

**City of Marlborough
Zoning Board of Appeals
March 23, 2021 7:00 PM
Minutes
Microsoft Teams Meeting**

March 23, 2021 – Meeting was recorded.

**7:00 PM Location: 194 Church St. ZBA Case # 1474-2021
Applicant: Ryan Judy
Date of appeal: 1/21/2021
Date of Meeting: March 23, 2021**

The Zoning Board of Appeals, acting under the Marlborough Zoning Ordinance and General Laws, Chapter 40A, as amended, a meeting was held on March 23, 2021

A roll call of Board Members present in Memorial Hall were: Ralph Loftin-Chairman, Paul Giunta, Thomas Golden, Thomas Pope, Robert Levine and Susan Brown-secretary.

Name and Address of Applicant: Ryan Judy, 194 Church St. Marlborough, MA 01752.

Nature & Basis of Appeal: To construct a new addition that does not comply with Chapter 650-41 "Table of Lot Area, Yards and Height of Structures" that the maximum height of structures in Zoning District Residence B is 2 ½ stories vs. the proposed 3 stories. Also, Chapter 650-5, definition of half-story. The property is located at 194 Church St., Map70 Parcel 518. (Note: This lot straddle between Zoning District Residence B and Zoning District A-3)

Applicant, Ryan Judy, was present remotely.

The applicant presented a packet containing plans and photos:

- Sheet 1 of 2 Proposed Variance Plan, dated Sept. 26, 202
- Sheet 2 of 2 Existing Conditions, dated Sept. 26, 2020
- Plans entitled: Judy Residence, Residential Addition, 194 Church St. Marlborough, MA
- Colored photos

The applicant stated the following:

- He has owned this house since June 2019. It is currently a two-family structure with a tenant on the first floor and his family of three live on the second and 3rd floor.
- When he bought the house, he was thinking of creating a three-family, but never pursued it.
- He feels adding a shed dormer is a minor deviation of 6% from the 2.5 story requirement. He will not be changing the height of the existing structure or the feel of the neighborhood.
- By constructing a shed dormer, he will be creating interior stairs from the third floor to the first floor which will solve a safety issue from the 3rd floor.

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- This is a corner lot. Size and shape of lot is one of the largest in the area. Being a trapezoidal shaped lot, which is unique. Most lots in the area are long and rectangular and narrow.
- The lot slopes at the rear, creating a difficult situation to add an addition to the rear.

The applicant's Surveyor, David Sadowski was present remotely and spoke on behalf of the applicant:

- The lot is very large compared to other lots in the area
- The structure will remain a two-family home with his family residing in the home.
- The additional interior staircase when the shed dormer is constructed will enhance the safety feature of the 3rd floor and to the entire house.
- There will be no kitchen added to the 3rd floor. It will only be added living space for his family. It will house a master bedroom and bathroom. The applicant is already utilizing the 3rd floor as additional living space.

Hardship as stated by the applicant:

- The 3rd floor (attic area) is currently used as living space (bedroom) and will continue to be used as such. The added interior staircase will enhance the safety feature as an additional egress from the 3rd floor to the 1st floor.
- Deviation is minor – this petition will achieve his needs for additional space. This is of a minimal impact to the neighborhood.
- With his petition, it will create more open space to his lot.
- This is also a financial hardship because of the unique shape of the lot he cannot further subdivide his lot, so he is incurring additional maintenance and tax cost on the land value. Cannot fully utilize his lot.
- The existing structure is a hardship. But the Board stated, structure is not one of the criteria for a "hardship".

The applicant presented a slide show of homes on Essex St. (numbers 88, 121, and 130) that have dormers, similar to what he would like to create.

Board Member, Thomas Golden, stated the plan the Board received do not have an engineer stamp to it. The applicant stated he will provide a plan if need be.

Board Member, Robert Levine stated that the hardships he stated does not prevent him from using his lot as it is zoned for, residential. The lot is fairly flat.

