

Marlborough, MA
Zoning Board of Appeals
Minutes
September 27, 2016

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

230 Hudson St. – Jennifer Macedo - ZBA Case #1442-2016

Members sitting: Paul Giunta, Thomas Golden, Theodore Scott, Ralph Loftin
and Robert Levine.

Petition: To expand her existing 25 ft. driveway opening to 27 ft. In
accordance to the Marlborough City Code Chapter 650-49.B7) maximum
curb opening shall be 25 ft. (not including the driveway return). The
property is located at 230 Hudson St. being Map 43, Parcel 31 of the
Assessor's Maps. Property is located in Zoning District A-3.

Ms. Macedo was present. She requested a continuance of her hearing. She
needed more time to notify her abutters. With the consent of the applicant
and with a vote of 5-0, the hearing was continued to October 25, 2016.

**796 Boston Post Rd. – Jeffrey Glew, Manager 796 BPR, LLC
ZBA Case #1443-2016**

Members sitting: Paul Giunta, Thomas Pope, Theodore Scott, Ralph Loftin
and Robert Levine. (Thomas Golden abstained)

Petition: Proposed parking lot changes. A minimum landscaped strip in a
nonresidential zone is required to be a minimum of 15 ft. with an addition
setback of 5.35 ft. due to the existing frontage being greater than 100 ft. for a
total required landscaping strip of 20.35 ft. in width. A small triangular
section does not meet this section of the zoning by laws. Section 650-47.

The property is located in Zoning District Business, being Map 61, Parcels 29
and 29A of the Assessors' maps.

The 2 lots in question have the following features:

- #794 (Lot 29) Boston Post Road East - contains 34,484 sq. ft. with a
structure.
- #796 (Lot Lot 29A) Boston Post Road East – contains 33,033 sq. ft.
with a structure.
- These 2 lots are rectangular in shape with an irregular front lot line.
- The topography of the lots slopes considerably to the rear.

- At the rear of these two lots are an additional 28 parking spaces
- At the front there are 32 parking spaces
- At the rear of these two lots are wetlands.
- Adjacent to the left of building #794 and to the rear of these two lots is a city's sewer and access easement.
- The front lots lines to these 2 parcels abuts greenspace owned by Mass. Highway and beyond that is the street.
- There is free passage from said lots into #814 Boston Post Rd.
- The 2 lots have over 200 ft. of frontage, so that equals 21 ft. between the lot line and right of way line.

The abutting lots are of various shapes and sizes. The two lots abutting the lots in question have wetlands located at the rear of their lots.

The applicants were represented by Atty. Sandra Austin, 40 Mechanic St., Marlborough, MA. and Bruce Saluk of Bruce Saluk & Associates. The owners of the 2 lots are Dave McKay and Jeffrey Glew.

Proposal: Existing sidewalk in front of the stores will remain. They will attach a new concrete sidewalk to the existing one, which will push forward existing parking spaces. They would like to straighten out the parking line at the front lot line which will increase parking spaces from 32 to 34 (includes 2 handicapped spaces). There are currently 28 parking spaces in the rear. The side entrance from 782 Boston Post Rd. into 794 Boston Post Rd. will be eliminated. There will be new landscaping between #782 and #794 Boston Post Rd. Also new landscaping and paving in front of the stores and new landscaping at the front lot line.

The applicant provided a plan entitled: "Preliminary Site Plan, #794-#796 Boston Post Rd. East, Marlborough, MA Prepared by: Bruce Saluk & Associates, Inc. Dated: Rev. 9/6/2016. (in Board's file)

The applicant provided a list of proposed plantings. (in Board's file)

Hardships as stated by applicant:

- Safety issues in entering and existing out of the lots in question. Also safety for the general public within the plaza.
- Landscaping will be more efficient with new pavement and plantings at the front of the stores and also new plantings at the front lot line.
- The proposal will provide a better flow of traffic into the site. Cars will be forced to slow down as they enter the plaza from Boston Post Rd.
- The applicant is trying to make the buildings more viable.

- The variance request is minor, improvements to the site is visual and the character of the site will be maintained. (Section 650-47A)
- The shape of the lots, being rectangular with an irregular front lot line.
- The dimensions of the property require that the parking lots be changed for safety reasons. The hardship is based on the dimensions of the property, as opposed to lot coverage or something else.
- The shape of the lot and the location of the existing buildings limits their ability to improve the appearance of the 2 lots.
- Atty. Auston stated the requested variance is dimensionally based.

Currently there are 5 tenants on site.

Ted Scott, a Board Member, stated that the existing set back to the parking lot on the right side is 18 ft. , and the proposed set back is 1.5 ft. , this is not a minor deviation. There is no assurance the abutting grass strip owned by the State will remain as green space.

Bruce Saluk stated that the State strip of land is abandoned. He felt it was not probable the State will come in to do something with that strip of land.

It was suggested by the Board that maybe the applicant should try to purchase the State strip of land. The attorney stated they have not considered that and it would be a lengthy process. The Board wanted assurance that the State will not do anything with their strip of land.

The Board suggested that the applicant Withdraw Without Prejudice giving the applicant some time to do some research in asking what the State's plans are for this strip of land. The Applicant said that the state usually reserves a shoulder adjacent to their roadway. The board said they would consider the Applicants position if they could show the shoulder in the State's standard details or other literature.

Paul Giunta, Board Member, stated he can see the safety aspect of the proposal and the improvements will enhance the site. He also suggested they try to purchase the strip of land from the State.

Ralph Loftin, Board Member, stated he agrees the proposal is attractive and will improve safety. He also stated that "hardship" means that the property can't be used as it is zoned for unless a variance is granted, which is not the case here. There must be other ways that "safety" can be addressed on these 2 lots. It is not the role of the Board to grant variances to enhance the front of this property. The Board is bound by the definition of a "hardship".

No one spoke in opposition.

Speaking in favor:

- Ms. Kortel – 782 Boston Post Rd.
 - She is in favor of eliminating the entrance between her lot and the 2 abutting lots.
 - The proposal will be an improvement to the 2 lots and to the surrounding neighboring lots.
 - The improvements will be an asset to the east side of the city.

In the audience was also Ms. Kortel's real estate advisor, Stan Gordon.

The owners of the 2 lots, Mr. McKay and Mr. Glew, stated they purchased the property approximately 7 months ago. At that time, there were 4 vacant store fronts. Parking was a problem when they purchased the lots.

The Board asked the applicant if they would like to continue the public hearing in order for them to contact the State to ask what their intentions are for that strip of land. A Board Member requested a few examples of case law that support a "dimensional" issue as a criteria (hardship) for a variance. Atty. Austin agreed to research case law and contact the State. With the consent of the applicants, the hearing was continued to October 25, 2016.

A motion was made by Ralph Loftin, seconded by Theodore Scott to continue the public hearing to Oct. 25th, 2016 at 7:30 PM. The Board voted 5-0 to continue the hearing to October 25, 2016.

The meeting was adjourned.

Respectfully submitted,


Paul Giunta *ps*
Chairman