



## City of Marlborough Zoning Board of Appeals

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

**ZBA Case # 1489-2022**

**Date: May 3, 2022**

**Location: 60 Harvard St.**

### **(General Laws Chapter 40A, Section 16) Granting of a Variance**

To: Gabriele Luzzi Represented by: Atty. Christopher Flood, Law Offices of Flood  
& Favata PC, 14 Winthrop St., Marlborough, MA 01752

Address: 14 Winthrop St.

City: Marlborough, MA 01752

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

### **60 Harvard St. Map 82 Parcel 11**

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 May 3, 2022.



City of Marlborough  
**Zoning Board of Appeals**

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Record and Decision  
Variance Request

Zoning Board of Appeals Case # 1489-2022

**Applicant:** Gabriele Luzzi

**Date of Appeal:** March 4, 2022

**Location of Subject Property:** 60 Harvard St.

**Petition:** To provide a new 18 ft. x 18 ft. parking area located at 60 Harvard St., Map 82 Parcel 11, Zoning District Residence B (RB). The proposal does not comply with Chapter 650, Article 41, Table of Lot Area, Yards and Height of Structures” of the City Code of Marlborough. The existing Lot Coverage to this legal pre-existing, non-conforming two family is 34.64% vs. the proposed 37.98% an increase of 3.34%.

**Meeting date:** April 26, 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
- Applicant: Gabriele Luzzi, 60 Harvard St., Marlborough, MA 01752
- Representative – Atty. Christopher Flood, Law Offices of Flood & Favata PC, 14 Winthrop St. Marlborough, MA 01752

**Documents in Board’s file:**

- ZBA applicant form with filing fee of \$130.00
- Denial letter from building department dated Feb. 9, 2022
- Plan entitled: Proposed Drive & Stairs Plan, 60 Harvard St. Marlborough, MA Prepared by: Bruce Saluk & Assoc. Inc. 576 Boston Post Rd. East Marlborough, MA. Dated June 25, 2021 Rev. 10/11/2021.

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. Mr. Luzzi, applicant and his representative, Atty. Flood were present.
2. The applicant is seeking relief for his existing two-family structure relating to Lot Coverage on a pre-existing, non-conforming lot. Maximum Lot Coverage for Zoning District Residence B is 30%. Existing is 34.64% vs. the proposed 37.98%, a deviation of 3.34%.
3. Description of lot:
  - This is a pre-existing non-conforming two-family structure.
  - The house was constructed in 1855.
  - A long gravel driveway, sufficient for two cars parked nose to tail, is located on the east side of the house.
  - The applicant would like to create an additional 2 spaces, side by side, on the left front portion of the lot.
  - Existing Lot Coverage is 34.64% vs. the proposed 37.98%. A deviation of 3.34%.
  - The lot is almost square shaped, similar to other lots in the area.
  - Topography – slopes up on the west side of the property
  - The lot is 5,416 sq. ft. in area with 69.45 ft. of frontage
4. The stated **hardships** were:
  - The lot slopes uphill towards the rear. There is insufficient room for additional parking spaces in the rear of the lot.
  - The two-family structure needs additional parking for tenants. Some tenants will park downtown, or the owner would rent a spot for them on a neighboring lot.
  - It is difficult to keep cars off the street during winter snow ban.
  - Adding two parking spaces will not be a detriment to the public good.
  - Applicant is willing to create additional green space in another area on his lot to replace the greenery he will be removing for the parking spaces.
  - The public will benefit by keeping cars off the street.
  - The applicant showed the Board a photo of the area where the additional parking will be located. (Photo in board's file)
5. Ralph Loftin asked about rules for off street parking for single and 2 family structures. Tin Htway stated there are no rules/codes for the number of spaces for single- and two-family structures.
6. Robert Levine, Board Member, ask if a permit is necessary for another curb opening. Harvard St. has a sidewalk but no curbing. Answer: It was determined that if a variance was granted, the applicant will go to the Engineering Dept. to see if a permit is needed for a second opening. It was also noted that this issue of a second opening was not addressed in the denial letter issued by the building department.



7. There was some discussion concerning the type of material that should be used for the additional parking spaces. The Board will leave it up to the discretion of the Building Department.
8. Ralph Loftin, Chairman, explained to the applicant that there are 3 factors the Board must consider before a variance can be granted. First, the property should be unique from others in the area in terms of shape, topography, or soil conditions; second, the hardship experienced by the applicant must arise from these unique features of the property; third, whether the variance can be granted without detriment to the public good. The Board must view the hardship as interfering with or preventing the use of the property as zoned if not relieved by the requested variance.
9. There were no **questions** from the audience.
10. Speaking in **favor** of the petition:
  - 2 e-mails were read into the file: Christian Pinto, 261 Church St. Marlborough, MA, and Klaus Rangel, 79 Harvard St. Marlborough, MA
11. Speaking in **opposition** – None
12. Ralph Loftin explained to the applicant they may “withdraw without prejudice” or continue with a vote by the Board.
13. A motion was made by Robert Levine and 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.

#### **Findings of Fact**

- This is a legal pre-existing, non-conforming lot located in Zoning District Residence B.
  - This has been a two-family structure since 1885
  - As a public safety issue, the area has limited amount of off-street parking especially during the city’s winter parking ban.
  - The land slopes up toward the rear, making it difficult to add more parking at the rear.
14. A motion was made by Robert Levine and seconded by Thomas Golden to grant the variance for a Lot Coverage deviation of 3.34%. By a vote of 5-0 the variance was granted.
  15. A motion was made by Thomas Golden and seconded by Robert Levine to close the public hearing. By a vote of 5-0 the public hearing was closed.
  16. There being no other business before the Board, a motion to adjourn was made by Thomas Pope and seconded by Robert Levine. By a vote of 5-0 the meeting was adjourned.

## DECISION

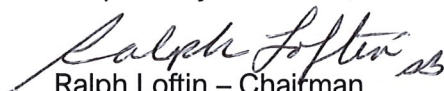
Petition: 60 Harvard St. is located in Zoning District Residence B with a maximum Lot Coverage of 30%. This is a legal, pre-existing, non-conforming 2 family structure. Maximum Lot Coverage for Zoning District Residence B is 30%. Existing Lot Coverage is 34.64% vs. the proposed 37.98%. A deviation of 3.34.%

Granted with Conditions:

1. Approved plan entitled: Proposed Drive and Stairs Plan, 60 Harvard St. Marlborough, MA Prepared by Bruce Saluk & Assoc., Inc. Dated June 25, 2021 Rev. 10/11/21.
2. Type of material for the proposed 2 car parking area will be approved by Building Dept.
3. The City's Engineering Dept. will determine if a permit is needed for the second driveway opening.

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, applicant 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)

Respectfully submitted,

  
Ralph Loftin – Chairman  
Zoning Board of Appeals

Submitted to City Clerk's office on May 3, 2022.



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**Applicant: Gabriele Luzzi**

**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