



City of Marlborough Zoning Board of Appeals

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

ZBA Case # 1460-2019
Location: 6 Gikas Lane

Date: October 28, 2019

(General Laws Chapter 40A, Section 16) Withdraw Without Prejudice


To: Jonathan Bloom
Address: 6 Gikas Lane
City: Marlborough, MA 01752

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

6 Gikas Lane Map30, Parcel 20

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 28, 2019.



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Case # 1460-2019
Name: Jonathan Bloom
Location: 6 Gikas Lane

Date: October 28, 2019

DECISION Zoning Board of Appeal Withdraw Without Prejudice

The Zoning Board of Appeals, acting under the Marlborough Zoning Ordinance and Mass. General Laws, Chapter 40A, Section 16, as amended, and after a public meeting held on October 22, 2019 voted 5-0 to allow the applicant(s) to **Withdraw Without Prejudice** the below mentioned petition:

Zoning relief requested: Jonathan Bloom, applicant, proposes to construct a new 16 x 32 inground pool at 6 Gikas Ln. (Chapter 650-45 Location of Accessory Structure). Being a corner lot (Chapter 650-42(1)D) and an Open Space Subdivision (Chapter 650-28), the proposed inground pool will not comply with the required minimum front set back of 20 ft. vs. the proposed 5.2 ft. Being Map 30, Parcel 20 located in Zoning District A2.

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

Findings and Determination

The Board makes the following findings and decision:

1. The topography of the lot in question slopes slightly upward from the street level to the back of the lot. Based on the plot plan and the applicant's testimony, it was not clear whether the proposed pool could be located at the back of the house and meet all the regulations for a pool.
2. The applicant failed to establish "hardship" relating to soil conditions, shape or topography of land or structure. Just wanting a pool and not having the sufficient amount of area to construct a pool is not a "hardship" according to Mass General Laws Chapter 40A, Section 10, thus does not meet the criteria for a variance.

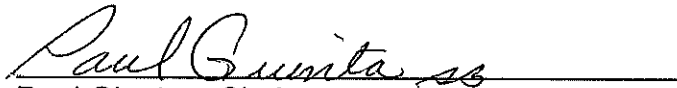
On the basis of its findings and conclusions, the Board allowed the applicant to "Withdraw Without Prejudice" his petition. A motion was made by Robert Levine to allow the applicant to "Withdraw Without Prejudice". Ralph Loftin seconded the motion.

A vote of 5-0 was taken, with Paul Giunta, Ralph Loftin, Thomas Pope, Thomas Golden and Robert Levine voting in the affirmative.

AYES: 5

NAYS: 0

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

A handwritten signature in cursive script, appearing to read "Paul Giunta", is written over a horizontal line.

Paul Giunta – Chairman
Zoning Board of Appeals

Submitted to the City Clerks Office on October 28, 2019.



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

Record of Proceeding and Decision

Zoning Board Case #: 1460-2019

Applicant: Jonathan Bloom

Date of Appeal: Sept. 11, 2019

Location of Subject Property: 6 Gikas Lane

Zoning relief requested: Jonathan Bloom, applicant, proposes to construct a new 16 x 32 inground pool at 6 Gikas Ln. (Chapter 650-45 Location of Accessory Structure). Being a corner lot (Chapter 650-42(1)D) and an Open Space Subdivision (Chapter 650-28), the proposed inground pool will not comply with the required minimum front set back of 20 ft. vs. the proposed 5.2 ft. Being Map 30, Parcel 20 located in Zoning District A2.

Public Hearing: The Zoning Board of Appeals held a public hearing on the above-entitled proceeding on September 22, 2019 at 7:00 PM at Marlborough City Hall, 3rd Floor-Memorial Hall.

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

Also, present: Jonathan Bloom, applicant.

Notice of the hearing was given by Certificate of Mailing to all persons to be affected, as shown on the most recent tax list and by publication in the Marlborough Weekly Enterprise, a newspaper of general circulation in Marlborough, MA, on 9/26/2019 and 10/3/2019.

Documents Submitted in this Appeal:

- Packet submitted to the Board includes: Board Application, Denial letter from the Building Dept. dated August 15, 2019.
- Plan submitted entitled: Proposed Pool Plan of Land in Marlborough, MA Prepared by Colonial Engineering, Inc. Dated: July 8, 2019 Scale 1"=40'.

