



City of Marlborough Zoning Board of Appeals

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

ZBA Case # 1472-2020 SP
Location: 111 West Main St.

Date: February 23, 2021

(General Laws Chapter 40A, Section 16) **Grant** **Special Permit**

To: James Gontarz
Address: 111 West Main Street
City: Marlborough, MA 01753

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

111 West Main St. Map 69 Parcels 134 and 529

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.


Paul Giunta - Chairman


Susan Brown - Secretary

Submitted to the City Clerks' office on February 23, 2021.



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Special Permit Zoning Board of Appeals Record Virtual Meeting – Microsoft Teams

The Zoning Board of Appeals, acting under the Marlborough Zoning Ordinance and General Laws, Chapter 40A, as amended, a meeting was held on February 9, 2021.

Board Members present virtually were Ralph Loftin, Thomas Golden, Thomas Pope and Robert Levine; Paul Giunta was present with audio only. Also, Susan Brown-secretary

Proceedings:

1. **Date of Appeal:** December 22, 2020
2. **Name and Address of Applicant:** James Gontarz, 111 West Main St. Marlborough, MA 01752.
3. Administrative body from whose decision or order of appeal was taken: Building Dept.
4. Appeal filed with: Zoning Board of Appeals and City Clerks' Office.
5. **Nature & Basis of Appeal:** To expand the area of the driveway at 111 West Main St. Map 69 Parcel 134 of the Assessor's Maps. (Parcel 529 is at the rear of the house) Located in Zoning District Residence C. Proposal is for the driveway to be +/- one foot from the side lot line and being zero setback from the building. This proposal requires a Special Permit because of the intensification of the non-conforming existing conditions (Chapter 650 (B)(3) filed under the Pre-existing Non-conforming Single- and Two-Family Structures).
6. Section of the Zoning Ordinance involved:
 - Chapter-48 C(5)(b) Parking inside and rear yard.
 - Chapter 650-48 C(5)(c) Parking setback from the building

7. Notice was sent by the applicant to parties in interest, including the petitioner, abutters, owners of land directly opposite on any public or private street or way, owners of land within 400 feet of the property lines, including owners of land in another municipality, all as they appear on the most recent applicable tax lists. Certificate of Mailing is on file.
8. Original documents are on file with the Board of Appeals and the City Clerks' Office.

Findings:

1. A roll call was taken of members present : Paul Giunta-Chairman, Ralph Loftin, Robert Levine, Thomas Golden and Thomas Pope.
2. The property is located in Zoning District Residence C, 111 West Main St. being Map 69 Parcels 134 (containing the house) & 529 (rear lot) of the Assessor's Maps. The bulk of the work will be on Parcel 134.
3. These pre-existing non-conforming parcels contain a total of 7,231 sq. ft. (Parcel 134 contains 3,877 sq. ft. and Parcel 529 contains 3,332 sq. ft.)
4. Other lots in the area are similar in size, shape and topography.
5. The makeup of the neighborhood is single and mufti-family homes.
6. The applicant, James Gontarz and his wife Alison were present virtually.
7. **Proposal:** The applicant stated he would like to extend his existing driveway towards the rear of the lot. Also, he plans to create a small paved parking area at the rear of his property with enough space to maneuver the cars to drive forward onto Rte. 20.
 - a. Referencing plan entitled: Asphalt Engineering: The existing concrete as Label E1 and E2 will be removed and replaced with asphalt. Label A – a small retaining wall will be removed, and driveway will be widened. Areas labeled E3 and E4 will be asphalt pavement at the back of the house to create parking for his cars.
 - b. He also stated his proposal will also create more space to store snow.
8. **Existing conditions at 111 West Main St.**
 - a. It is a single-family home.
 - b. The existing driveway at 111 West Main St. abuts with the driveway at 113 West Main St. creating a "0" side setback. (113 West Main St. is an existing 3 family house)
 - c. 111 West Main St. fronts Rte. 20 (Main Street).
 - d. Topography of the lot is flat. Shape of the lot is rectangular.

