

# City of Marlborough

Zoning Board of Appeals

140 Main Street

Marlborough, Massachusetts 01752

Tel. (508) 460-3768

Minutes

August 10, 2020 7:00 PM

THIS MEETING WAS HELD VIRTUALLY THRU MICROSOFT TEAMS

Locaton: 339 Boston Post Rd. East (former McGee Farm) - Continuation

Zoning Board Case # 1464-2020

Applicant: WP Marlborough MA Owner, LLC

Date of Appeal – 3/2/2020

Zoning relief requested: Petition: Applicant seeks a Special Permit under Section 650, Article VI, Section 23(D) Floodplain and Wetland Protection District of the City of Marlborough Zoning Ordinance to conduct certain filling and excavation work in a floodplain area, all in connection with its proposed 188-unit multifamily apartment project. Property is located at 339 Boston Post Rd. East, Map 72-35, 73-28, 24, 26.

Board Members attending virtually: Ralph Loftin-acting chairman and Thomas Pope.

Board Member attending in City Hall-3rd Flood, Memorial Hall – Thomas Golden, Robert Levine and secretary, Susan Brown

Note: Paul Giunta recused himself from this case.

Roll call: Ralph Loftin-yea, Robert Levine-yea, Thomas Golden-yea, Thomas Pope-yea. (4 members present)

Atty. Brian Falk of Mirick O’Connell, representing applicant – attended virtually.

Finding/Record

1. The hearing was continued from July 7, 2020. It was informed thru our IT Department that this meeting was being recorded.
2. Atty. Brian Falk was present virtually. He informed the Board that the Conservation Commission is still in review of the plans, and that an Order of Conditions have not been issued.
3. At the consent of the applicant’s attorney, Brian Falk, a motion was made by Ralph Lofton, seconded by Thomas Golden to continue the public hearing to August 25, 2020 at 7:00 P.M. A roll call vote was taken: Ralph Loftin-yea, Robert Levine-yea, Thomas Golden-yea and Thomas Pope-yea. Vote 4-0 to continue the hearing to August 25, 2020 at 7:00 PM.

Locaton: 22 Second Rd.

Zoning Board Case # 1465-2020

Applicant: Tracy Rockwell-owner. Representative/Applicant: Kevin Figueiredo

Date of Appeal – May 14, 2020

Zoning relief requested: Proposes to construct an addition at 22 Second Rd. being Map 6, Parcel 8 on the left side of the existing structure that will be 9.1 ft. from the side lot line. Also requesting relief on an increase of Lot Coverage from an existing 32% to 37.2%, (maximum Lot Coverage is 30%) Table of Lot Area, Yards and Height of Structures. This is a lawful pre-existing non-conforming single-family house lot and your proposed addition intensifies the existing non-conforming nature of the structure, which requires relief by way of a Special Permit stated in City Code section 650-58B. Located in Zoning District Residence A-3

Members present: Meeting in city hall, 3rd floor-Memorial Hall were Board Members: Roll Call: Paul Giunta-Chairman-yea, Thomas Golden-yea and Robert Levine-yea and Secretary-Susan Brown.

Meeting remotely were: Ralph Loftin-yea and Thomas Pope-yea.

Also, meeting remotely was the applicant, Tracy Rockwell and Representative-Keith Figueiredo of Kevin Figueiredo Services, 40 Temi Rd. Hudson, MA 01749.

Notice of the hearing was given by Certificate of Mailing to all persons to be affected, as shown on the most recent tax list and by publication in the Main Street Journal, a newspaper of general circulation in Marlborough, MA

Documents Submitted in this Appeal:

* Plan entitled: Building Permit Plan, prepared by: Ducharme & Dillis, dated: Jan. 27, 2020, Revised Feb. 12, 2020. Scale 1”=20’.
* Denial letter from Building Dept. Jeffrey Cooke, dated April 15, 2020
* Application for Special Permit received May 14, 2020

Record proceeding:

The property in questions is located at 22 Second Rd. being Map 6, Parcel 8 of the Assessor’s Maps. This lot has 5,000 sq. ft. with 50 ft. of frontage. Tracy Rockwell, applicant and owner of lot in question attended the meeting remotely. Representing her was Kevin Figueiredo, contractor also attended remotely.

The applicant is seeking a deviation of side yard setback and lot coverage. Side yard setback for structures built prior to Jan. 27, 1969 can be 10 ft. to the side lot line. This house was built in 1940. Lot Coverage - existing 32%, required 30% and proposed 37.2%.

