



City of Marlborough Zoning Board of Appeals

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

ZBA Case # 1436-2015
Location: 620 Farm Rd.

Date: May 5, 2015

(General Laws Chapter 40A) Grant of Variance(s)

To: John Shelales & Alison Makinen
c/o Evan Pilachowski – City Engineer

Address: 135 Neil Street

City: Marlborough, MA 01752

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

620 Farm Rd. Map 85, Parcel 7

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 *sb*


Susan Brown - Secretary

Submitted to the City Clerks' office on May 5, 2015.



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ZBA Case # 1436-2015
Name: John Shelales & Alison Makinen
Location: 620 Farm Rd.

Date: May 5, 2015

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 March 24, 2015 with a continuation hearing on April 21, 2015.

Petition: The City of Marlborough, Dept. of Public Works, are representing the applicants in creating a second driveway to allow residents at 620 Farm Rd. to exit their property and travel eastbound on Farm Rd. while minimizing conflicts with vehicles at the proposed newly constructed signalized intersection at Farm Rd./Broadmeadow St. The proposed second driveway is in violation of §650-47 Landscaping and screening and §650-49 Driveways and curb cuts.

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

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 substantially derogating from the intent or purpose of the Zoning Ordinance.

Therefore, the Board, Paul Giunta-Chairman, Theodore Scott, Ralph Loftin, Robert Levine and Thomas Golden voting in the affirmative to grant a variance(s) on the following conditions:

1. Runoff from the new driveway shall be routed to a nearby catchbasin in street and away from abutter's property
2. Determine distance from front property line to front house corners.
3. Determine the distance, along the street property line, from the east edge of the driveway to the east property corner.
4. Submit revised plot plan showing information stated in conditions 1 thru 3 for the Zoning Board's file.
5. The certified decision and plot plan shall be recorded at the Registry of Deeds.

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 – Acting Chairman

Submitted to the City Clerk's office on May 5, 2015.



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ZBA Case # 1436-2015

Date: May 5, 2015

Name: John Shelales & Alison Makenen
Represented by the City of Marlborough (DPW)

Location: 620 Farm Rd.

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 March 24, 2015 with a continuation meeting on April 21, 2015.

Board Members present were: Ralph Loftin – Acting Chairman, Theodore Scott, Robert Levine and Thomas Golden.

Absent: Paul Giunta

Proceedings:

1. **Date of Appeal:** February 5, 2015
2. **Name and Address of Applicant:** John Shelales & Alison Makenen, represented by the City of Marlborough's DPW, 135 Neil 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:** Petition: The City of Marlborough, Dept. of Public Works, are representing the applicants in creating a second driveway to allow residents at 620 Farm Rd. to exit their property and travel eastbound on Farm Rd. while minimizing conflicts with vehicles at the proposed newly constructed signalized intersection at Farm Rd./Broadmeadow St. The proposed second driveway is in violation of §650-47 Landscaping and screening and §650-49 Driveways and curb cuts.
6. **Section of the Zoning Ordinance involved:** See #5 above.
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:**

1F. The property is located in Zoning District A-2 being Map 85, Parcel 7 of the Assessor's Maps.

2F. The property in question slightly pitches to the right corner of the lot, going out towards Farm Rd.

3F. **Project Description:** The City of Marlborough, Dept. of Public Works, are representing the applicants in creating a second driveway to allow residents at 620 Farm Rd. to exit their property and travel eastbound on Farm Rd. while minimizing conflicts with vehicles at the proposed newly constructed signalized intersection at Farm Rd./Broadmeadow St. The proposed second driveway is in violation of §650-47 Landscaping and screening and §650-49 Driveways and curb cuts.

4F. In the Board's file are two 8 ½ x 12 plan produced by the DPW entitled #620 Farm Rd. Zoning District A-2.

5F. **Present** this evening were Tim Collins, Assistant City Engineer and Evan Pilachowski, City Engineer. Also, Robert Camacho, Building Inspector, was in attendance.

6F. **Abutter(s) speaking in favor:**

- Russ Christopher of 580 Farm Rd. was present. He had the following questions:
 - The safety of the proposed second driveway entering and exiting onto the roadways.
 - How the signalization will work.
 - Why have a break in the middle of the road way, for a car to enter the existing driveway when traveling east.
 - Grading for the proposed second driveway
 - Potential water runoff problems.
 - Wanted some info on how the car(s) in the driveway at 620 Farm Rd. will maneuver in and out onto Farm Rd./Broadmeadow St.
- Mary Lou Shelales of 630 Farm Rd. – Had some questions of the existing chain link fence on the side lot line which the city DPW is stating marks the side lot line. She believes the side lot line is not where the chain link fence is located. Her grandparents once owned the 2 lots as one lot and it was subdivided. She remembers being told by her grandparents that the pine trees at the side marked the side lot line. There is also a pipe at the right corner which marks the side property

line back where the pine trees are located on the side. Her basement is dry now and does not want water runoff from this proposal. She also mentioned pooling of water at the front of her property. Tim Collins assured her that the pitch of the proposed second driveway will be carefully designed and there will be new upgrades to the drainage. Her house was built in the early 70's. 620 Farm Rd. was built in the 50's.

- Councilor Delano was present to speak in favor of the proposal. Farm Rd. has become a very busy road. Many homes and side streets along Farm Rd. make it very difficult to come onto Farm Rd. Traffic signal lights will give breaks to the traffic on Farm Rd. which will give the residence some relief.

7F. There was no one present to speak in **Opposition**.

