



# City of Marlborough Zoning Board of Appeals

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

*Original*

**ZBA Case**     1481-2021 (Variance)  
**Location:**   42 Devens St.

**Date:** December 17, 2021

## Denial of Variance Request

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

To:             Juan Sosa

Address:       42 Devens St.

City:            Marlborough, MA 01752


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

42 Devens St. Map70, Parcel 42

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

  
Susan Brown - Secretary

Submitted to the City Clerks' Office on **December 17, 2021.**



City of Marlborough  
Zoning Board of Appeals  
140 Main Street  
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**Decision**

**Denial of Variance**

Zoning Board Case # 1481-2021 (Variance Request)

**Applicant:** Juan Sosa

**Date of Appeal:** October 22, 2021

**Location of Subject Property:** 42 Devens St. shown as Assessor's Map70, Parcel 42. The property is a legal pre-existing, non-conforming lot, and structure.

**Relief requested:**

(1) Pursuant to G.L. c. 40A § 10 and § 15, to approve a variance exempting the subject parcel from the requirement that the proposed exterior stairs be entirely contained within the structure, or located at the rear of the structure, as specified in Chapter 650-18(2)(d) of the Marlborough Residence B Zoning District.

**Meeting date:** November 30, 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
- William Paynton-Building Inspector.
- Juan Sosa, applicant, of 42 Devens St.
- Eileen Brito-Rosa of Rosa Design & Construction, 17 Revere St. Milton, MA 02188.
- Two members of the public who did not speak.

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. 16<sup>th</sup> and 23<sup>rd</sup>, 2021.

Documents submitted by applicant in support of this Appeal:

- Application with filing fees and narrative
- Denial letter from the Building Department dated October 14, 2021.



- Plan entitled: Building Permit Plot Plan, Two-Family Dwelling, 42 Devens St., Marlboro, MA 01752 Stamped by Jeffrey J. Stefanik – 9/2/2021 Dated: 1/13/2021 – Lot Coverage Calculations and 6/22/2021 Building Footprint.
- Plan entitled: Proposed Renovation/Change of Occupancy from Single Family to Two Family Dwelling, 42 Devens St. Marlborough, MA 01752 Stamped by: Tuan Nguyen stamp dated 8/16/2021.

### **Findings**

The Board makes the following findings:

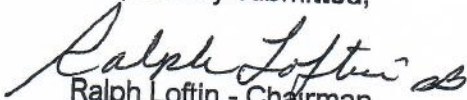
- 42 Devens St. is a legal pre-existing, non-conforming lot, and structure.
- The subject lot is not unique in shape, soil or topography from surrounding lots and homes in the area. Many lots in the area are located on a steep slope to the rear.
- Single- and two-family structures are allowed in Zoning District Residence B (RB).
- The denial of the variance does not impose a "hardship" on the applicant, as defined in the law. Based on the applicant's representative testimony, the Board felt there was no "hardship" in accordance with Chapter 650-56. The applicant's representative stated the owner desired a two-family home as a source of additional income during his retirement years and to have his family close to him. This does not constitute a hardship.
- The denial of the requested variance does not limit the use of the property as zoned.
- The proposed exterior staircase to the lawful pre-existing non-conforming single-family dwelling will create a new non-conformity. Chapter 650-56 (B-3c)

### **Decision**

Based on the above findings, the Board voted 3-2 NOT to approve a variance exempting the subject parcel from the requirement that the proposed exterior stairs be entirely contained within the structure, or located at the rear of the structure, as specified in Chapter 650-18(2)(d) of the Marlborough Residence B Zoning District.

### **Adjournment**

Respectfully submitted,

  
Ralph Loftin - Chairman  
Zoning Board of Appeals

Submitted to the City Clerk's Office on December 17, 2021



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**Zoning Board of Appeals**  
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**ZBA Case # 1481-2021 (Variance)**  
**Location: 42 Devens St.**

**Applicant: Juan Sosa**

**VOTE OF THE BOARD**  
**Signature Sheet**

**IN FAVOR**

Ralph Loftin  
\_\_\_\_\_

Paul Giunta *Paul Giunta*  
\_\_\_\_\_

Thomas Golden *Thomas Golden*  
\_\_\_\_\_

Thomas Pope  
\_\_\_\_\_

Robert Levine  
\_\_\_\_\_

**IN OPPOSITION**

Ralph Loftin *Ralph Loftin*  
\_\_\_\_\_

Paul Giunta  
\_\_\_\_\_

Thomas Golden  
\_\_\_\_\_

Thomas Pope *Thomas Pope*  
\_\_\_\_\_

Robert Levine *Robert Levine*  
\_\_\_\_\_