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

**ZBA Case # 1468-2020**

**Name: Jeff Bruce**

**Location: 447 Boston Post Rd. East (Harrison Arms)**

**Zoning Board of Appeals  
Notice of Decision**

**The Zoning Board of Appeals of the City of Marlborough hereby Grants the Application of Jeff Bruce, with a mailing address of 369 Lindsay Pond Road, Concord, MA 01742, as provided in the Decision and subject to the Findings of Fact and Conditions contained therein.**

**Decision Date: October 6, 2020**

**The Decision of the ZBA was filed in the Office of the City Clerk of the city of Marlborough on October 19, 2020.**

**Appeals**

**Appeals, if any shall be made pursuant to Massachusetts General Laws, Chapter 40A, Section 17 and shall be filed within twenty (20) days after the date of the filing of this Notice of Decision in the Office of the City Clerk of the City of Marlborough, MA**

**City of Marlborough  
Zoning Board of Appeals**

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

ZBA Case      #1468-2020      Date submitted: October 19, 2020  
Name:          Jeff Bruce – Wayside Apartments LLC  
Location:      447 Boston Post Rd. East (Harrison Arms)

**Zoning Board of Appeals  
DECISION AND RECORD**

**This meeting was held virtually via Microsoft Teams  
The Board's meeting in Memorial Hall had audio, but no visual  
The meeting was recorded**

**Nature & Basis of Application:** According to the denial letter dated July 31, 2020 from Jeffrey Cooke, Building Commissioner, the proposal to expand and reconfigure the parking lot at 447 Boston Post Rd. East, Map 73, Parcel 23, located in the Business Zoning District (B) does not comply with Chapter 650-41 Attachment 2, "Table of lot area, yards, and height of structures" and 650-48 C4b of the City Code of Marlborough. The zoning code states that your use requested exceeds the allowable in the following Business Zoning District:

650-41 Attachment 2 "Table of lot area, yards and height of structures" states that the maximum lot coverage allowed is 30%. The existing condition has a lot coverage of 69.7% and you propose to increase the lot coverage to 71.3%. Thus a 1.6% increase from the existing 69.7% to 71.3% lot coverage.

**650-48 C4b - Compact-sized parking spaces...** The Building Commissioner informed the applicant thru e-mail, dated Aug. 12, 2020, stating in part: "The original denial letter stands, you do not have to request relief of the compact parking spaces. If the issue arises at the meeting state that the plan has been revised and that you do not need relief." The legal ad and notice to abutters do not reflect this section of the ordinance.

**Members meeting in City Hall:** Paul Giunta-chairman, Robert Levine, Thomas Golden, and Thomas Pope. **Meeting remotely:** Ralph Loftin.

**Meeting also remotely were:** Katie Enright and Jeff Bruce.

**Vote:** After due consideration to the subject matter of the petition, the Board, Paul Giunta-Chairman, Ralph Loftin, Robert Levine, Thomas Golden and Thomas Pope, voted 5-0 to GRANT a **variance** under Chapter 650-41 Attachment 2 "Table of lot area, yards and height of structures" to allow the existing 69.7% lot coverage to increase to 71.3%. A difference of 1.6%.

**Proceedings:**

The Zoning Board of Appeals, acting under the City of Marlborough Zoning Ordinance and General Laws, Chapter 40A, as amended opened the public hearing on October 6, 2020. Said meeting being held at Marlborough City Hall, 140 Main St., the public hearing was conducted by remote participation, allowing the Board, members of the public, and the Applicant to participate in the hearing through real-time audio conferencing, telephone access and live internet streaming. (It should be noted that city hall's video was not working.) In accordance with Section 17(d) of Chapter 53 of the Acts of 2020 and "An Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, § 20" issued by Governor Charles D. Baker on March 12, 2020.