Kevin Figueiredo, contractor. stated the following:

1. The house currently has 2 bedrooms with no closet space. Only one bedroom can be used as a bedroom. The second room has a floor trap door with a set of folding stairs which leads to the basement. This second room cannot be used as a bedroom because of the floor trap door with folding stairs to the basement which is in the way from adding furniture to the room.
2. Would like to construct an addition to the left of the house (as you face the house). The addition will replace the exterior bulkhead to the basement. The location of the stairs from the bulkhead will remain in that location, just located within the house.
3. The addition will also provide much needed closet space to the 2 bedrooms.
4. The existing bulkhead is 6 ft. out from the house.

Tracy Rockwell, owner of house, stated the following: The house was built in 1940. Her reason for the addition is solely for “safety” reasons.

The house has one bathroom

It was suggested by a Board member that the applicant could construct a second floor. But the applicant stated it would be more costly. Or maybe go with a smaller addition. The Board realized that whatever revised plan the applicant may present, they may need some relief from the zoning code.

In viewing the lot, Board member, Ralph Loftin, felt that the lots in the neighborhood were similar in size and shape to the lot in question this evening. He also felt that the proposed addition will take up most of the lot, especially the side yard. There are many small single-family homes in this area, located near Ft. Meadow Reservoir. He felt that in the past, these small cottages were combined with other lots to create larger lots.

There was some discussion about the topography of the lot in question.

Abutter speaking in opposition:

* John Barbosa – 11 First Rd. – He is located to the back of the lot in question. He stated that the lot slopes towards the back end of the yard. He feels he will not be impacted by this petition.
* Nancy Marrazzo - 18 Second Rd. – her house is to the left of the lot in question. She has concerns about privacy. The proposed addition will look into her bedrooms. The distant from her house to the side lot line is some 15 – 17 ft.

There was no one present to speak in favor of the petition.

Mr. Figueiredo stated he cannot understand why the applicant could not be granted a small request to just re-locate here exterior bulkhead to the interior of the house. There was much discussion about the roll the Board has on this petition.

The Board stated they must determine if this lawful pre-existing, non-conforming single-family lot and structure with the proposed addition will intensify the existing non-conforming nature of the structure and lot. Considering the lot in question is already pre-existing, nonconforming with 5,000 sq. ft. and 50 ft. of frontage, the existing house covers a good portion of the lot. The proposed addition would intensify the lot and the neighborhood.

Mr. Figueiredo stated there are many lots in the area which are similar in lot area, shape and frontage and it appears that these lots were granted permission to expand. The applicant is not asking for much.

Board felt that the proposed addition will intensify the existing conditions and be a detriment to the neighborhood. Ralph, Board Member, visited the site and he sees it as a very tight lot. Many houses near the lake are small lots and when purchasing lots in these smaller lot areas, one should be aware of the limitations of the lot. Bob Levine could not support the petition knowing it will overcrowd the lot.

The Board gave the applicant the option to Withdraw Without Prejudice or be denied. The applicants chose to “Withdraw Without Prejudice”.

A motion was made by Robert Levine and seconded by Thomas Pope to allow the applicant to “Withdraw Without Prejudice”. A roll call vote was taken: Paul Giunta-yes to withdraw without prejudice, Thomas Golden-yes to withdraw without prejudice, Thomas Pope-yes to withdraw without prejudice, Robert Levine-yes to withdraw without prejudice and Ralph Loftin-yes to withdraw without prejudice. Vote 5-0 to Withdraw without prejudice.

A motion was made by Robert Levine, seconded by Ralph Loftin to close the public hearing. A roll call vote was taken: Paul Giunta-yea, Ralph Loftin-yea, Robert Levine-yea, Thomas Golden-yea and Thomas Pope-yea. Vote 5-0 to close the public hearing.

A motion was made by Paul Giunta, seconded by Thomas Golden to adjourn. A roll call vote was taken: Paul Giunta-yea, Ralph Loftin-yea, Robert Levine-yea, Thomas Golden-yea and Thomas Pope-yea. Vote 5-0 to adjourn.

Adjournment - With no other business, a motion was made by Ralph Loftin and seconded by Thomas Pope to adjourn. A roll call vote was taken: Ralph Loftin-yea, Thomas Pope-yea, Thomas Golden-yea, Paul Giunta-yea, and Robert Levine-yea. A vote of 5-0 carries.

Respectfully Submitted,

Paul Giunta

Chairman