

**City of Marlborough
Zoning Board of Appeals
January 19, 2021 7:00 PM
Minutes
Microsoft Teams Meeting**

Location – 0 Locke Dr.

ZBA Case # 1471-2020

Map 67, Parcels 2 and 2B

Applicant: Keith H. Kline, Trustee

Date of Appeal: Dec. 11, 2020

Date of Meeting: January 19, 2021

Zoning relief requested: Variance Request - To construct a single-family dwelling at 0 (Zero) Locke Dr. being Map 67, Parcels 2 & 2B, located in the Residence A-2 zoning district. Proposal does not comply with:

- Chapter 650-41 Table of Lot Area, Yards, and Height of Structures of City Code of Marlborough – The zoning code states that the use requested requires 18,000 sq. ft. vs. the proposed 13,112 sq. ft. of area in an A-2 zoning district.
- Chapter 650-42 - Lot Shape – Unable to fit the required rectangle within the lot lines.

Members present in City Hall: Paul Giunta-Chairman and Thomas Pope. Also, Susan Brown-Secretary.

Present remotely: Ralph Loftin, Thomas Golden and Robert Levine

A roll call of members present: Paul Giunta-yea, Robert Levine-yea, Thomas Golden-yea, Thomas Pope-yea and Ralph Loftin-yea

Present remotely was the applicant Keith H. Kline.

The hearing was opened with the reading of the legal notice by Thomas Pope.

A packet submitted by the applicant containing the following:

- The application form, with an Addendum to Variance Application, Dorothea J. Kline Revocable Trust, Locke Dr. (Parcel ID 67-2 & 67-2B),
- A denial letter from the Building Commissioner, dated Dec. 6, 2020
- Plan entitled ZBA Petition Plan, Map 66, Parcels 2 & 2B, Locke Drive, Marlborough, MA, prepared by Sullivan, Connors & Associates, Stamped by Varoujan H. Hagopian, dated Sept. 18, 2018, last revised Nov. 24, 2020.
- Certified list of abutters
- Filing fee of \$130.00

The property in question is located at 0 (Zero) Locke Dr. being Map 67, Parcels 2 & 2B. Located in Zoning District Residence A-2. (it should be noted that at the rear of the parcels in question is zoned Limited Industrial)

Keith Kline made a presentation in accordance with his narrative entitled: Addendum to Variance Application, Dorothea J. Kline Revocable Trust, Locke Dr. (Parcels ID 67-2 and 67-2B) (in Board's file). John and Dorothea Kline were parents of Keith Kline. They formed the Dorothea J. Kline Revocable Trust. (in Board's file) Some of the highlights in the narrative were:

- a. 1958, John and Dorothea Kline acquired the Locke Dr. property. This lot was essentially rectangular in shape with an area of approximately 18,450 sq. ft.
- b. Because of takings for the construction of I-495, the relocation of Locke Dr. and associated takings by the City of Marlborough, the lot now contains 13,157 sq. ft. vs. the minimum required 18,000 sq. ft. for Zoning District Residence A-2.
- c. 2005, an old Zoning Board of Appeals file (1327-2005) was reviewed by the Board, where John Kline received two variances, for Lot Shape and Lot Area. Due to health issues, the variances lapsed (variances are good for 1 year).
- d. The lot was rezoned from Limited Industrial to Residence A-2 approximately 2 years prior to the ZBA's grant of the 2005 variances (1327-2005) to John Kline.

The applicant, Keith Kline, proposes to construct a single-family home which will meet all current zoning setbacks. Again, the two deviations are Lot Shape and Lot Area. It should be noted that at the rear of the parcels in question, the area is zoned Limited Industrial.

Topography – the parcels slopes slightly to the rear.

