



# City of Marlborough Zoning Board of Appeals

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

ZBA Case # 1434-2014  
Name: Shawn Butland  
Location: 44 Ferrecchia Dr.

Date: November 4, 2014

## 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, after a public hearing held at the Marlborough City Hall, 140 Main St. on October 21, 2014.

**Petition:** To erect a structure (attached to the existing garage) within the required minimum 15 ft. side yard setback vs. the proposed 10 ft. 5 inches from the side lot line. The property is located in Zoning District A2, being 44 Ferrecchia Dr., Map 79, Parcel 84 of the Assessors' Map.

After due consideration to the subject matter of the petition, the Board voted 4-1 to (GRANT) a variance, 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 substantially derogating from the intent or purpose of the Zoning Ordinance.

Therefore, the Board **voted** 4-1 with Paul Giunta, Ralph Loftin, Thomas Golden and Mitchell Gorka voting in the affirmative to grant a variance and Theodore Scott voting negative.

Board Member Theodore Scott felt the applicant did not convey to the Board a substantial "hardship" relating to the soil conditions, shape or topography of the land or structure according to Mass. General Law Chapter 40A, Section 10.

A variance was granted on the following terms and conditions:

1. The new structure shall be located as shown on the plan stamped by a Professional Land Surveyor entitled: Proposed Addition, Plot Plan of Land in Marlborough, MA, Scale 1" = 30' Dated 7/31/2014.
2. The new structure cannot be any closer than 10.5 ft. to the side lot line.
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 November 4, 2014.



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## 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 October 21, 2014.

**Board Members present were:** Paul Giunta – Chairman, Theodore Sottt, Ralph Loftin, Thomas Golden and Mitchell Gorka.

Proceedings:

1. **Date of Appeal:** September 18, 2014.
2. **Name and Address of Applicant:** Shawn Butland, 44 Ferrecchia Dr. 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: Petition:** To erect a structure (attached to the existing garage) within the required minimum 15 ft. side yard setback vs. the proposed 10 ft. 5 inches from the side lot line. The property is located in Zoning District A2, being 44 Ferrecchia Dr., Map 79, Parcel 84 of the Assessors' Map.
6. **Section of the Zoning Ordinance involved:** Chapter 650-41 – Table of Lot Areas, Yards and Height of Structures.
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/Minutes:**

1F. The topography of the lot slopes slightly from the existing garage to the side lot line and sharply to the front lot line. The shape of the lot is wider at the front and slightly narrows to the rear of the lot.

2F. The neighboring lots are similar to the lot in question in relation to shape and topography.

3F. The applicant proposes to erect a structure within the required minimum 15 ft. side yard setback vs. the proposed 10 ft. 5 inches from the side lot line. Proposal is to go back 12 ft. from the existing attach two car garage towards the rear of the property. The applicant is filing for a variance under Chapter 650-41 – Table of Lot Areas, Yards and Height of Structures.

4F. **List of exhibits** placed on file:

- A write up attached to his ZBA application dated 9/15/2014
- A denial letter from the Building Dept. dated 9/16/2014
- A plan entitled: Proposed Addition, Plot Plan of Land in Marlborough, MA dated 7/31/2014 (plan is not stamped)
- A GIS map of the area in question.
- The applicant presented photos at the meeting.

5F. Present this evening were Mr. and Mrs. Butland.

6F. There was no one in the audience to speak in favor or in opposition to the petition.

7F. The applicant stated:

- His existing driveway is steep, creating difficulties for entering and existing out of vehicles.
- He has 3 boys in the family who are driving with a 4<sup>th</sup> child who will be driving, creating additional cars to be parked in the driveway.
- The existing garage is poorly designed to accommodate the 2 cars they currently own. The applicant stated he has a truck which is too long to fit into the garage, thus the reason to extend the existing garage towards the rear.
- With the proposed added space they will also have more room for storage.
- There is a column at the middle of the garage which prevents vehicles to be parked for easy access in and out.
- He stated that his abutting neighbor on the left side has no opposition to his proposal. He was going to have his neighbor write a letter, but he is out of town.
- The existing angle of the side lot line prevents him from complying with the city's side yard setback requirement of 15 ft.