Board Member, Ralph Loftin stated that the hardship must be directly on the land itself, the soil, shape, and topography of the land can the Board consider a variance.

Board Member, Paul Giunta suggested doing an addition at ground level. Applicant felt that would be more difficult in that he would have to displace his 1st floor tenant, and it would be more costly to him.

There was no one present speaking in opposition to the petition.

Speaking in favor:

- The Board read into the file a letter in favor of the petition from Peter and Nancy Langelier of 191 Church St. Marlborough, MA

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- William Downey – 185 Church St. Marlborough, MA – he feels the petition will be of minimal impact to the existing structure and to the neighborhood.

Being no other public input, a motion was made by Robert Levine to close the public hearing, seconded by Paul Giunta. A roll call vote taken 5-0 to close the public hearing with all yeas: Ralph Loftin, Paul Giunta, Robert Levine, Thomas Pope and Thomas Golden.

Discussion:

- The Board felt the hardship as stated by the applicant is not a hardship.
- The lot is already being utilized as zoned as a residential structure.
- The lot is large enough that the applicant has other options rather than applying for a variance.
- This is a corner lot (Shawmut Ave and Church St.) allowing the lot to have 2 egresses if need be.
- The Board does not see a financial hardship because he cannot subdivide his lot to create more income.

A motion was made by Paul Giunta to deny the variance request, seconded by Robert Levine. Vote was taken 5-0 to deny the variance request, with Ralph Loftin, Paul Giunta, Ralph Loftin, Thomas Pope and Thomas Golden.

7:30 PM

Location: 880 Donald Lynch Blvd.
Applicant: Todd Wilson
Date of Appeal: 1/19/2021

ZBA Case # 1473-2021

Basis of Appeal: To appeal the Building Commissioner's denial letter, dated December 21, 2020 to construct/add kitchenettes in each unit of the hotel at 880 Donald Lynch Blvd. Map 50 Parcel 4B of the Assessor's Maps. Chapter 650-58. Located in a Limited Industrial zone (LI).

The applicant's representative, Garth Orsmond of Pierce Atwood, 100 Summer St. 22nd Floor, Boston, MA 02110 was present virtually.

Mr. Orsmond presented a letter to the Board, dated March 19, 2021 RE: Request for a Continuance – ZBA Case No. 1473-2021 – 880 Donald Lynch Blvd. (letter was read into the file). Letter stating in part: this appeal is purely to preserve our rights. Our hope is that the full city council will agree with the Urban Affairs Committee's recommendation and issue a special permit modification that moots this case, at which point we can withdraw the appeal."

A motion was made by Paul Giunta to continue this meeting to April 13, 2021 at 7:00 PM, seconded by Thomas Golden. Vote taken 5-0 to continue this hearing to April 13, 2021 at 7:00 PM.

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7:45 PM

Continuation of Public Discussion

ZBA Case # 1474-2021

Location: 21 Patten Dr.

Applicant: Thomas Coder c/o Atty. Brian Falk

Atty. Falk was present remotely. He presented a letter dated March 22, 2021 to the Zoning Board of Appeals RE: Request to Withdraw Application – 21 Patten Dr. (Thomas Coder) stating in part: "I request to withdraw without prejudice Mr. Coder's application for an amended special permit and a variance for the property located at 21 Patten Dr. Based upon technical and audio issues that impacted the March 16 public hearing...and....Mr. Coder's desire to submit additional information to the Board....(letter was read and placed on file)

Board Member Robert Levine made a motion to allow the applicant to Withdraw Without Prejudice, seconded by Paul Giunta. A roll call vote of the Board 5-0 to allow the applicant to Withdraw Without Prejudice.

A motion was made by Ralph Loftin, seconded by Thomas Pope to close this Discussion item.
A roll call vote of 5-0 to close this discussion item, with Ralph Loftin, Paul Giunta, Robert Levine, Thomas Pope and Thomas Golden

Respectfully submitted,



Ralph Loftin
Chairman
Zoning Board of Appeals