



City of Marlborough Zoning Board of Appeals

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

ZBA Case # 1490-2022
Location: 65 Oakcrest Ave.

Date: May 31, 2022

Withdraw Without Prejudice

To: Robert Gauthier
Address: 65 Oakcrest Ave.
City: Marlborough, MA 01752

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

65 Oakcrest Ave. Map 44 Parcel 51A

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
Ralph Loftin – Chairman
Zoning Board of Appeals

Susan Brown
Susan Brown - Secretary

Submitted to the City Clerks' office on May 31, 2022.



City of Marlborough
Zoning Board of Appeals

140 Main Street
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Record and Decision
Variance Request

Zoning Board of Appeals Case # 1490-2022

Applicant: Robert Gauthier

Date of Appeal: March 16, 2022

Location of Subject Property: 65 Oakcrest Ave. (Map 44 Parcel 51A)

Petition: To construct a new 5 ft. x 7 ft. front portico at 65 Oakcrest Ave. Map 44 Parcel 51A, Zoning District A-2. The property is a lawful pre-existing non-conforming lot. The minimum required front yard setback is 30 ft. Existing front yard setback is 30.1 ft. vs. the proposed 25.4 ft., a 4.6 ft. deviation.

Meeting date: May 10, 2022

Board members present: Ralph Loftin-Chairman, Robert Levine, Thomas Golden and Paul Giunta. Absent: Thomas Pope.

Also present were:

- Susan Brown- Secretary
- Tin Htway – Building Commissioner
- William Paynton – Building Inspector
- Applicants: Robert and Aura Gauthier

Documents in Board's file:

- ZBA application with filing fee of \$130.00
- Denial letter from building department dated February 23, 2022
- Plan showing proposed covered porch, prepared for Robert J. & Aura M. Gauthier, 65 Oakcrest Ave. Marlborough, MA, dated November 5, 2021, stamped by Kevin Jarvis, Jarvis Land Survey, Inc.
- Six pages of structural drawings.
- Four e-mails of support for the project.

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. Robert and Aura Gauthier, the applicants, represented themselves.
2. The Board Chair informed the applicants that only four Board members were present this evening. To receive a favorable decision, the vote would have to be 4-0. Also, the Chair

informed the applicants that at any time during the Board's discussion of the case, the applicants can ask to "withdraw without prejudice".

3. The petition before the Board is to construct a portico over their existing front steps. The distance from the steps to the front lot line will remain the same, but the steps and landing will be wider. Because the portico has a roof attached to the house and columns to the sides, a variance is needed for the front yard setback.

4. **Hardships** as stated by the applicants:

- To add protection for themselves from the weather.
- The north facing front entrance endures weather conditions that result in wood rot to the front doorway. The portico will provide protection to the entrance way from rain and snow conditions.
- "As we are getting older, it would be nice to have this added protection and with wider steps and landing, it will be an easier wheelchair accessibility."

5. Questions from the audience – none.

6. Speaking in **favor** of the petition:

- Michael Ossing – 43 Varley Rd. Marlborough, MA – Stated the petition would not be to the detriment of the public good and that he would vote in favor of the petition.
- Kathleen Lachapelle – 73 Oakcrest St. Marlborough, MA – was present and submitted a letter of support to the petition.

7. Speaking in opposition – none.

8. A motion was made by Robert Levine and seconded by Thomas Golden to close the public portion of the hearing. By a vote of 4-0 the public portion of the hearing was closed.

9. **Discussion** – The Chairman explained to the applicant that there are 3 factors the Board must consider before a variance can be granted. First, the property must 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.

The Board felt the lot in question is not unique to the neighborhood in that there are several others in the area with similar shape and size.

The Board felt the applicants stated hardships did not arise from the features of the property, thus did not meet the Hardship requirements according to Mass General Law Chapter 40A §10.

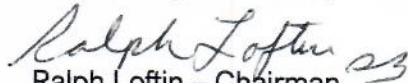
The Chairman did reiterate that the Board can proceed with a vote, or the applicants can ask to "withdraw without prejudice." After further discussion the applicants decided to withdraw their application.

10. On a motion by Paul Giunta and seconded by Robert Levine to grant the applicant's request to "withdraw without prejudice" by a vote of 4-0 the request was granted.

11. On a motion by Robert Levine and seconded by Thomas Golden to close the public hearing, by a vote of 4-0, the public hearing was closed.

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 31, 2022.



**City of Marlborough
Zoning Board of Appeals**

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

Request to Withdraw Without Prejudice

Name of Applicant: Robert Gauthier

Address & Telephone Number: 65 Oakcrest Ave. (Map 44 Parcel 51A)

Type of Zoning Board Application: Variance Request

Describe said application: To construct a new 5 ft. x 7 ft. front portico. The minimum required front yard setback is 30 ft. Existing front yard setback is 30.1 ft. vs. the proposed 25.4 ft. thus a 4.6 ft. deviation.

Petitioner/Representative of said application: Robert Gauthier

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

Signature: _____

Date: _____

Do not write below this line

Certificate to Vote

This is to certify that at the Zoning Board meeting of **May 10, 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