



**City of Marlborough  
Zoning Board of Appeals**

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

**ZBA Case # 1442-2016**  
**Location: 230 Hudson St.**

**Date: November 22, 2016**

**(General Laws Chapter 40A, Section 16)  
Grant of a Variance**

To: Jennifer Macedo  
Address: 230 Hudson St.  
City: Marlborough, MA 01752

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

**230 Hudson St. Map43, Parcel 31**

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 November 22, 2016.



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ZBA Case # 1442-2016  
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## 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 25, 2016 with a continuation hearing date of November 15, 2016 made the following decision.

**Petition:** The applicant is proposing to add a third parking space adjacent to the existing two parking spaces. The variance request is affecting the following chapters: **Chapter 650-48C(5)(a)(1)** "One and two family dwellings. Off street parking shall not be permitted in the area between the front lot line and the prescribed minimum front yard (building setback line), except on a driveway not exceeding 24 ft. in width located essentially perpendicular to the front lot line and authorized at site plan approval" and **Chapter 650-49.B7** "The maximum width of any curb opening measured at the street line shall be 25 feet, not including the driveway returns, unless authorized by the City Engineer and City Planner at site plan approval based on safety and planning considerations".

The Board finds the following:

- The shape of the lot is a reverse "pie" shape with the wider portion of the lot toward the rear.
- The lot slopes considerably from the front to the rear. There is also a slight slope on the two sides. There is a wall on the left side of the lot in question.
- The existing house is set close to the front lot line.
- The existing two parking spaces are located at the front of the house, close to the front lot line.
- The two adjacent lots have their driveways located either on or near the side lot lines.
- There is no curb cut on said lot, just an opening.

After due consideration to the subject matter of the petition, the Board voted with Paul Giunta-Chairman, Theodore Scott, Thomas Golden and Robert Levin voting in the affirmative and Ralph Loftin voting in the negative. Variances were granted 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 to grant variances on the following **terms and conditions**:

1. The proposed curb opening will be 27 ft. vs. the 24ft. maximum required, thus a 3 ft. variance.

2. No Building Permit can be issued until such time as the applicant presents to the Building Inspector evidence that said variance with its restrictions and 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 22, 2016.



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Marlborough, Massachusetts 01752  
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ZBA Case # 1442-2016

Date: November 22, 2016

Name: Jennifer Macedo

Location: 230 Hudson St.

## 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 September 27, 2016 with continuation dates of October 25, 2016 and November 15, 2016.

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

### Proceedings:

1. **Date of Appeal:** August 17, 2016
2. **Name and Address of Applicant:** Jennifer Macedo, 230 Hudson 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:** The applicant is proposing to add a 3 parking space adjacent to the existing 2 parking spaces. Chapter 650-48C(5)(a)(1) One and two family dwellings...Off street parking shall not be permitted in the area between the front lot line and the prescribed minimum front yard (building setback), except on a driveway not exceeding 24 ft. in width located essentially perpendicular to the front lot line and authorized at site plan approval and Chapter 650-49.B7 Maximum curb opening shall be 25 ft. (not including the driveway return) to the applicant's request for a variance.
6. **Section of the Zoning Ordinance involved:** See 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 in question is located at 230 Hudson St. being Map 43, Parcel 31 of the Assessor's Maps. Located in Zoning District A-3.

2F. Present this evening was the applicant, Jennifer Macedo.

3F. Petition: The applicant proposes to expand her existing 25 ft. driveway opening to 27 ft. And to also expand her existing pavement to accommodate a 3<sup>rd</sup> vehicle for her son's car. Thus requesting an additional 2 ft. to her existing 25 ft. wide driveway opening. Maximum curb opening is 24 ft.

4F. The Board finds the following:

- The lot contains 28,625 sq. ft.
- Front lot line is 44.65 ft. vs. the minimum required of 100 ft. for Zoning District A-3.
- This is an odd pie shape lot which fans out to the rear. The lot slopes from the front to the rear. With a slight sloping effect on both sides.
- If the applicant tries to construct a parking space to the right or left of the house, it may encroach onto the side property lines.
- The driveways to the left and right of the 230 Hudson St. (the lot in question) are against or on the side lot lines.
- If she can add 2 ft. to the left of the existing paved parking area, it will leave 8 ft. ± to the side lot line.

5F. The applicant stated she is located a few houses down from Marlborough Hospital. She did not want to park her cars on the street if they will impede in any way with emergency vehicles.

She also stated that there is no parking on Hudson St. The Board corrected her to say there is allowed parking on Hudson St., but of course there is a winter ban throughout the city in which there is no street parking in the evenings and during storm events.

6F. Neighbors informed her that before she bought the house, there was spaced enough for 3 cars in the driveway. She purchased the house at a foreclosure, which she razed and rebuilt. Her contractor at that time told her she may have to go to the city about adding a 3<sup>rd</sup> parking space, considering there are 2 spaces in the front.

