

FILE COPY



**City of Marlborough
Zoning Board of Appeals**

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

ZBA Case # 1428-2014
Location: 55 Highland St.

Date: October 2, 2014

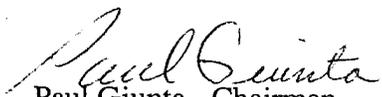
(General Laws Chapter 40A, Section 16)

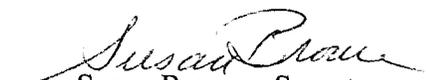
To: Gonzalo Sanchez
Address: 55 Highland St.
City: Marlborough, MA 01752

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

55 Highland St. Map 56, Parcel 236

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 *ps*


Susan Brown - Secretary

Submitted to the City Clerks' office on October 2, 2014.



**City of Marlborough
Zoning Board of Appeals**

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Tel. (508) 460-3768 Facsimile (508) 460-3747

ZBA Case # 1428-2014

Date: October 2, 2014

Name: Gonzalo Sanchez

Location: 55 Highland St.

**Zoning Board of Appeals
Notice of Decision**

The Zoning Board of Appeals, acting under the Zoning Ordinance of the City of Marlborough and the Zoning Enabling Act of the Commonwealth of Massachusetts, held a public hearing held at the Marlborough City Hall, 140 Main St. on August 19, 2014 with continuation meeting dates of Sept. 2nd and Sept. 23rd, 2014.

Members Present: Paul Giunta-Chairman, Theodore Scott, Ralph Loftin, Thomas Golden and Robert Levine.

Petition: To construct a 15 ft. x 16 ft. attached addition on the side of the existing house which will increase the current non-conforming residential use by greater than the maximum required which is 30 percent. (Chapter 650 Article VII) The existing lot coverage is 41 percent and the proposed addition will increase Lot Coverage to 45 percent. The property is located in Zoning District Residence B, being Map 56 Parcel 236 of the Assessor's Maps, also known as 55 Highland St.

After due consideration to the subject matter of the petition, the Board voted 5-0 to (GRANT) variance(s), on the ground that a literal enforcement of the Ordinance would involve substantial hardship to the petitioner and that desirable relief may be granted without substantial detriment to the public good and without substantially derogating from the intent or purpose of the Zoning Ordinance.

The existing lot size is 7,400 sq. ft. which is smaller than the required 8,000 sq. ft. minimum lot area for Zoning District Residence B. The lot size and existing lot coverage non-conformance creates a **hardship** that does not allow for any addition to the house, because it would increase the impervious area.

The applicant has agreed to remove the second driveway to the left of the house and replace it with a pervious material. This new pervious area would not only offset the impervious area created by the new addition, it would reduce the lot coverage to approximately 34%.

The Board believes that by reducing the existing lot coverage non-conformance and by eliminating the additional non-conformance of a second driveway for a lot with under 200 ft. of frontage, per §650-49(B)(2), the lot would better reflect the intent and purpose of the city's zoning ordinance.

Therefore, the Board voted 5-0 voting in the affirmative to grant a variance(s) with the following terms and conditions:

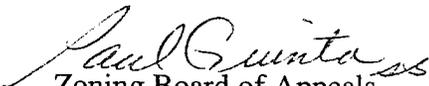
1. The existing paved driveway (as stated by the applicant) being 33 ft. x 25 ft. = 825 sq. ft., and located at the left of the house (as you face the house), located will be removed and replaced with some type of pervious material.
2. The applicant will work with the appropriate city departments to obtain the necessary reviews and permits. (i.e. building permit, electrical permit, etc.)
3. No Building Permits can be issued until such time as the applicant presents to the Building Inspector evidence that said variance with its restrictions has been filed with the Registry of Deeds or Land Court as applicable.

End

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 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.

Respectfully submitted,


Zoning Board of Appeals
Paul Giunta – Chairman

Submitted to the City Clerk's office on October 2, 2014.



City of Marlborough Zoning Board of Appeals

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

ZBA Case # 1430-2014
Name: Gonzalo Sanchez
Location: 55 Highland St.

Date: October 2, 2014

Zoning Board of Appeals Record

The Zoning Board of Appeals, acting under the Marlborough Zoning Ordinance and General Laws, Chapter 40A, as amended, a meeting was held on August 19, 2014 with continuation meeting dates of September 2nd and September 23rd, 2014.

Board Members present were: Paul Giunta-Chairman, Theodore Scott, Ralph Loftin, Thomas Golden and Robert Levine.