8F Tim Collins, Assistant Engineer stated:

- We are presenting a construction plan. Because of the snow, we did not survey the lot. DPW did survey the road lines.
- This is a single family home with an existing driveway onto Farm Rd.
- The proposed second driveway is within the 30 ft. front yard setback which is deemed for landscaping. The proposed second driveway will be within that 30 ft. front yard. There will be a low stone wall and some hedges at the front which will shield the proposed second driveway.
- The city is proposing a 10 ft. wide driveway. The existing driveway will remain.
- Lot frontage is 107 ft. which violates the ordinance of 200 ft. between driveways.
- The city's DPW is in the process of reconstructing Farm Rd.
- After a traffic count study, a traffic signal is warranted at Farm Rd./Broadmeadow St.
- The proposed driveway will have a radar pad in which the signal lights will be triggered.
- At the front there will be a low wall and some hedges to shield the proposed second driveway.
- The City felt this proposed second driveway is a safety aspect for the homeowners in entering and exiting from their property once the new traffic signals are in place.
- The city is on a tight time frame to have this project go out to bid.
- DPW used the city's assessor's maps in measuring for the side setback for the proposed driveway.

- 9F. **Hardship** as stated by Tim Collins and Evan Pilachowski:
- Shape of the lot is rectangular.
 - The lot in question has 107.31 ft. vs. 200 ft. of frontage needed for a second driveway opening.
 - The proposed second driveway is a safety factor for the homeowners.
 - The city imposed a hardship onto the homeowners, because of the traffic count study, a traffic signal is needed.
- 10F. Evan Pilachowski stated that maybe within a month, the snow will be melted and they can do the survey of the lot.
- 11F. One of the Board members suggested removing the existing driveway. But, after some discussion, the Board finds it is not doable with just the proposed second driveway.
- 12F. The Board requested the following items:
- Produce a certified plot plan showing the lot lines.
 - Would like to see the abutter's concerns addressed.
 - How will water run-off be controlled and what is the proposed new drainage.
 - Grading of the lot
 - Calculate impervious areas
- 13F. A motion was made by Ralph Loftin to continue this hearing to **April 21st, 2015** until such time the above requests can be produced for the next meeting. Motion seconded by Ted Scott.
- 14F. The Board voted 4-0 to continue the hearing to April 21st, 2015 at 7:00 PM.
- 15F. **April 21, 2015** - The hearing was continued on April 21st at 7:00 PM with Board Members: Paul Giunta – Chairman, Ralph Loftin, Theodore Scott, Robert Levine and Thomas Golden.
- 16F. Paul Giunta informed the secretary, Susan Brown, that he has read the minutes from the Board's March 24th meeting in which he was absent.
- 17F. The hearing was opened up with Tim Collins speaking on behalf of John Shelales & Alison Makinen (owners of 620 Farm Rd.) Also present was Evan Pilachowski, city engineer.
- 18F. Tim Collins stated as requested of him by the Board's March 24' 2015 meeting, provided some information on hard copy form dated April

15, 2015, RE: ZBA Case #1436-2015 – second driveway at #620 Farm Rd. (Shelales property) – copy in Board's file.

19F. According to the above letter the following was stated:

- Lot Coverage – with the proposed driveway, lot coverage will be 12.0% which is well below the maximum allowed 30% in a residents A-2 zone.
- Setback between proposed driveway and property line – Engineering has scaled and plotted the property line on the construction plan and has determined that the setback between the driveway and the side property line is between 20 ft. to 25 ft., which is well above the 5 ft. setback required between a driveway and a side property line.

20F. Tim Collins stated that Gerry Noel, Assistant Building Inspector had no problems with the lot coverage and side setback numbers provided by the engineering dept.

21F. Abutter present:

- Mary Lou Shelales of 630 Farm Rd. abuts the lot in question. She stated she currently has a dry basement and she does not want any water run-off onto her lot.
She also stated her grandfather told the family, the side property line starts where there is a pipe at the corner of the lot. She has on her deed of where the marked front corner is located.

22F. No one was present to speak in **opposition**.

23F. The Board had the following concerns:

- Drainage – with the proposed driveway, how will water runoff affect neighboring lots? Tim Collins stated he has no grading plans as to date.
- The Board would like to have a survey done of the right corner of the lot as you face the lot to where the proposed driveway will be to the side lot line. This will benefit the abutter at 630 Farm Rd. and the Board wants the plan(s) recorded at the Registry of Deeds
- Board wants a revised plan submitted for their file.

24F. The Board is requesting the below as **conditions** if a variance is granted:

1. Runoff from the new driveway shall be routed to a nearby catchbasin in street and away from abutter's property

2. Determine distance from front property line to front house corners.
3. Determine the distance, along the street property line, from the east edge of the driveway to the east property corner.
4. Submit revised plot plan showing information stated in conditions 1 thru 3 for the Zoning Board's file.
5. The certified decision and plot plan shall be recorded at the Registry of Deeds.

25F. A motion was made to grant variances with the above conditions. Robert Levine seconded the motion. On a vote of 5-0, the Board granted variances for the proposed second driveway being in violation of §650-47 and for the Landscaping and screening and §650-49 Driveways and curb cuts.

26F. With no other testimony taken or given, the public hearing was closed.

27F. The meeting was adjourned.



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VOTE OF THE BOARD Signature Sheet

In Favor

Paul Giunta *Paul Giunta*

Theodore Scott *Theodore Scott*

Ralph Loftin *Ralph Loftin*

Thomas Golden *Thomas Golden*

Mitchell Gorka

Robert Levine *Robert Levine*

In Opposition

Paul Giunta

Theodore Scott

Ralph Loftin

Thomas Golden

Mitchell Gorka

Robert Levine
