



City of Marlborough Zoning Board of Appeals

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

ZBA Case # 1463-2019
Name: Representing owner: Jaime Vargas
Owner: Olga Guispe Castro
Location: 67 Florence St.

Date: January 15, 2020

DECISION Special Permit

The Zoning Board of Appeals of the City of Marlborough held a meeting on January 7, 2019. The Board hereby **GRANT** the applicant a Special Permit to Increase a legal pre-existing non-conforming structure by adding a first and second level addition. **The proposed Lot Coverage will be 36% vs. the existing 33%, required maximum 30%. Front yard setback-existing 18.8 ft. vs. the proposed 18.0 ft., required minimum 50 ft.** Lot is located in Zoning District Business.

- Members Present: Paul Giunta-Chairman, Ralph Loftin, Thomas Golden and Robert Levine. Board Member, Thomas Pope recused himself because he is serving as treasurer to the Fraternal Order of Eagles at 56 Florence St. which is an abutter to the property in question this evening.

Finding of Fact:

1. The Board finds that the proposed 2 story addition is not any more detrimental to the neighborhood than the existing structure. The house will remain as a single-family home.
2. The proposal is an appropriate use of this lot located in Zoning District Business and is in harmony with the general purpose and intent of the Zoning Ordinance of the City of Marlborough. The lot in question is located near several Zoning Districts, i.e. Business, Residential C and Marlborough Village District (MV).
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. The single-family home is located in a Business Zone. Surrounded by residential, business and MV.
4. The neighborhood appears to be of single- and two-family homes with a few businesses in the area. Also, a large area is zoned Marlborough Village District.
6. The Board finds that the proposed use, residential, located in a Business Zone, is in tune with the rest of the neighborhood.

The Board votes 4-0 to issue a Special Permit with the below conditions:

Conditions:

1. **Plans:** The above petition will be constructed according to the plans presented entitled:
(A) Plot Plan, 67 Florence St. Marlborough, MA... Contractor Jaime Vargas, Owner-Olga Guispe Castro, 67 Florence St. Marlborough, MA, Prepared and stamped by Bruce Saluk. Dated: Oct. 15, 2019.
(B) A Renovation and Addition Single Family detached home, Existing and Proposed Basement Level and 1st Floor plans. Dated 9/4/2019 Sheet A-1. Prepared by Viacad, LLC, Design Build, construction Management & Consulting Services.
2. Any modifications to the approved plans will be subject to review and approval by the Building Dept.
3. Recording of Special Permit – In accordance with the provisions of Mass. General Laws c.40A, Section 11, 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 twenty-day period for appealing the Special Permit has elapsed with no appeal having been filed, and before the Applicant shall apply to the Building Commissioner for a building permit concerning the proposed addition. Applicant shall provide a copy of the recorded Special Permit to the Zoning Board of Appeals' office and to the Building Department.

End of Conditions

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 (20) 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.

No Special Permit, or any extension, modification or renewal thereof, can take effect until a copy of the decision, bearing the certification of the city clerk is recorded in the registry of deeds. The fee for recording or registering shall be paid by the owner or applicant. Special Permit will lapse within two years of grant of such Special Permit.

Respectfully submitted,



Paul Giunta

Chairman
Zoning Board of Appeals

Submitted to the City Clerk's office on January 15, 2020.



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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 January 7, 2020.

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

- Thomas Pope recused himself because he is serving as treasurer to the Fraternal Order of Eagles at 56 Florence St. which is an abutter to the property in question this evening.
- Robert Levine signed a "Disclosure of Appearance of Conflict of Interest Form, as required by G.L.c.268A, §23(b)(3). Mr. Levine is a member of the Fraternal Order of Eagles. (form is in Board's file and one was submitted to the City Clerk's Office on 1/8/2020.)