7F. Her neighbors have no objections to her petition.

8F. **Hardship** as stated by the applicant:

- The shape of the lot is a pie shape lot, which fans out towards the rear.
- The lot slopes from the front to the rear, with a slight sloping to the sides.
- No logical location to add another parking space due to the location of the existing house.

9F. Board Member, Ralph Loftin, stated that the code limits to a 24 ft. wide curb opening. Being an inconvenience does not constitute as a hardship. It appears the applicant has ample room on her lot to create another parking space.

10F. Board Member, Theodore Scott, stated that maybe there is a case of a hardship here by having a 40 ft. ± frontage vs. 100 ft. minimum required for Zoning District A-3. The topography of the lot slopes from front to rear and on the sides. But, she did purchase the house knowing she had 2 parking spaces in her driveway. The lot has limited frontage with existing structure being close to the lot lines.

11F. Speaking in favor of the petition:

- 212 Hudson St. – Joseph Bisol stated the applicants purchased the house at a foreclosure. The applicants have done lots of work to bring the lot and house looking good. During the reconstruction of Hudson St., the city did not install curbing to this portion of Hudson St. He also stated that his neighbor to the right of him, 222 Hudson St. – Albertine, is also in favor of the petition.

12F. No one spoke in opposition to the petition.

13F. There were no questions from the audience.

14F. With no other testimony taken or given, the public hearing was closed.

15F. Board Member, Theodore Scott, stated, the lot in question is pie shaped and it appears that it is only pie shape lot in the area. It has an existing structure on the lot. The topography of the lot slopes from front to rear. There is also a slight slope on the two sides. The abutting house lots on both sides of her have their driveways on the side lot lines. There is topography and shape constraints which does not allow the applicant to use her lot space as needed.

16F. The Board realized the original petition is for the curb opening, but also needed was a variance for driveway width. In order to address the driveway width, the Board would like a letter from Pamela Wilderman, Code Enforcement Officer to that affect.

17F. The applicant agreed to waive the 75 days for the Board to vote on her petition. The letter she signed is in Board's file. With that said, the hearing was continued to November 15, 2016.

18F. The hearing was continued to **Nov. 15, 2016** with the following members present: Paul Giunta-Chairman, Theodore Scott, Ralph Loftin, Thomas Golden and Robert Levine. (Thomas Pope was also present, but abstained)

19F. Also present was the applicant Jennifer Macedo.

20F. A motion was made by Theodore Scott, seconded by Ralph Loftin to re-open the public hearing in order for the applicant to speak.

21F. In Board’s file is the requested letter from Pamela Wilderman-Code Enforcement Officer, dated October 28, 2016, adding that Marlborough City Code Chapter 650-48C(5)(a)(1) One and two family dwellings...Off street parking shall not be permitted in the area between the front lot line and the prescribed minimum front yard (building setback), except on a driveway not exceeding 24 ft. in width located essentially perpendicular to the front lot line and authorized at site plan approval...should be added along with Chapter 650-49.B7 Maximum curb opening shall be 25 ft. (not including the driveway return) to the applicant’s request for a variance.

22F. Board Member, Theodore Scott, stated that he felt the applicant has a hardship. He stated the following:

Minimum Lot Frontage for Zoning District A-3 = 100 ft.	Existing Lot Frontage = 44.65 ft.	
Maximum allowed Curb opening = 24 ft.	Existing curb opening = 25 ft.	Petition to expand curb opening to 27 ft.
Thus requesting a 3 ft. variance.		

- The lot is “pie” shape, with the narrow portion of the pie shape at the front, and widening towards the rear. thus prohibiting the lot to have more frontage.
- Because of the topography of the lot, a retaining wall would need to be constructed at the right of the house, if a driveway was to be extended towards the rear.
- The existing house is located towards the front lot line, thus creating less area on the sides.
- There are no curb cuts on this portion of Hudson St.
- He feels there is no detriment to the public good, because it is only a couple of feet.
- The width of this portion of Hudson St. is narrow. If cars were to be parked on the street, emergency vehicles will find it difficult to pass, being in close proximity to Marlboro Hospital.

23F. Board Member had the applicant re-iterate her hardship:

- The pie shape lot
- Sloping of the lot from front to rear. And slight sloping on the sides.
- No other options to acquire a 3<sup>rd</sup> parking space.

24F. Ralph Loftin, Board Member, stated:

- If lot did not slope to the right, there should be room to add a parking spot.
- If the property was level- would she get a variance?

25F. A motion was made by Theodore Scott and seconded by Thomas Golden to approve the 3 ft. variance request. The Board voted 4-1 to grant the variance with conditions.

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