Proceedings:

1. **Date of Appeal:** June 17, 2014
2. **Name and Address of Applicant:** Gonzalo Sanchez, 55 Highland 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 construct a 15 ft. x 16 ft. attach addition on the side of the existing house which will increase the current non-conforming residential use by greater than the maximum required 30 percent. (Chapter 650 Article VII) The existing lot coverage is 41 percent and the proposed addition will increase Lot Coverage at 45 percent. The property is located in Zoning District Residence B, being Map 56 Parcel 236 of the Assessor's Maps, also known as 55 Highland St.
6. **Section of the Zoning Ordinance involved:** See above #5.
7. Notice was sent by Certificate of Mailing 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 300 feet of the property lines, including owners of land in another municipality, all as they appear on the most recent applicable tax lists.
8. Original documents are on file with the Board of Appeals and the City Clerks' Office.

9. **Findings of Fact/Minutes**

1F. The property in question is a 2 story structure containing 2 dwelling units. The applicant, Ismael Sanchez resides on the 1st Floor with his wife and 2 children and his brother Gonzalo Sanchez resides on the 2nd floor. He and his brother own the house. Ismael Sanchez and his brother bought the house 8 yrs. ago. As you face the house, there is an existing driveway to the left (where the proposed addition will be erected at the head of the driveway) and to the right there is an existing driveway and a garage

2F. The applicant and owner, Ismael Sanchez was present this evening.

3F. Abutting properties are similar to the lot in question, being fairly flat, with roughly 7,400 sq. ft. ± of area

4F. **Proposal:** The applicant is proposing to erect a 16 ft. x 15 ft. addition to the left side of the house (as you face the house). He has a son and a daughter who will need separate bedrooms. He currently has 2 bedrooms in the house. The applicant stated he cannot afford to move to another house with more bedrooms.

5F. **List of plans and exhibits:**

- Hand drawn by applicant onto a Xerox plan. The plan shows a shed, but with a note that states “not existing”.
- A floor plan entitled: Addition Plans (front elevation, rear elevation and left elevation, 1st floor plan and 2nd floor, Sectional View and Foundation Plan - #4814 Page 1 of 2 and Page 2 of 2, Dated 4/11/2014.
- Colored pictures of existing house and the proposed addition super imposed onto the photo.

6F. **Lot Coverage:**

Maximum required Lot Coverage 30%	Existing Lot Coverage 41%	Propose Lot Coverage 45%
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7F **Hardship:** The Board explained to the applicant that “hardship” cannot be personal.

- The applicant stated a “hardship” pertaining to the existing house on the lot with the existing 2 driveways which leaves a small area to construct an addition. His lot size is 7,400 sq. ft. which is undersized for Zoning District Residence B, which is a minimum of 8,000 sq. ft. He also stated his 2 children (1 boy and 1 girl) need a separate bedroom that is the reason for an addition. He cannot afford to purchase another house to accommodate his family’s needs.

- 8F. The Board made a few suggestions to the applicant:
- Removing the existing driveway material by the garage at the right side of the house and replace it with something that is pervious, so it will reduce lot coverage.
 - Removing the existing driveway material on the left side of the house and replace with something that is pervious, so it will reduce lot coverage.
 - Reduce the proposed addition, so it will reduce lot coverage.
- 9F. The Board determines the following:
- Existing Lot Coverage is over the maximum required 30% being at 41%. The applicant is proposing 45% "Lot Coverage" with the proposed addition.
 - The Board feels that with a reduction in the size of the propose addition and removing the existing driveway material at the left of the house and replacing it with some type of pervious material would create a less existing non-conforming lot.
 - According to the testimony of the applicant, the Board calculates that with the changes as mention above, it will bring Lot Coverage to 34% vs. the 41% existing and the 45% propose. This would create a less existing non-conforming situation.
 - Remove existing driveway at left of house (33 ft. x 25 ft. = 825 sq. ft.) create a pervious area - maybe an increase of 7% to Lot Coverage
- 10F. There was no one in the audience to speak in **favor** or in **opposition** to the petition.
- 11F. On a motion by Ralph Loftin to remove the existing driveway at the left of the house and create a pervious area, motion seconded by Theodore Scott, thus reducing the lot coverage to approximately 34%.
- 12F. The Board voted 5-0 to grant a variance as noted above.
- 13F. Paul Giunta made a motion to close the public hearing, seconded by Robert Levine. The Board voted 5-0 to close the public hearing.



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Zoning Board of Appeals

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ZBA Case # 1428-2014
Location: 55 Highland St.

VOTE OF THE BOARD
Signature Sheet

In Favor

In Opposition

Paul Giunta *Paul Giunta*

Paul Giunta _____

Theodore Scott *Theodore Scott*

Theodore Scott _____

Ralph Loftin *Ralph Loftin*

Ralph Loftin _____

Thomas Golden *Thomas Golden*

Thomas Golden _____

Mitchell Gorka _____

Mitchell Gorka _____

Robert Levine *Robert Levine*

Robert Levine _____