



**City of Marlborough
Zoning Board of Appeals**

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

ZBA Case # 1465-2020
Location: 22 Second Rd.

Date: August 24, 2020

(General Laws Chapter 40A, Section 16)

WITHDRAW WITHOUT PREJUDICE

To: Tracy Rockwell
Address: 22 Second Rd.
City: Marlborough, MA 01752

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

22 Second Rd. Map 6 Parcel 8

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 *PS*


Susan Brown - Secretary

Submitted to the City Clerks' office on August 24, 2020.



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ZBA Case #1465-2020

Date: August 24, 2020

Applicant: Tracy Rockwell – Owner

Representative/Applicant: Kevin Figueiredo

Location: 22 Second Rd.

Date of Application: May 14, 2020

Date of meeting: August 10, 2020


**Zoning Board of Appeals
Notice of Decision
Withdraw Without Prejudice**

Petition - Proposes to construct an addition at 22 Second Rd. being Map 6, Parcel 8 on the left side of the existing structure that will be 9.1 ft. from the side lot line. Also requesting relief on an increase of Lot Coverage from an existing 32% to 37.2%, (maximum Lot Coverage is 30% for Zoning District Residence A-3). Table of Lot Area, Yards and Height of Structures. This is a lawful pre-existing non-conforming single-family house lot and your proposed addition intensifies the existing non-conforming nature of the structure, which requires relief by way of a Special Permit stated in City Code section 650-58B. Located in Zoning District Residence A-3

Vote: To Withdraw Without Prejudice: The Board voted 5-0 to allow the applicant to "Withdraw Without Prejudice". A roll call vote was taken: Paul Giunta-yea, Ralph Loftin-yea, Robert Levine-yea, Thomas Golden-yea and Thomas Pope-yea.

Based on the Record of Proceedings presented by the applicant, Kevin Figueiredo and the homeowner, Tracy Rockwell and abutters, the Board voted 5-0 to allow the applicant to "Withdraw Without Prejudice" their above petition.

Respectfully submitted,


Paul Giunta - Chairman
Zoning Board of Appeals
Date: August 24, 2020
Right to Appeal

Appeals to this Decision are to the Court pursuant to the M.G.L chapter 40A, Section 17, and must be taken within twenty (20) days to the filing of this Decision with the City Clerk.

ZBA to the City Clerk's Office: A copy of this decision was filed with the City Clerk on August 24, 2020.

Susan Brown, Clerk – Zoning Board of Appeals

Submitted to the City Clerks office on August 24, 2020.



**City of Marlborough
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**Record of Proceeding and Decision
SPECIAL PERMIT**

Location: 22 Second Rd.

Zoning Board Case # 1465-2020 (Special Permit – Legal pre-existing non-conforming single- or two-Family house lots)

Applicant: Tracy Rockwell

Date of Appeal: May 14, 2020

Zoning relief requested: Proposal to construct an addition at 22 Second Rd. being Map 6, Parcel 8 on the left side of the existing structure that will be 9.1 ft. vs. the 10 ft. minimum required for side lot line setback. Also requesting relief on an increase of Lot Coverage from an existing 32% to 37.2%, (maximum Lot Coverage is 30%) Table of Lot Area, Yards and Height of Structures. This is a lawful pre-existing non-conforming single-family house lot and your proposed addition intensifies the existing non-conforming nature of the structure, which requires relief by way of a Special Permit stated in City Code section 650-58B. Located in Zoning District Residence A-3

Meeting Date: August 10, 2020

Members present: Meeting in city hall, 3rd floor-Memorial Hall were Board Members: Paul Giunta-Chairman, Thomas Golden and Robert Levine and Secretary-Susan Brown.

Meeting remotely were: Ralph Loftin and Thomas Pope.

Also, meeting remotely was the applicant, Tracy Rockwell and her Representative-Keith Figueiredo of Kevin Figueiredo Services, 40 Temi Rd. Hudson, MA 01749.

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 Main Street Journal, a newspaper of general circulation in Marlborough, MA

Documents Submitted in this Appeal:

- Plan entitled: Building Permit Plan, prepared by: Ducharme & Dillis, dated: Jan. 27, 2020, Revised Feb. 12, 2020. Scale 1"=20'.
- Denial letter from Building Dept. Jeffrey Cooke, dated April 15, 2020
- Application for Special Permit received May 14, 2020

Record proceeding:

1. The property in questions is located at 22 Second Rd. being Map 6, Parcel 8 of the Assessor's Maps. This lot contains 5,000 sq. ft. with 50 ft. of frontage.
2. Tracy Rockwell, applicant and owner of lot in question attended the meeting remotely. Representing her was Kevin Figueiredo, contractor, also attended remotely.
3. The applicant is seeking a deviation of side yard setback and lot coverage. **Side yard setback** for structures built prior to Jan. 27, 1969 can be 10 ft. to the side lot line. This house was built in 1940. Applicant is requesting 9.1 ft. at its closet point to the side lot line. **Lot Coverage** - existing 32%, required 30% and proposed 37.2%.
4. Kevin Figueiredo, contractor. stated the following:
 - a. The house currently has 2 bedrooms with no closet space. Only one bedroom can be used as a bedroom. The second room has a floor trap door with a set of folding stairs which leads to the basement. This second room cannot be used as a bedroom because of the floor trap door with folding stairs to the basement which is in the way from adding furniture to the room.
 - b. Would like to construct an addition to the left of the house (as you face the house). The addition will replace the exterior bulkhead to the basement. The location of the stairs to the basement will remain in that location, just located within the house.
 - c. The addition will also provide much needed closet space to the 2 bedrooms.
 - d. The existing bulkhead is 6 ft. out from the house.
5. Tracy Rockwell, owner of house, stated the following:
 - a. House was built in 1940.
 - b. Her reason for the addition is solely for "safety" reasons.
 - c. House has one bathroom
6. It was suggested by a Board member that the applicant maybe able to construct a second floor. But the applicant stated it would be more costly. Or maybe go with a smaller addition. The Board realized that whatever revised plan the applicant may present, they may need some relief from the zoning code.

7. In viewing the lot, Board member, Ralph Loftin, felt that the lots in the neighborhood were similar in size and shape to the lot in question this evening. He also felt that the proposed addition will take up most of the lot, especially the side yard. There are many small single-family homes in this area, located near Ft. Meadow Reservoir. He thought that in the past, these small cottages were combined with other lots to create larger lots.
8. There was some discussion about the topography of the lot in question, which slopes slightly to the back end of the yard.
9. Abutter asking questions:
 - John Barbosa – 11 First Rd. – He is located to the back of the lot in question. He stated that the lot slopes towards the back end of the yard. He feels he will not be impacted by this petition.
10. Abutter speaking in opposition:
 - Nancy Marrazzo - 18 Second Rd. – her house is to the left of the lot in question. She has concerns about privacy. The proposed addition will look into her bedrooms. The distance from her house to the side lot line is some 15 ft. – 17 ft.
11. There was no one present to speak in favor of the petition.
12. Mr. Figueiredo stated he cannot understand why the applicant cannot be granted a small request to just re-locate her exterior bulkhead to the interior of the house. There was much discussion about the role the Board has on this petition.
13. The Board stated they must determine if this lawful pre-existing, non-conforming single-family lot and structure with the proposed addition will intensify the existing non-conforming nature of the structure and lot. Considering the lot in question is already pre-existing, nonconforming with 5,000 sq. ft. and 50 ft. of frontage and the existing house covers a good portion of the lot. The proposed addition would intensify the non-conformity of the lot and neighborhood.
14. Mr. Figueiredo stated there are many lots in the area which are similar in lot area, shape and frontage and it appears that these lots were granted permission to expand. The applicant is not asking for much.
15. Ralph Loftin stated that, even though the Board was discussing options in how to design the addition, the Board did not intend to offer assurance that the applicant would be granted relief if they were to return with a plan which showed less impact on the lot. On visiting the site, he feels this is a very tight lot.

16. Board felt that the proposed addition will intensify the existing conditions and be a detriment to the neighborhood. Many houses near the lake are small lots and when purchasing lots in these smaller lot areas, one should be aware of the limitations of the lot. Bob Levine, Board Member, could not support the petition knowing it will overcrowd the lot.
17. The Board gave the applicant the option to Withdraw Without Prejudice or be denied. The applicants chose to "Withdraw Without Prejudice".
18. A motion was made by Robert Levine and seconded by Thomas Pope to allow the applicant to "Withdraw Without Prejudice". A roll call vote was taken: Paul Giunta-yea to withdraw without prejudice, Thomas Golden-yea to withdraw without prejudice, Thomas Pope-yea to withdraw without prejudice, Robert Levine-yea to withdraw without prejudice and Ralph Loftin-yea to withdraw without prejudice. Vote 5-0 to Withdraw Without Prejudice.
19. A motion was made by Robert Levine, seconded by Ralph Loftin to close the public hearing. A roll call vote was taken: Paul Giunta-yea, Ralph Loftin-yea, Robert Levine-yea, Thomas Golden-yea and Thomas Pope-yea. Vote 5-0 to close the public hearing.
20. A motion was made by Paul Giunta, seconded by Thomas Golden to adjourn. A roll call vote was taken: Paul Giunta-yea, Ralph Loftin-yea, Robert Levine-yea, Thomas Golden-yea and Thomas Pope-yea. Vote 5-0 to adjourn.



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Location: 22 Second Rd.

Applicant: Tracy Rockwell

VOTE OF THE BOARD

Signature Sheet
Special Permit

IN FAVOR

Leave to Withdraw Without Prejudice

Paul Giunta

Ralph Loftin

Thomas Golden

Thomas Pope

Robert Levine

IN OPPOSITION

Paul Giunta

Ralph Loftin

Thomas Golden

Thomas Pope

Robert Levine