



City of Marlborough Zoning Board of Appeals

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

ZBA Case # 1467-2020
Location: 45 Maple St.

Date: September 4, 2020

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

To: Marc Resnick, Big Man Realty Trust

Address: 100 Felton St. Suite 201

City: Waltham, MA 02453

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

45 Maple St. Map 70, Parcels 274A & 275A

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 4, 2020



City of Marlborough
Zoning Board of Appeals

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

ZBA Case #1467-2020

Date: September 4, 2020

Applicant: Marc Resnick, Big Man Realty Trust

Representative – Michelle Baratta, Esq.

Location: 45 Maple St.

Date of Application: May 20, 2020

Date of meeting: August 25, 2020

Zoning Board of Appeals
Withdraw Without Prejudice

Petition – To convert the existing 4-family/2 unit commercial-business to a six (6) family residential dwelling building at 45 Maple St. located in Zoning District Business. Seeking relief under chapter 650-48 and 650-17, Off Street Parking requirement and Table of Uses of City Code of Marlborough.

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, Marc Resnick and his Attorney, Michelle Baratta, Esq. the Board voted 5-0 to allow the applicant to "Withdraw Without Prejudice" the above petition.

Respectfully submitted,

Paul Giunta - Chairman

Zoning Board of Appeals

Dated: September 4, 2020

ZBA to the City Clerk's Office: A copy of this decision was filed with the City Clerk on September 4, 2020.

Susan Brown, Clerk – Zoning Board of Appeals



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

Record of Proceeding

Location: 45 Maple St.

Zoning Board Case # 1467-2020

Applicant: Marc Resnick, Trustee, Big Man Realty Trust

Date of Appeal: May 20, 2020

Zoning relief requested: To convert the existing 4-family/2-unit commercial-business office spaces to a six (6) family residential dwelling building at 45 Maple St. located in Zoning District Business. Seeking relief under chapter 650-48 and 650-17, Off Street Parking requirement and Table of Uses of City Code of Marlborough.

Meeting Date: August 25, 2020

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

Meeting remotely was: Ralph Loftin

Also, meeting remotely was the applicant, Marc Resnick and his Attorney, Michelle Baratta.

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:

- Zoning Board of Appeals application containing a brief history of the lot.
- Filing fee - \$250.00
- Plans entitled: (1) Interior renovation -Sheet A1.00 – first floor plan-dated July 24, 2019 Rev. 4/25/2019, Prepared by: People Architects. (2) Topographic Site Plan – showing proposed conditions at 45 Maple St. dated: Dec. 18, 2019 Project: 219175 Sheet 1 of 1, prepared by VTP Associates

Record proceeding:

1. The property in question is located at 45 Maple St. being Map 70, Parcel 274A & 275A of the Assessor's Maps.
2. Atty. Baratta made a presentation on the history of the lot dating back to 1974 when the previous owner, an accountant, purchased the building and obtained permission to convert the first floor to offices for his personal use. As stated in the presentation, the property was not intended to be a multi-use building or have office space with a changing lessee every few years. The attorney stated that allowing petitioner to convert it back to residential is in line with the original intent and purpose of the Zoning Ordinance, as well as the original use of the building and the neighborhood surrounding the building. Currently, the building is a four-residential unit with two commercial/business office spaces on the first floor. (presentation in Board's file)
3. Existing on the lot are 8 full size parking spaces. Thru testimony by the applicant, his 4 units do not fully utilize the 8 parking spaces. According to City Code §650-48A(7), apartment buildings shall provide two off-street parking spaces for each dwelling unit over and above access roadways and maneuvering. Thus, the existing 4 units are compliant with 8 spaces. The proposed 6 units will require 12 spaces.
4. The following was discussed:
 - The existing driveway at the right of 45 Maple St. concerning the rights of the applicant to utilize this driveway for his personal use. It appears the driveway is partially located on the applicant's lot.
 - Where will be a dumpster be located on the lot?
 - Existing landscaping will be upgraded; will not add more landscaping.
 - Handicapped ramp will not be needed if all units are residential.
5. The applicant stated he cannot meet parking requirements and the landscape requirements together. He will do his best to make the lot more attractive with landscaping if variances are granted.
6. Topography – significantly level, back of lot drops approximately 3 ft.
7. Soil and shape of lot is similar to other lots in the area.
8. Applicant stated that to convert all the units to residential use would be more conforming and safer to the area.
9. **Hardship** as stated by the applicant:
 - The lot slopes at the back of the building, the only area to possibly create more parking or landscaping.