1. **Date of Application:** August 20, 2020
2. **Name and Address of Applicant:** Jeff Bruce, 369 Lindsay Pond Rd. Concord, MA 01752.
3. Application filed with: Zoning Board of Appeals and City Clerks' Office on August 20, 2020.
4. **Project Site:** 447 Boston Post Rd. East - Map 73, Parcel 23 (Harrison Arms)
5. Section of the Zoning Ordinance involved: Section 650-41 Attachment 2 "Table of lot area, yards, and height of structures."
6. Notice was sent by certified mail 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 300 feet of the property lines, including owners of land in another municipality, all as they appear on the most recent applicable tax lists.
7. Original documents are on file with the Zoning Board of Appeals and the City Clerk's Office.
8. The meeting was opened with the reading of the legal ad by Board Member, Thomas Golden.
9. The Project Site is located in the Business (B) Zoning District, being Map 73, Parcel 23.
10. The Project site is an existing apartment complex consisting of 109 units in 5 multi-family buildings with an existing 148 space parking lot, sidewalks and drainage.
11. The Project Site has frontage on Boston Post Road East.
12. The Project Site abuts businesses and Residential A2 zoning districts.

13. **Project:** According to the applicant's summary dated August 20, 2020, the applicant proposes to keep all the structures the same as they are in the existing condition, but to repave and reconfigure the existing parking area onsite to conform more to the city standards. Currently the City of Marlborough requires 2 parking spaces per unit, or 218 total parking spaces, 6 of which are to be handicap. The proposed layout shows an addition of 17 parking spaces, including 6 handicap spaces added throughout the site at the entrances to the buildings, 3 of which are van accessible spots. With the addition of 17 parking spaces, along with various other improvements to the parking layout, this will allow for more of the tenants and guests to remain parking onsite instead of utilizing other means of parking off site. Additional green space will be added. Several encroachments on adjacent properties, which prior to the purchase of the property were thought to be owned by Wayside Apartment, LLC, are to be removed and revegetated. (summary is in Board's file)
14. **Site Plans:** In board's file are the following:
  - Site Plan for Multi-Family Redevelopment, 447 Boston Post Rd. East, Marlborough, MA Prepared by Howard Stein Hudson, Sheets 1 thru 9, dated 5/13/2020 Rev. 8/20/2020.
  - Site Plan, 447 Boston Post Rd. East, Prepared by Mistry Associates, Inc. stamped by Nalia Mistry, dated 2/5/2020.
  - Presentation Plan, prepared by Howard Stein Hudson, Sheet 1, dated 8/20/2020
15. At the public hearing, the Applicant, Jeff Bruce was present, along with his representative Katie Enright, P.E., Associate Principal, Senior Civil Engineer, of Howard Stein Hudson, 114 turnpike Rd. Suite 2C, Chelmsford, MA
16. The applicant has purchased this apartment complex and is working to upgrade the parking, public safety, landscaping and drainage to improve the current condition of this complex. They will add additional parking and will remove pavement within the 20' buffer zone and restore that area. Required maximum Lot Coverage for Zoning District Business is 30%.
17. The project falls within the 20 ft. buffer zone in which the applicant got an Order of Conditions thru the Conservation Commission (DEP 212-1227).
18. The Board received two e-mails dated Oct. 2, 2020 from Jeffrey Cooke stating "in my research, I found no prior relief for lot coverage and the applicant did not find any either." Another e-mail from Jeffery Cooke dated Oct. 6, 2020 stated that the applicant is trying to fix a problem that resulted from the original project-reduce parking. The new owners acknowledge that there are not enough parking spaces on the lot to meet their tenant's needs. In fact, some of the existing parking is on abutting properties. They are attempting to bring as much parking on to their lot as possible. They are increasing fire lane access to buildings by giving new aisles around existing buildings that were not there before.