Mr. Kline stated the hardship as when the Kline family acquired Locke Dr. the property had an area of over 18,000 sq. ft. (Zoning District Residence A-2 requires a minimum of 18,000 sq. ft.) and was essentially rectangular in shape and as such would have met the lot area and lot shape requirements of Chapters 650-41 and 650-42. Thru land takings for the construction of I-495 and the relocation of Locke Dr. thru no fault of their own, they are left with an undersized and oddly shaped lot which is undevelopable and unusable for practical purposes. Without relief, the property is virtually worthless and unusable for its intended and otherwise permitted residential use in a residential district.

The Board questioned whether the two parcels (Parcels 2 and Lot 2B) would have to be combined legally to create one lot. The applicant stated that considering both lots are under common ownership, he believes they would be considered one lot. As a condition, if variances were granted, the Board would like to make sure it is legally one lot. The Board stated that prior to the issuance of a building permit, the applicant shall go before the city's Planning Board to combine Parcels 2 and 2B into one lot and the new stamped plan shall be submitted to the Building Dept. and the Zoning Board of Appeals. Said new plan shall be recorded at the Registry of Deeds.

There were no questions from the audience. Or were there any opposition to the petition.

Speaking in favor of the petition was Cheryl Kline (wife of Keith Kline, applicant) 44 Short St. Marlborough, MA

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

After much discussion, a motion was made by Robert Levine and seconded by Thomas Golden to grant the two requested variances as follows:

- Chapter 650-41 Table of Lot Area, Yards, and Height of Structures of City Code of Marlborough – The zoning code states that the use requested requires a minimum of 18,000 sq. ft. vs. the proposed 13,112 sq. ft. of area in an A-2 zoning district.
 - A motion was made by Ralph Loftin and seconded by Robert Levine to grant a variance for Lot Area. The Board voted 5-0 to grant the variance, with Paul Giunta, Ralph Loftin, Robert Levine, Thomas Pope and Thomas Golden voting in the affirmative.
- Chapter 650-42 - Lot Shape – Unable to fit the required rectangle within the lot lines.
 - A motion was made by Robert Levine and seconded by Ralph Loftin to grant a variance for Lot Shape. The Board vote 5-0 to grant the variance, with Paul Giunta, Ralph Loftin, Robert Levine, Thomas Pope and Thomas Golden voting in the affirmative.

Decision

Based on the above findings and the plan presented entitled: ZBA Petition Plan Map 67, Parcels 2 and 2B Locke Dr., Marlborough, MA, Prepared by: Sullivan, Connors & Associates, Stamped by: Varoujan H. Hagopian, Dated: 9/18/2018, Last revised: Nov. 24, 2020 the Board finds that thru land takings for the construction of I-495 and the relocation of Locke Dr. thru no fault of their own, the applicant is left with an undersized and oddly shaped lot which is undevelopable and unusable for practical purposes. Without relief, the property is virtually worthless and unusable for its intended and otherwise permitted residential use in a residential district. In constructing a proposed house which will meet all other zoning setbacks, except for Lot Shape and Lot Area, it will not be a detriment to the public good because there are many other residential homes in the area.

The Board voted 5-0 to grant zoning relief (variances) for:


- Chapter 650-41 Table of Lot Area, Yards, and Height of Structures of City Code of Marlborough – The zoning code states that the use requested requires 18,000 sq. ft. vs. the proposed 13,112 sq. ft. of area in an A-2 zoning district.
- Chapter 650-42 - Lot Shape – Unable to fit the required rectangle within the lot lines.

with the following **conditions**:

1. Prior to the issuance of a Building Permit, the applicant shall go before the city's Planning Board to combine Parcels 2 and 2B into one lot and record the stamped plan with the registry of Deeds. A copy of the stamped plan should be provided to the Building Dept. and to the Zoning Board of Appeals for their files.
2. These two variances for Lot Shape and Lot Area are only for a proposed single-family home. All other zoning requirements, i.e. zoning setback requirements, lot coverage, height will conform according to criteria listed for Zoning District Residence A-2.
3. Prior to the issuance of a Building Permit, the applicant at their expense shall record these zoning reliefs (variances) 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.

End of Conditions

Respectfully submitted,


Paul Giunta – Chairman
Zoning Board of Appeals