



City of Marlborough Zoning Board of Appeals

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

ZBA Case **1440-2016**
Location: **38 Lakeshore Dr.**

Date: April 13, 2016

(Mass. General Laws Chapter 40A)

The Board of Appeals of the City of Marlborough, MA hereby certifies that a Variance or Special Permit or Extension Permit has been granted:

To: Collette Sychantha
Address: 38 Lakeshore Dr.
City: Marlborough, MA 01752

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

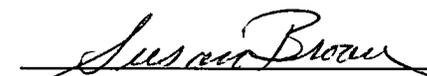
38 Lakeshore Dr. (Map 5, Parcel 41)

And the said Board of Appeals further certifies that the decision attached hereto is a true and correct copy of its decision has been filed with the City Clerk.

Any person aggrieved by a decision of the Board of Appeals or any special permit granting authority or by the failure of the Board of Appeals to take final action concerning any appeal, application or petition within the required time or by the failure of any special permit granting authority to take final action concerning any application for a special permit within the required time, whether or not previously a party to the proceeding, or any municipal officer or board may appeal to the superior court department in which the land concerned is situated.....by bringing an action within twenty (20) days after the decision has been filed in the Office of the City or Town Clerk. (Reference: Mass General Law Chapter 40A, Section 17)



Paul Giunta - Chairman



Susan Brown - Secretary

Submitted to the City Clerks' Office on **April 13, 2016.**



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ZBA Case # 1440-2016
Name: Collette Sychantha
Location: 38 Lakeshore Dr.

Date: April 13, 2016

**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 8, 2016 with continuation hearings on April 5, 2016 and April 7, 2016.

Petition:

Collette Sychantha is seeking a variance to continue utilizing the current parking area located at the front of her lot (street level) at her fire destroyed house at 38 Lakeshore Dr. (Zoning District A-3, being Map 5, Parcel 41 of the Assessor's Maps) Current regulations for driveway/parking areas restrict the road opening to 24 ft. (Chapter 650-48 C(5) vs. the existing parking area in the front which contains approximately 90 ft. road opening.)

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

After due consideration to the subject matter of the petition, the Board voted 4-0 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 and Thomas Golden voting in the affirmative to grant variances on the following three (5) terms and conditions:

1. The proposed work will be in accordance with the plan entitled "Plot Plan – 38 Lakeshore Dr. Marlborough, MA - Prepared by Bruce Saluk & Associates, Inc. Prepared for: Mills Construction Corp, Inc. Dated December 15, 2014 Scale: 1" = 20' and revised April 1, 2016.
2. According to the above plan, the parking spaces are stripped. It will be at the discretion of the Building Inspector if he wants them stripped.
3. The City Engineer's office will review if any controls with regards to storm-water runoff are necessary on the site. The City Engineer's office will submit a letter to the Board of their findings.
4. The City Engineer's office will review and approve any changes to the proposed grading.

5. If a wall or walls is to be constructed, the Building Dept. and/or Engineering Dept. will review the design for approval.

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 April 13, 2016.



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Location: 38 Lakeshore Dr.

Date: April 13, 2016

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 8, 2016 with a continuation meeting on April 5th and April 7th, 2016.

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

Proceedings:

1. **Date of Appeal:** January 14, 2016
2. **Name and Address of Applicant:** Collette Sychantha, 38 Lakeshore 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:** Collette Sychantha is seeking a variance to continue utilizing the current parking area located at the front of her lot (street level) at her fire destroyed house at 38 Lakeshore Dr. (Zoning District A-3, being Map 5, Parcel 41 of the Assessor's Maps) Current regulations for driveway/parking areas restrict the road opening to 24 ft. (Chapter 650-48 C(5) vs. the existing parking area in the front which contains approximately 90 ft. road opening.)
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. Clarification for the record – Regarding the Code Enforcement Officer’s letter to Collette Golgata-Sychantha dated January 7, 2016 and submitted to this Board. The letter states “...you definitely have a “hardship” as defined under the zoning laws.”. Let the record show that this board understands that it is our duty to officially determine if there is a hardship in accordance with MA General Laws Chapter 40A.

