,



Paul Giunta

Chairman

Zoning Board of Appeals

Submitted to the City Clerks office on October 15, 2019.



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Name: Osanir De Oliveira
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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 with a continuation meeting date of Sept. 10, 2019 and October 1, 2019.

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

Proceedings:

1. **Date of Appeal:** September 25, 2019
2. **Name and Address of Applicant:** Osanir De Oliveira, 133 Lincoln 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:** Osanir De Oliveira proposes to construct a new 2 family home duplex at 18 Chestnut St., Map 69, Parcel 301 of the Assessors Maps. Located in Zoning District Residence B (RB).

Special Permit for:

- Required Lot Frontage is 100 ft. vs. the existing 82.5 ft. per Marlborough City Code Table 650-41. The expansion of the 2-family duplex requires a Special Permit.
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. A re-

notification to abutters were sent out August 23, 2019 by Certificate of Mailing for a continuation meeting date of September 10, 2019.

8. Original documents are on file with the Board of Appeals and the City Clerks' Office.

9. **Findings:**

The public hearing was opened on August 27, 2019 and continued to Sept. 10, 2019 (no testimony was heard until the zoning relief portion was closed) and a continuation date of October 1, 2019.

1F. The property is located in Zoning District Residence B (RB) Map 69, Parcel 301.

2F. Proposal: **Special Permit** - Osanir De Oliveira proposes to construct a new 2 family duplex home at 18 Chestnut St., Map 69, Parcel 301 of the Assessors Maps. Located in Zoning District Residence B (RB).

Special Permit for:

3F. The Building Dept. determined the lot is pre-existing non-conforming with existing frontage of 82.5 ft. vs. the minimum required 100 ft. for Zoning District Residence B. per Marlborough City Code Table 650-41. The proposal is to expand a single-family structure to a 2-family structure requires a Special Permit.

4F. The applicant has received zoning relief for Lot Coverage of 33% vs. the required maximum required 30% at the close of the Oct. 1st 2019 meeting date. ZBA Case # 1457-2019

4F. Many of the lots in the area are similar in size, shape and topography.

5F. The majority makeup of the neighborhood are single family homes, two families and a few multi-family homes.

6F. The applicant, Osanir De Oliveira, was present. Also, her architect, Jose Cuzman of Lifetime Architecture, 15 Maple Tree Ln. Franklin, MA 02038 Tel 617-448-7506.

7F. **Plans:** The applicant provided the following plans:

- o Plot Plan, 18 Chestnut St. Marlborough, MA Prepared by Bruce Saluk & Associates, Inc. Dated: June 14, 2019
- o Architectural Site Plan, Two Unit Townhouse, 18 Chestnut St. Prepared by Lifetime Architecture. Sheets 1 thru 7. No date stamp.

- **Revised plan-** Proposed Conditions Plot Plan, 18 Chestnut St. Marlborough, MA Prepared by Bruce Saluk & Associates, Inc. Dated Revised: Sept. 25, 2019.

8. Mr. Cuzman, architect, stated they have reduced the size of the proposed duplex to conform with the city's setback requirements. The structure cannot be any smaller to stay in conformance to the city's code on room size. The only zoning relief they are requesting is for the proposed Lot Coverage of 39% according to the revised plan. But the applicant has scaled it back to 33% proposed Lot Coverage.

10. There was some discussion about the number of people that will be occupying the proposed duplex. (the applicant was stating 8 people) Some abutters were concerned that the proposed duplex will create more congestion in the neighborhood with added people and cars. The Board stated that if it were to remain a single-family house, you would not know how many people will occupy the proposed structure.

11. Speaking in **opposition**:

- 14 Chestnut St. – Robert Waldron – having 8 people occupy this proposed duplex will add more cars and congestion to the neighborhood.

12. Robert Levine, Board Member, stated that some of the concerns by the abutters is the square footage of the proposed duplex. There is not much of a difference in square footage between demolished single-family structure vs. the proposed duplex.

13. A motion was made by Paul Giunta to close the public portion of the public hearing. Motion was seconded by Thomas Golden. A vote of 4-0 to close the public portion of the hearing.

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.
2. The petition is not substantially more detrimental than the demolished single-family structure. The size of the proposed duplex is some 1,601 sq. ft. Adding some 412 sq. ft. makes it some 2,013 sq. ft. ±.
3. The slight increase in the foot print of the foundation will not intensify the use of the proposed 2 family structure. If it is remained as a single-family structure it is hard to say how many people will occupy the proposed 2 family.

4. The proposed petition will be an improvement to the neighborhood. Currently this is an empty lot. The demolished structure was an eyesore in the neighborhood. The foot print of the demolished house is not much larger than the proposed duplex.

15. A motion was made by Thomas Pope to approve the Special Permit for a 2-family duplex. Thomas Golden seconded the motion. A vote of 4-0 to approve the Special Permit.

16. A motion was made by Robert Levine to close the public hearing. Thomas Golden seconded the motion. A vote of 4-0 to close the public hearing.



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Applicant: Osanir DeOliveira

**SPECIAL PERMIT
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