- e. The existing driveway extends to the rear of the lot and stops at an existing concrete patio which abuts the house.
 - f. Existing narrow concrete wraps to the back of the house which probably serves as a walkway according to the plan (concrete walkway is approximately 3 ½ ft. wide).
 - g. A small concrete retaining wall abuts the existing concrete patio. To the left of this small retaining wall is some 4 ft. which the applicant owns.
9. The Building Commissioner determined thru this denial letter dated December 9, 2020 that the proposed alteration is an intensification of non-conforming existing conditions. As a pre-existing, non-conforming lot, an alteration that is more non-conforming requires a Special Permit issued by the Marlborough Zoning Board of Appeals
10. List of exhibits and plans received:
- a. The applicant provided plans entitled: Certified Plot Plan, 111 West Main St. Marlborough, MA. Prepared by: Odone Survey & Mapping. Stamped by: Glenn D. Odone, Jr. Dated: July 13, 2020.
 - b. Hand drawn plan: Asphalt Engineering.
 - c. Denial letter from Building Dept. dated Dec. 9, 2020
 - d. Photos provided by the applicant.
11. No one in the audience had any questions.
12. No one was in opposition to the petition.
13. Speaking in favor of the petition:
- a. Michael and Sheila Casto – 103 West Main St. – They abut 111 West Main St. They stated that there are many single and multi-family homes in the area with parking and maneuvering difficulties coming out of their driveway onto Rte. 20. Many lots have paved parking areas in the back of the homes which allows the owners to safely maneuver cars, headfirst, onto Rte. 20.
14. The Board finds:
- a. The size of the existing structure will not change and is comparable to other structures in the area.
 - b. The proposal to increase the pre-existing non-conformity will intensify the non-conformity, but it will create a safer process in exiting the site. There are many house lots that have parking at the rear to enable cars to enter Rte. 20 safely.
 - c. Impact on the neighborhood will be close to none.
 - d. Esthetically, the proposed changes to the widening of the existing driveway will not be noticeable from the street.

- e. The existing driveway, there is already a zero-side setback to the side lot line and a zero setback to the house.
- 15. Paul Giunta made a motion to close the public hearing, seconded by Ralph Loftin. Vote 5-0 to close the public hearing. A vote was taken with all yeas: Paul Giunta, Ralph Loftin, Robert Levine, Thomas Golden and Thomas Pope.
- 16. Ralph Loftin made a motion to grant a Special Permit relative to the driveway to be +/- one foot from the side lot line as proposed. Motion seconded by Robert Levine. Vote taken 5-0 with all yeas: Paul Giunta, Ralph Loftin, Robert Levine, Thomas Golden and Thomas Pope.
- 17. Ralph Loftin made a motion to grant a Special Permit relative to the "0" setback from the building as proposed. Motion seconded by Robert Levine. Vote taken 5-0 with all yeas: Paul Giunta, Ralph Loftin, Robert Levine, Thomas Golden and Thomas Pope.

Decision

The Board grants Special Permits with the following conditions:


1. The granting of these two Special Permits are for the following: (see listed plans in Finding #10 for reference)
 - a. Chapter 650-48(C)(5)(b) – To extend the area of the existing driveway at 111 West Main St. Map 69 Parcels 134 and 524. All the proposed work is on Parcel 134. Proposal is for the driveway extension to be +/- one foot from the side lot line.
 - b. Chapter 650-48(C)(5)(c) – Expansion of driveway, parking setback from building being the proposed zero setback from the building.
2. The applicant will conform to all other zoning requirements (e.g., Lot Coverage, setbacks) If any changes are made to the approved plans, the Building Commissioner will review such changes and will determine if such changes warrant returning to the Zoning Board of Appeals.
3. Recording of Special Permit – The applicant at their expense shall record this Special Permit in the Middlesex South District Registry of Deeds after the City Clerk has certified that the 20-day appeal period has elapsed with no appeal having been filed and before the applicant shall apply to the Building Dept. for a building permit.

The Board of Appeals also calls to the attention of the owner or applicant that General Laws, Chapter 40A, Section II (last paragraph) provides that no variance or special permit, or any extension, modification or renewal thereof, shall take effect until a copy of the decision bearing the certification of the city clerk that twenty days (20) have elapsed after the decision has been filed in the office of the city clerk and no appeal has been filed or that, if such appeal has been filed, that it has been dismissed or denied, is recorded in the Registry of Deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The fee for such recording or registering shall be paid by the owner or applicant.

If the rights authorized by a variance are not exercised within one (1) year of the date of grant of such variance, such rights shall lapse; provided however, that the permit granting authority in its discretion and upon written application by the grantee of such rights may extend the time for exercise of such rights for a period not to exceed six (6) months; and provided, further, that the application for such extension is filed with such permit granting authority prior to the expiration of such one year period.

No Special Permit, or any extension, modification or renewal thereof, can take effect until a copy of the decision, bearing the certification of the city clerk is recorded in the registry of deeds. The fee for recording or registering shall be paid by the owner or applicant. Special Permit will lapse within two years of grant of such Special Permit.

Respectfully submitted,


Paul Giunta
Chairman
Zoning Board of Appeals

Submitted to City Clerk's office on February 23, 2021.



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Zoning Board of Appeals**

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Applicant: James Gontarz

Location: 111 West Main Street

**VOTE OF THE BOARD
Signature Sheet**

IN FAVOR

Paul Giunta *Paul Giunta*

Ralph Loftin *Ralph Loftin*

Thomas Golden *Thomas Golden*

Thomas Pope *Thomas Pope*

Robert Levine *Robert Levine*

IN OPPOSITION

Paul Giunta _____

Ralph Loftin _____

Thomas Golden _____

Thomas Pope _____

Robert Levine _____