Public Hearing:

The property in question is located at 6 Gikas Lane, being Map 30, Parcel 20 of the Assessor's Map.

Jonathan Bloom, applicant was present. Mr. Bloom stated he would like to install a 16 foot x 32 foot inground swimming pool, to be located within the front setback of the lot (on the Hudson St. side). This is a corner lot, having 2 front setbacks and 2 side setbacks (no rear setback).

The applicant stated the following:

- He would like to install an inground pool for his family.
- He has an existing 5 ft. high fence on the corner of his property, facing Hudson Street and Gikas Lane.
- He stated Hudson St. is not an area where there are lots of children hanging out, so a pool will be no danger to the general public, especially children.
- He mentioned that when he bought the house, he was not aware that this is an Open Space Subdivision, where lots are smaller in which more area is designated as open space.
- Topography - Lot slightly slopes higher from the front to the back.

Board members stated:

- Why not place the pool on the upper right corner of the lot? Answer: The applicant feared that if the pool leaked, water would go down towards the house.
- The Board asked if the pool can be less than 17 ft. from the house. Answer: He did not want the pool to be too close to the house. Note: According to the pool regulations, pools must be at least 10 ft. from the house and a minimum of 5 ft. from the side lot lines.
- A fence around the pool area will have to be constructed, according to the Building Dept. pool permit rules and regulations. It was mentioned that a fence can be placed on the property line.

Hardship as stated by the applicant: He lacks space to construct a pool. When he purchased the house, he did not take into consideration he may want a pool for his family. He cannot see how his proposed pool would hurt the neighborhood. To place the proposed pool within the front setback will insure him that if there was a water leak from the pool, the water will run towards the street, not his house. The topography of his lot slopes slightly upward from the street level. He realizes that what he stated as a hardship is not a "hardship" according to the Mass General Law Chapter 40A § 10.

There was some discussion about the front lot line to his property. The Board gave him the definition of front lot line and showed him on his plan where his front lot line is

located. The applicant was under the impression he could use the street line (Hudson St.) as part of his front setback.

Other than the applicant, no one appeared in favor of or in opposition to the proposal.

The Board gave the applicant the option to "Withdraw Without Prejudice". The applicant agreed to "Withdraw Without Prejudice".

A motion was made by Robert Levine to allow the applicant to "Withdraw Without Prejudice". Ralph Loftin seconded the motion. By a vote of 5-0 the Board voted to allow the applicant to "Withdraw Without Prejudice".

A motion was made by Paul Giunta to close the public hearing. Ralph Loftin seconded the motion. The Board voted 5-0 to close the public hearing.

Findings and Determination

The Board makes the following findings and decision:

1. The topography of the lot in question slopes slightly upward from the street level to the back of the lot. Based on the plot plan and the applicant's testimony, it was not clear whether the proposed pool could be located at the back of the house and meet all the regulations for a pool.
2. The applicant failed to establish "hardship" relating to soil conditions, shape or topography of land or structure. Just wanting a pool and not having the sufficient amount of area to construct a pool is not a "hardship" according to Mass General Laws Chapter 40A, Section 10, thus does not meet the criteria for a variance.

On the basis of its findings and conclusions, the Board allowed the applicant to "Withdraw Without Prejudice" his petition. A motion was made by Robert Levine to allow the applicant to "Withdraw Without Prejudice". Ralph Loftin seconded the motion. A vote of 5-0 was taken, with Paul Giunta, Ralph Loftin, Thomas Pope, Thomas Golden and Robert Levine voting in the affirmative.

AYES: 5

NAYS: 0

Respectfully submitted,



Paul Giunta – Chairman
Zoning Board of Appeals



**City of Marlborough
Zoning Board of Appeals**

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ZBA Case # 1460-2019
Location: 6 Gikas Ln.

Applicant: Jonathan Bloom

VOTE OF THE BOARD
Signature Sheet

In Favor
To Withdraw Without Prejudice

In Opposition
To Withdraw Without Prejudice

Paul Giunta *Paul Giunta*

Paul Giunta _____

Ralph Loftin *Ralph Loftin*

Ralph Loftin _____

Thomas Golden *Thomas Golden*

Thomas Golden _____

Thomas Pope *Thomas Pope*

Thomas Pope _____

Robert Levine *Robert Levine*

Robert Levine _____