- Financial burden – He has tried to rent out the two first floor commercial/business office spaces without success. He cannot raise the rents to his tenants to compensate for loss of revenue from the two office spaces.
- There is no market for large apartment units.
- When he purchased this lot, he got stuck with 2 commercial/business office spaces in this building, which are hard to rent.
- He wants to undo what was done by the previous owner and convert to 6 residential units.
- He would like to make the lot more conforming to the neighborhood, which he feels is more residential.
- He cannot conform to both parking and landscaping requirements.

10. Discussion items:

- It was mentioned that there is an existing sign which takes up space on the lot. Applicant stated that this will be taken down.
- Applicant stated he will upgrade the back of the building with landscaping.
- Parking spaces are not assigned to tenants.
- The driveway cannot be included as an additional 2 parking spaces in his parking requirement, because it appears the driveway is not completely on his lot. It was stated by the attorney that the applicant has rights to use the driveway.
- Marc stated if the 2 commercial/business office spaces remain, these office spaces will turn into blight areas on the lot and neighborhood. To convert them into 2 residential units will improve the lot and area.

11. The Board asked if anyone in the audience has questions:

- Councilor Robey spoke remotely concerning the number of existing units and how many bedrooms in each unit. There is a possibility that the assessor's records are not updated, and that a Special Permit may have been granted to convert to 6 units.

12. The Board asked the audience if anyone is in favor of the petition: Answer – None

13. The Board asked if anyone in opposition: Answer – None

14. Board member, Bob Levine stated that if this remains 4 units, it appears thru testimony by the applicant that the existing 8 spaces will be adequate. To convert to 6 units, the applicant is required to meet current zoning codes for parking, lot coverage and landscaping. If everything remains the same, the applicant will not need zoning relief.

15. Jeff Cooke stated the building was constructed in the 1900's, prior to zoning (1956), so for 46 years there have been two commercial/business offices on the first floor.

16. It was mentioned by their attorney to go back to the drawing board to see if they could come back with another plan that does not require as many variances.
17. Several Board Members were not in favor of the petition that was before them.
18. A motion was made by Paul Giunta, seconded by Robert Levine to close the public portion of the hearing. A vote was taken: Paul Giunta-yea, Ralph Loftin-yea, Robert Levine-yea, Thomas Pope-yea and Thomas Golden-yea. Vote 5-0 to close the public portion of the hearing.
19. Robert Levine and Ralph Loftin, Board Members, could not support the petition knowing it will overcrowd the lot and the neighborhood. The "hardship" as stated by the applicant does not meet the criteria of Mass General Law Chapter 40A Section 10.
20. The Board gave the applicant the option to Withdraw Without Prejudice or be denied. The applicant chose to "Withdraw Without Prejudice."
21. 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.
22. 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.
23. 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.



**City of Marlborough
Zoning Board of Appeals**

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

ZBA Case # 1467-2020

Applicant: Marc Resnick, Trustee, Big Man Realty Trust


Location: 45 Maple St. Map 70, Parcel 274A & 275A

**VOTE OF THE BOARD
Signature Sheet**

**In Favor
To Withdraw Without Prejudice**

Paul Giunta 

Ralph Loftin 

Thomas Golden 

Thomas Pope 

Robert Levine 

**In Opposition
To Withdraw Without Prejudice**

Paul Giunta _____

Ralph Loftin _____

Thomas Golden _____

Thomas Pope _____

Robert Levine _____