Proceedings:

1. **Date of Appeal:** November 20, 2019.
2. **Name and Address of Applicant:**
Owner: Olga Guispe Castro. Represented by Jaime Vargas of General Contractor. 72 West Hill Rd. 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:** According to Chapter 650, Article 41, Table of Lot Area, Yards, and Height of Structures, a Special Permit is required for the increase of a pre-existing non-conforming structure by adding a first and second level addition. The proposed Lot Coverage will be 36% vs. the existing 34%, required maximum 30%. Front yard setback – existing 18.8 ft. vs. the proposed

18.0 ft., required minimum of 50 ft. Property located at 67 Florence St. Zoning District Business. Map 70 Parcel 101.

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.

Finding of fact:

1. The property is located in Zoning District Business.

2. The lot in question contains 9,372 sq. ft. The lot is rectangular in shape having 66.0 ft. of frontage and extending approximately 142.0 ft. to the rear lot line. The bulk of the lots in the area are similar in size, shape and topography. Most of the lots on the side of 67 Florence St. have easements located halfway into the lots.

4. The makeup of the neighborhood is a mix of single- and two-family homes, with a couple of businesses located near the lot in question. Also, the lot in question is located within a mix of Zoning Districts, i.e. Residence C, Business and Marlboro Village District (MV)

5. **Plans presented:**

- Plot Plan, 67 Florence St. Marlborough, MA...Contractor Jaime Vargas, Owner-Olga Guispe Castro, 67 Florence St. Marlborough, MA, Prepared and stamped by Bruce Saluk. Dated: Oct. 15, 2019.
- A Renovation and Addition Single Family detached home, Existing and Proposed Basement Level and 1st Floor plans. Dated 9/4/2019 Sheet A-1. Prepared by Viacad, LLC, Design Build, construction Management & Consulting Services.

6. **Proposal:** Special Permit - Increasing a pre-existing non-conforming structure by adding a first and second level addition. The proposed Lot Coverage will be 36% vs. the existing 33%, required maximum 30%. Front yard setback-existing 18.8 ft. vs. the proposed 18.0 ft., required minimum 50 ft.

7. The Building Commissioner determined thru his denial letter dated Oct. 28, 2019 the existing single-family dwelling is a legal "pre-existing non-conforming structure" with respect to lot size (9,372 sq. ft.) and setbacks, and

that the proposed 2 story addition would increase or intensify the non-conformities of said existing structure.

8. The applicant, Jaime Vargas, stated the following:
 - Would like to modify the existing main structure. The house will remain as a single family home.
 - The proposed 2-story addition will be located where the existing bump out at the left of the house. The proposed 2-story addition will abut the existing driveway, as it is currently shown. He would like to just square off the proposed 2-story addition against the existing house. Not extending any further towards the side lot line than what is currently existing.
 - The owner of the property is proposing to have her daughter live with her, thus needing more room.
 - The existing lot coverage is 34% vs. the proposed 36%. Maximum allowed is 30%. A minimal increase in Lot Coverage.
 - There is already an existing driveway on the lot, which becomes a gravel driveway as it extends to the rear of the lot.
 - There should be ample off-street parking for the renovated single-family home.
 - The proposed 1st floor will contain 1 bedroom, kitchen, bath, family room and dining room. The proposed 2nd floor will contain 4 bedrooms and bath.
9. The Board discussed the following:
 - Lot coverage is increased by 2%. From the existing 34% to the proposed 36%. The Board felt this was a minimal increase.
 - The proposed addition will not be anymore detrimental to the neighborhood than what presently exists.
 - There appears to be ample parking on the site.
 - The proposed front yard setback of the proposed 2-story addition will be a little less than the front set back of the existing house.
 - The proposed 2-story addition will increase the non-conforming nature of the existing structure, but the improvements to the structure will be esthetically pleasing to the neighborhood.
10. There was no one to speak in favor or in opposition to the petition.
11. With no other testimony taken, a motion was made by Ralph Loftin and seconded by Thomas Golden to close the public hearing. The Board voted 4-0 to close the public hearing.



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Location: 67 Florence

Applicant: Representative - Jaime Vargas

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