- The applicant has elderly parents which makes it difficult for them to enter and exit from a vehicle outside the garage due to the steep driveway.

8F. The applicant's stated hardship:

- The existing attach 2 car garage is poorly designed for easy access.
- The driveway is steep creating a safety issue for people entering and existing out of vehicles.
- His growing family of drivers will create more vehicles onto his driveway.
- He has a truck that will not fit into the garage.
- The shape of the lot is odd shape. The side lot line slightly angles to the rear.

9F. The Board wants to see the plan that was presented this evening to be stamped by their engineer and provide a copy for our file.

10F. On a motion by Mitchell Gorka and seconded by Ralph Loftin, the public portion of the hearing was closed. The Board voted 5-0 to close the public portion of the hearing.

11F. On a motion by Mitchell Gorka and seconded by Ralph Loftin to grant a variance as proposed by the applicant. The Board discussed the applicant's hardship and felt there was a substantial hardship on the shape of the lot in question.

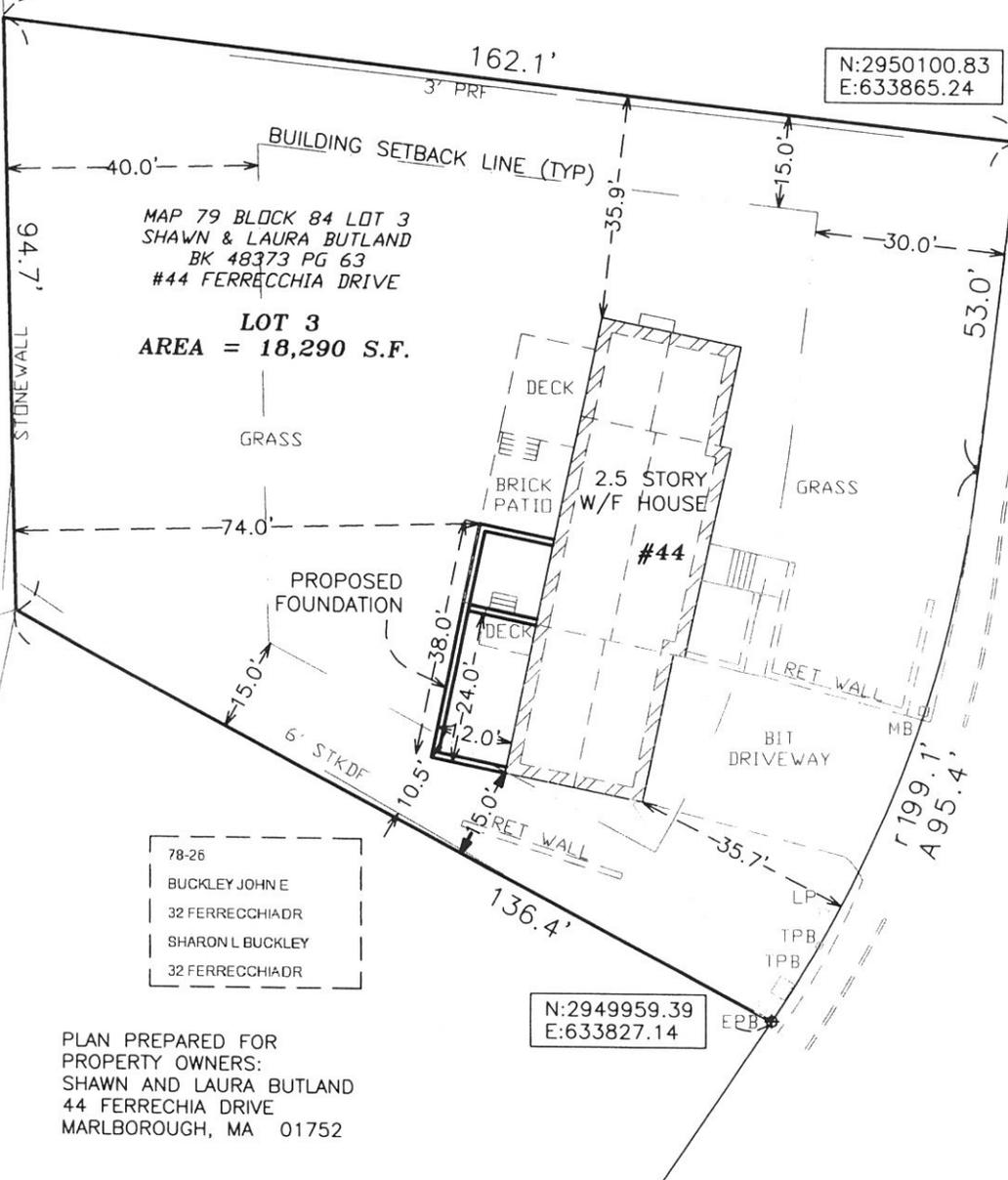
12F. The Board voted 4-1 to grant a variance with conditions.