2F. Chapter 650-48(C)(5) requires that off street parking shall not exceed 24' wide between the front lot line and front yard building setback, which is 30' in this case for Zoning District A3. The width of the applicant’s parking area is not dimensioned, but is at least 70'.

3F. **Topography:** The lot slopes from the road upward to the back lot line.

4F. **History:** The house was destroyed by fire on November 5, 2013, and demolished on April 2014. A building permit was issued on July 30, 2015. There is an existing retaining wall at the front of the lot in which the applicant proposes to rebuild with terracing walls. There is a 90 ft. wide opening at the front of the lot which has been and currently used for parking vehicles.

5F. **Present** this evening were:

- Pamela Wilderman – Code Enforcement Officer – clarified on certain issues of the petition.
- Collette Sychantha – the applicant
- Lee Thomson – 37 Lakeshore Dr. - spoke on behalf of the applicant.

6F. The Board feels the application has merit:

- The parking area was a non-conforming condition. The rebuilding of the proposed house after the fire is what is triggering the variance; not anything the applicant purposefully did. Therefore, granting a variance would not nullify or detract from the intent or the purpose of the Zoning Ordinance.
- There is a hardship that is caused by the topography of the lot. Trying to construct a typical 24' wide driveway would be extremely costly due to the steep upward slope of the lot and the fact that driveways have to meet current ordinances governing slope.
- There are other properties in the neighborhood that have non-conforming parking areas. Therefore, a variance would not necessarily diminish the public welfare. However, more detail is needed to verify the size and location of the off street parking area.

7F. **Hardship:**

- The applicant stated her hardship is that her house was destroyed by fire. The topography of the lot is on a slope and because of the slope, it would be difficult and costly to design a driveway to conform to the city's current zoning code.

8F. The proposed new house was moved forward in order to better conform to the rear yard setback.

9F. The applicant stated the parking area will accommodate 5 + cars. The applicant has 2 sons with their significant others and her brother who will be living in new proposed house.

10F. **Speaking in favor of the petition:**

- Lee Thomson - 37 Lakeshore Dr. Marlborough, MA 01752
- Mr. Macinnis - 16 Wakefield Rd., Marlborough, MA 01752
- Ms. O'Connell - 43 Lakeshore Dr., Marlborough, MA 01752

11F. There was no one speaking in opposition to the petition.

12F. The applicant presented for Board's file the following:

- Many photos of the lot in question.
- A narrative of the history of the lot.
- A plan entitled "Plot Plan - 38 Lakeshore Dr. Marlborough, MA - Prepared by Bruce Saluk & Associates, Inc. Prepared for: Mills Construction Corp, Inc. Dated November 15, 2014 Scale: 1" - 20'.
- A letter dated Jan. 7, 2016 from Pamela Wilderman-Code Enforcement Officer to Collette Gulgata-Sychantha.

13F. Before a determination can be made, additional information, as required in the Application for variance needs to be submitted.

A certified plot plan needs to be updated to show:

1. Location of proposed construction such as the new foundation and retaining wall or walls,
2. All measurements and offsets of the proposed foundation, parking area, proposed retaining wall or walls and edge of pavement,
3. The dimensions of parking spaces in the parking area, so that it can be determined how many spaces are proposed and that these spaces do not encroach on the public way,
4. Letter from the Building Commissioner's office approving the parking plan.

14F. After much discussion, the Board continued the public hearing to April 5th, in order for the applicant to submit the items mentioned above. The hearing is continued to April 5th (Tuesday) at 7:00 PM.

2. All measurements and offsets of the foundation, parking area, retaining wall and edge of pavement now shown on the plot plan are acceptable.
3. The dimensions of parking spaces in the parking area, so that it can be determined how many spaces are proposed and that these spaces do not encroach on the public way, now shown on the plot plan are acceptable.

22F. An e-mail dated April 5, 2016 from Pamela Wilderman-Code Enforcement Officer to the ZBA stating that the Building Commissioner is in agreement with the proposed parking area as shown on the plan was submitted and is acceptable.

23F. A motion made by Theodore Scott and seconded by Ralph Loftin to close the public hearing. On a vote of 4-0, the public hearing was closed.

END



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Applicant: Collette Sychantha

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 _____

Robert Levine _____

Robert Levine _____