



City of Marlborough Zoning Board of Appeals

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

ZBA Case **1479-2021**
Location: **5 Lincoln St.**

Date: December 21, 2021

Denial

The Board of Appeals of the City of Marlborough, MA hereby certifies that the appeal has been **DENIED**:

To: Richard Archambeault c/o Atty. Douglas J. Rowe, Esq. Rowe Law Offices

Address: 21 Cotting Ave.

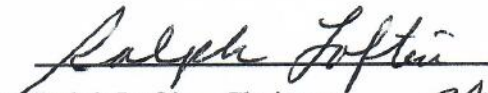
City: Marlborough, MA 01752

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

5 Lincoln St. (Map 57 Parcel 231)

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

Any person aggrieved by a decision of the Board of Appeals or any special permit granting authority or by the failure of the Board of Appeals to take final action concerning any appeal, application or petition within the required time or by the failure of any special permit granting authority to take final action concerning any application for a special permit within the required time, whether or not previously a party to the proceeding, or any municipal officer or board may appeal to the superior court department in which the land concerned is situated.....by bringing an action within twenty (20) days after the decision has been filed in the Office of the City or Town Clerk. (Reference: Mass General Law Chapter 40A, Section 17)


Ralph Loftin - Chairman *rlb*


Susan Brown - Secretary

Submitted to the City Clerks' Office on **December 21, 2021.**



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 # 1479-2021 (5 Lincoln St.)

Zoning Board Case # 1480-2021 (7 Lincoln St.)

Applicant: Richard Archambeault

Date of Appeal: July 9, 2021

Location of Subject Properties: 5 Lincoln St. (Map 57, Parcel 231)
7 Lincoln St. (Map 57, Parcel 239)

Relief requested: Richard Archambeault, Trustee, is appealing, pursuant to Marlborough City Ord. 485-3D, (1) the conclusion in City of Marlborough Code Enforcement Division's Violation No. BLD-21-000294 that the property at **5 Lincoln St.** has continued parking of junk vehicle on property along with unused trailer overhanging public sidewalk, in violation of Chapter 485.2, and Chapter 551.18; and (2) the conclusion in City of Marlborough Code Enforcement Division's Violation No. BLD 21-000295 that property at **7 Lincoln St.** has overgrown vegetation, trash, and debris on site, in violation of Chapter 485-2.

Meeting date: December 14, 2021

Roll call of members present Ralph Loftin-Chairman, Paul Giunta, Thomas Pope, Thomas Golden and Robert Levine. Also present were:

- Susan Brown-Secretary,
- Tin Htway-Building Commissioner
- Pam Wilderman – Code Enforcement Officer
- Jason Grossfield – City Solicitor
- Atty. Douglas Rowe, representing the applicant

Notice of the hearing was given by Certified Mail to all persons to be affected, as shown on the most recent tax list and by publication in the MetroWest Daily newspaper, a newspaper of general circulation in Marlborough, MA, on Nov. 16th and 23rd, 2021.

Documents submitted by applicant in support of this Appeal:

- Zoning Board of Appeals Applications with filing fees, Notice of Appeal, Violation notice from Code Enforcement Officer-Pam Wilderman.
- Two packets presented by the applicant entitled: 5 Lincoln St. – Irene Archambeault, Trustee dated 12/14/2021; and 7 Lincoln St. – Richard Archambeault dated 12/14/2021.

Both packets contain a letter from Pam Wilderman-Code Enforcement Officer, dated August 25, 2021 concerning ongoing violations on 5 and 7 Lincoln St.