13F. The Board voted 5-0 to close the public hearing

79-92  
 DARMETKO CHRISTOPHER L  
 56 FERRECCHIA DR  
 ERIN K DARMETKO  
 56 FERRECCHIA DR

LOT AREA = 18,290±S.F.  
 PROPOSED BUILDING AREA = 2,194±S.F.  
 TOTAL BUILDING LOT COVERAGE = 12.0%

MASS STATE PLANE GRID  
 COORDINATE SYSTEM  
 NAD 83 RTK MTS GPS  
 NAD83



N:2950100.83  
 E:633865.24

MAP 79 BLOCK 84 LOT 3  
 SHAWN & LAURA BUTLAND  
 BK 48373 PG 63  
 #44 FERRECCHIA DRIVE  
**LOT 3**  
**AREA = 18,290 S.F.**

**FERRECCHIA DRIVE**  
 APRIL 11, 1975 LAYOUT (PUBLIC - 50' WIDE)

78-26  
 BUCKLEY JOHN E  
 32 FERRECCHIA DR  
 SHARON L BUCKLEY  
 32 FERRECCHIA DR

N:2949959.39  
 E:633827.14

PLAN PREPARED FOR  
 PROPERTY OWNERS:  
 SHAWN AND LAURA BUTLAND  
 44 FERRECCHIA DRIVE  
 MARLBOROUGH, MA 01752

N:2949931.59  
 E:633868.23

SB/DH  
 \*FOUND LAYOUT\*



*T. P. Chapin*

ASSESSORS MBL: 79//84  
 ZONING DISTRICT: A2  
 MINIMUM YARD SETBACK REQUIREMENTS:  
 FRONT = 30.0' SIDE = 15.0' REAR = 40.0'  
 MAX. LOT COVERAGE = 30%

**PROPOSED ADDITION**  
 PLOT PLAN OF LAND IN  
 MARLBOROUGH, MASS

REALMAPINFO.COM  
 CHAPPELL ENGINEERING ASSOCIATES L.L.C.  
 201 BOSTON POST ROAD W SUITE 101  
 MARLBOROUGH, MA 01752  
 508-523-4559

SCALE: 1"=30'      DATE: 07/31/2014  
 DEED REF. BOOK: 48373 PAGE: 063  
 PLAN 272 OF 1976  
 RECORDED @ WORCESTER REGISTRY OF DEEDS



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## VOTE OF THE BOARD Signature Sheet

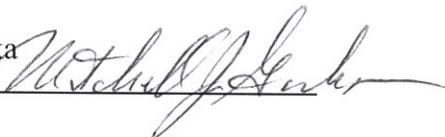
### In Favor

Paul Giunta   
\_\_\_\_\_

Theodore Scott  
\_\_\_\_\_

Ralph Loftin   
\_\_\_\_\_

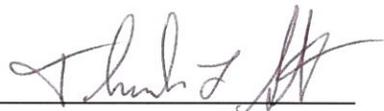
Thomas Golden   
\_\_\_\_\_

Mitchell Gorķa   
\_\_\_\_\_

Robert Levine  
\_\_\_\_\_

### In Opposition

Paul Giunta  
\_\_\_\_\_

Theodore Scott   
\_\_\_\_\_

Ralph Loftin  
\_\_\_\_\_

Thomas Golden  
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Mitchell Gorķa  
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Robert Levine  
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