19. In accordance with Section 6500-41 Attachment 2 "Table of lot area, yards and height of structures" the Board finds that:
  - a. The proposed increase in lot coverage from the existing 69.7% to 71.3% will not derogate from the intent and purpose of the zoning ordinance. In fact, this increase will tremendously improve the site in adding more parking spaces so tenants will not park their cars onto adjacent lots. Wider fire access lane around the building is an improvement according to the Fire Dept. Adding additional landscaped areas within the complex will be an improvement to the site.
20. **Hardship** as stated by the applicant: With the existing conditions on the lot (the existing 5 buildings, the paved parking lot and an existing lot coverage of 69.7% vs. the maximum required 30%) it would be difficult to conform to Section 650-41 of the city's zoning ordinance concerning Lot Coverage and to meet the number of minimum required parking spaces. The slight increase in Lot Coverage will enable them to be closer to conforming to parking spaces and improve a safer fire access around the buildings. This is a small increase to Lot Coverage. Adding more parking spaces, will prevent tenants from parking on adjacent lots.
21. The Applicant will meet the requirements of the Building Department, Site Plan Review Committee and the Conservation Dept. (Order of Conditions-DEP 212-1227).
22. There was no one to speak in favor or in opposition to the petition.
23. No one in the audience had any questions.
24. A motion was made by Robert Levine to close the public hearing and seconded by Thomas Pope. Roll call vote taken: Paul Giunta-Chairman-yea, Robert Levine-yea, Ralph Loftin-yea, Thomas Golden-yea and Thomas Pope-yea. Vote 5-0 to close the public hearing.
25. A motion was made by Robert Levine, seconded by Thomas Pope to grant a variance for the increase in Lot Coverage from the existing 69.7% to 71.3%, an increase of 1.6% The Board took a roll call vote: Paul Giunta-yea, Robert Levine-yea, Ralph Loftin-yea, Thomas Pope-yea and Thomas Golden-yea. The Board voted 5-0 to grant the variance.
26. A motion was made by Ralph Loftin to adjourn the public hearing, seconded by Thomas Pope to adjourn the public hearing. A vote of 5-0 to adjourn.

**Based on the above, the ZBA grants a variance under City Zoning Ord. 650-41, Attachment 2 "Table of lot area, yards and height of structures" subject to the following CONDITIONS:**

1. The approved plans entitled: Site Plan for Multi-Family Redevelopment, 447 Boston Post Rd. East, Marlborough, MA Prepared by Howard Stein Hudson, Sheets 1 thru 9, dated 5/13/2020 Rev. 8/20/2020.
  - Site Plan, 447 Boston Post Rd. East, Prepared by Mistry Associates, Inc. stamped by Nalia Mistry, dated 2/5/2020.
  - Presentation Plan, prepared by Howard Stein Hudson, Sheet 1, dated 8/20/2020.


2. The variance is from an existing 69.7% Lot Coverage to 71.3% Lot Coverage, a 1.6% increase. This increase in Lot Coverage is for parking only.
3. Any modifications to the approved plans, will be subject to review by the Building Commissioner and/or the Conservation Officer, and/or Site Plan Review Committee to see if it warrants a return to the Zoning Board of Appeals for review.
4. No Building Permits can be issued until such time as the Applicant presents to the Building Commissioner evidence that this variance decision has been filed with the Registry of Deeds or Land Court as applicable.

**End**

The Board of Appeals also calls to the attention of the owner or Applicant that General Laws, Chapter 40A, Section 17 (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 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.

In accordance with General Laws, Chapter 40A, Section 9, and Section 650-59 of the Zoning Ordinance of the City of Marlborough, if the rights authorized by a special permit are not exercised within three (3) years of the date of grant of such special permit, such rights shall lapse.

Respectfully submitted,

  
Zoning Board of Appeals  
Paul Giunta - Chairman

Submitted to the City Clerk's office on October 19, 2020.



**City of Marlborough  
Zoning Board of Appeals**

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**ZBA Case # 1468-2020**

**Applicant: Wayside Apartments, LLC**

**Location: 447 Boston Post Rd. East (aka Harrison Arms)**

**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