Public Hearing

1. The audience was made aware the hearing was being recorded.
2. Atty. Douglas Rowe, representing the applicant, distributed two packets dealing with 5 Lincoln St. and 7 Lincoln St., respectively. Atty. Rowe stated that his appearance is in accordance with Chapter 650-56 B-1 "to hear and decide an appeal taken by any person aggrieved by reason of his/her inability to obtain a permit or enforcement action from the Building commissioner under the provisions of MGL Chapter 40A....."
3. Regarding **5 Lincoln St.** - Atty. Rowe referenced the Violation Notice – stating the items listed in the notice (BDL-21-000294 dated 6/9/2021 and 6/16/2021) have been rectified, and that the notice was rendered defective by the vague requirement that the property be brought into compliance "ASAP." (The violation addresses "continued parking of junk vehicle on property along with unused trailer overhanging public sidewalk also in violation of Chapter 551-18.") Atty. Rowe stated that the offending trailer has been moved from the sidewalk and offered recent photos of the property in support of his position.
4. Regarding **7 Lincoln St.** - Atty. Rowe referenced the Violation Notice – stating the items listed in the notice (BDL-21-000295 dated 6/9/2021 and 6/16/2021) have been rectified, and that the notice was rendered defective by the vague requirement that the property be brought into compliance "ASAP." (The violation concerns "overgrown vegetation, trash and debris on site." Chapter 485-2.) Atty. Rowe stated the lawn is mowed, brush has been cut back and some of the debris has been removed and offered recent photos of the property in support of his position.
5. In Pam Wilderman's letter dated August 25, 2021, Atty. Rowe noted that 102 Warren Ave. has no relevance to the case this evening.
6. The Board felt 5 and 7 Lincoln St. should have been addressed and cleaned up a long time ago.
7. Board Member, Robert Levine, asked if there were any photos of what the properties looked like when the violations were issued. There were none at the hearing.
8. Board Member, Ralph Loftin, shared some photos he took from his cell phone of the properties the day of the hearing, which showed an accumulation of debris in the space between and on the side of the properties.
9. **An abutter, at 21 Lincoln St.** stated that 5 and 7 Lincoln St. have been an eye sore for many years.

10. There was no one present to speak in favor or in opposition to the appeal.
11. A motion was made by Robert Levine and seconded by Thomas Golden to close the public portion of the hearing. By a unanimous vote 5-0, the public portion of the hearing was closed.
12. During the discussion, the Board felt that of the applicant has two options as stated in the notices: (1) Pay the penalty or (2) contest the matter thru the Clerk-Magistrate.
13. A motion was made by Robert Levine and seconded by Paul Giunta to deny the appeals and uphold the Code Enforcement Officer's violation notices for 5 and 7 Lincoln St.

Vote taken for 5 Lincoln St. - By a unanimous vote of 5-0, the appeal was denied and the Code Enforcement Officer's Violation Notice for 5 Lincoln St. was upheld.

Vote taken for 7 Lincoln St. - By a unanimous vote of 5-0, the appeal was denied and the Code Enforcement Officer's Violation Notice for 7 Lincoln St. was upheld.
14. A motion was by Robert Levine and seconded by Thomas Pope to close the public meeting. By a unanimous vote of 5-0, the public meeting was closed.

Findings

The Board makes the following findings:

- The properties at 5 and 7 Lincoln St. have been in violation of Chapter 485.2, and Chapter 551.18 for many years with only sporadic and ineffective attempts to bring the properties into compliance.
- The applicant has not offered an effective response to multiple legal and appropriate notices of violation from the Code Enforcement Officer.
- The applicant has two options as noted on the violation notices. The applicant has taken no action in pursuing these two options, except by coming before the Zoning Board of Appeals for relief.

Decision

Based on the above findings, the Board took the following actions:

5 Lincoln St. - The Board voted 5-0, the appeal was denied and to uphold the Code Enforcement Division's violation No. BLD-21-000294.

7 Lincoln St. - The Board voted 5-0, the appeal was denied and to uphold the Code Enforcement Division's violation No. BLD-21-000295.

Adjournment: With no other business to discuss, a motion was made by Paul Giunta and seconded by Thomas Pope to adjourn. By a voice vote of 5-0, the meeting was adjourned.

Respectfully submitted,


Ralph Loftin - Chairman

Zoning Board of Appeals



City of Marlborough Zoning Board of Appeals

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

ZBA Case # 1479-2021
Location: 5 Lincoln St.

Applicant: Richard Archambeault, Trustee

VOTE OF THE BOARD Signature Sheet

IN FAVOR

To uphold the Code Enforcement
Division's violation No. BLD-21-000294

Ralph Lofton

Paul Giunta

Thomas Golden

Thomas Pope

Robert Levine

IN OPPOSITION

Not to uphold the Code Enforcement
Division's violation No. BLD-21-000294

Ralph Lofton

Paul Giunta

Thomas Golden

Thomas Pope

Robert Levine