



# City of Marlborough Zoning Board of Appeals

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

**ZBA Case # 1485-2022**  
**Location: 633 Pleasant St.**

**Date: March 17, 2022**

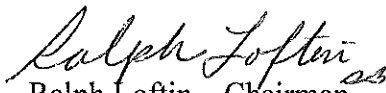
## **Variance Request Withdraw Without Prejudice**

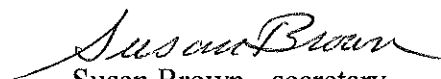
**To:** John Kuettner  
**Address:** 633 Pleasant St.  
**City:** Marlborough, MA 01752

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

**633 Pleasant St. Map 29 Parcel 2**

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.

  
Ralph Loftin – Chairman  
Zoning Board of Appeals

  
Susan Brown - secretary

Submitted to the City Clerks' office on March 17, 2022.



# City of Marlborough Zoning Board of Appeals

140 Main Street  
Marlborough, Massachusetts 01752  
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## Variance Request Record and Decision

Zoning Board of Appeals Case # 1485-2022

**Applicant:** John Kuettner

**Date of Appeal:** January 24, 2022

**Location of Subject Property:** 633 Pleasant St. Map 29 Parcel 2

**Petition:** This is a variance request. To demolish an existing deck and construct a new three season room at 633 Pleasant St. located in Zoning District A2 being Map 29, Parcel 2. The proposal does not conform to Chapter 650 § 41, Table of Lot Area, Yards and Height of Structures of the City's Code. The required minimum rear yard setback is 40 ft. vs. the proposed 31.0 ft.

**Meeting date:** March 8, 2022

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

- Susan Brown- Secretary
- Tin Htway – Building Commissioner
- William Paynton – Building Inspector
- Applicants: John Kuettner and his wife
- Contractor – Genilson Moura of Moura Construction, 120 Newton St. Marlborough, MA

### **Documents in Board's file:**

- ZBA applicant form with filing fee of \$130.00
- Denial letter from building department dated December 29, 2021
- Drawings entitled: Proposed Three Season Porch, prepared by Design Renata Barbosa.
- Certified Plot Plan showing proposed three season porch, dated 12/21/2021 Prepared by Horgan Surveying, Scale 1" =40'.

It was noted to the audience that the Board is hearing a variance request. The audience was made aware that the public meeting was being recorded.

### **Public Hearing:**

1. Applicants John Kuettner and his wife represented themselves.

2. Their contractor, Genilson Moura of Moura Construction, 120 Newton St. Marlborough, MA arrived late and spoke briefly.
3. This is an oddly shaped lot. The lot adjoins wetlands, a non-certified vernal pool and is within the 200 ft. River Front Area.
4. The applicants stated they would like to demolish their existing deck and construct a three-season room in its place. This proposal is located at the rear of the house.
5. The proposed three season room will reduce the rear setback to 31.0 ft. vs. the minimum required rear setback of 40 ft. for Zoning District A-2.
6. The applicants are aware that their existing fence is encroaching into the rear parcel. They will remove the existing fence.
7. The Chairman stated to the applicant that on their application, they did not fill in #1 and #2 of their application concerning "hardship." Before the Chairman asked the applicant to state their "hardship" he cited the criteria for a "hardship", namely that the hardship must arise from the shape, topography, or soil conditions of the property. Further, if the variance was not granted, they would not be prevented from using their lot as it is zoned, a single-family dwelling.
8. The applicant stated hardships were:
  - The empty lot behind their lot has been empty for 12 years and there are indications that it may be built upon in the future.
  - Currently they have an open deck at the rear. To construct a three-season room would offer them more privacy at the rear when and if a house was built on the empty lot.
  - They stated that they have wetlands and a vernal pool (which is not certified) located on their lot.
9. Tin Htway, Building Commissioner, was present and stated the following:
  - a. This is an oddly, shaped lot with an open area to the right side of the house which is wet and is within the 200 ft. Riverfront Area.
  - b. He is aware of the existing fence encroaching onto the empty lot at the rear, which will need to be removed if a variance was granted.
10. There were no questions from the audience.
11. Speaking in favor of the petition:
  - a. Michael Ossing – 43 Varley Rd. – had no objections to the petition.
12. Speaking in opposition – None

13. A motion was made by Robert Levine, seconded by Thomas Pope to close the public portion of the hearing. By a vote of 5-0 the public portion of the hearing was closed.
14. The Chairman stated to the applicant that they do have the option to "Withdraw Without Prejudice."
15. The Board felt that the applicant's stated hardship was not sufficient to grant a variance. Further, that the applicants do have options. The applicants stated they will look into other options.
16. A motion was made by Robert Levine to deny the petition because the lack of a hardship, motion seconded by Thomas Pope. No vote was taken.
17. The applicants stated they would like to "Withdraw Without Prejudice." A motion was made by Paul Giunta, seconded by Thomas Golden to allow the applicants to "Withdraw Without Prejudice". By a vote of 5 – 0 the applicant's request to "Withdraw Without Prejudice" was granted.
18. A motion was made by Robert Levine, seconded by Thomas Golden to close the public meeting. By a vote of 5-0 the public hearing was closed.

#### DECISION

The applicants requested to "Withdraw Without Prejudice." A motion was made by Paul Giunta, seconded by Thomas Golden to allow the applicants to "Withdraw Without Prejudice". By a vote of 5 – 0 the applicant's request to "Withdraw Without Prejudice" was granted.

Respectfully submitted,

  
Ralph Loftin – Chairman  
Zoning Board of Appeals



**City of Marlborough  
Zoning Board of Appeals**

140 Main Street  
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Tel. (508) 460-3768

**Request to Withdraw Without Prejudice**

Name of Applicant: John Kuettner, 633 Pleasant St. Marlborough, MA  
Representative: Genilson Moura, Moura Construction, 120 Newton St. Marlborough, MA 508-202-3587

Project Location: **633 Pleasant St.**

Type of Zoning Board Application: Variance

Describe said application: **To demolish an existing deck and construct a new three season room. Located in Zoning District A2, being Map 29 Parcel 2. The proposal does not conform to Chapter 650, Article 41, Table of Lot Area, Yards and Height of Structures of the City's Coe. The required minimum rear yard setback is 40 ft. vs. the proposed 31.0 ft.**

Petitioner/Representative of said application: John Kuettner-Homeowner/Genilson Moura-Representative

I hereby request to Withdraw the above-referenced petition Without Prejudice

Signature: 

Date: 7/8/22

**Do not write below this line**

**Certificate to Vote**


This is to certify that at the Zoning Board meeting of March 8, 2022 a majority vote passed **GRANTING** the request to Withdraw Without Prejudice.

This is to certify that at the Zoning Board meeting of \_\_\_\_\_ a majority vote passed **DENYING** the request to Withdraw Without Prejudice.

Paul Giunta 

Ralph Loftin 

Robert Levine 

Thomas Pope 

Thomas Golden 