



# City of Marlborough Zoning Board of Appeals

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

ZBA Case # 1470-2020  
Location: 28 Richard Rd.

Date: December 4, 2020

## (General Laws Chapter 40A, Section 16) Withdraw Without Prejudice

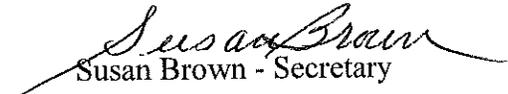
To: Peter Keeping  
Address: 28 Richard Rd.  
City: Marlborough, MA 01752

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

**28 Richard Rd. Map 19, Parcel 265**

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

  
Susan Brown - Secretary

Submitted to the City Clerks' office on December 4, 2020.



*City of Marlborough*  
*Zoning Board of Appeals*

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ZBA Case #1470-2020  
Applicant: Peter Keeping  
Location: 28 Richard Rd.  
Date of Application: September 21, 2020  
Date of meeting and decision: November 17, 2020

Date filed: December 4, 2020

**Zoning Board of Appeals  
Decision  
Withdraw Without Prejudice**

**Petition** – To construct a carport at 28 Richard Rd., located in a Residence A-3 Zoning District. This proposal does not comply with Chapter 650-41 of the City Code of Marlborough. The "Table of Lot Area, Yards and Height of Structures states that the side yard setback minimum is 15 ft. vs. the proposed 10 ft. Variance required. Being Map 19, Parcel 265.

**Present:** In Memorial Hall were Paul Giunta-Chairman, Robert Levine, and Thomas Pope. Also Susan Brown-Secretary  
Meeting remotely were Ralph Loftin and Thomas Golden.

A roll call vote was taken to open up the public meeting: Paul Giunta-yea, Ralph Loftin-yea, Robert Levine-yea, Thomas Golden-yea and Thomas Pope-yea. Vote 5-0 carries.

**Applicants:** Peter Keeping and Irene Heemon appeared remotely.

**Plan presented:** Certified Plot Plan Showing Proposed Carport, Prepared by Horgan Surveying, Stamped by: James P. Hogan Dated: 8/17/2020.

**Vote:** This is to certify that at the Zoning Board of Appeals' meeting of November 17, 2020 by a majority vote passed Granting the applicants' request to Withdraw their petition Without Prejudice. A roll call vote was taken: Paul Giunta-yea, Ralph Loftin-yea, Robert Levine-yea, Thomas Golden-yea and Thomas Pope-yea. Vote 5-0 carries for the applicants to Withdraw Without Prejudice.

Respectfully submitted,

  
Paul Giunta - Chairman  
Zoning Board of Appeals  
Date: December 4, 2020

ZBA to the City Clerk's Office: A copy of this decision was filed with the City Clerk on December 4, 2020



The stated **hardship** by the applicants:

1. Irene Heemon, the wife, has arthritis. The ailment makes it difficult for her to get to her car from the house during winter months.
2. The topography of the lot slopes downward from the street to the rear of the house. The portion of the driveway that abuts the house, where the proposed carport will be constructed is slightly flat.

The applicant stated that the existing driveway is 10 ft. from the side lot line. The proposed carport will not go beyond the edge of the existing driveway. This proposal will not be a detriment to the neighborhood. She also stated that considering no one has objected to the petition, she does not see why they can't receive a variance. The proposed carport will not take away from the appearance of the neighborhood.

The Board stated that personal hardship is not a criteria for granting a variance. There is nothing in the above stated hardships that constitutes a hardship according to Mass. General Law Chapter 40A. The Board further stated that:

1. The applicants are not prevented from using their property as it is presently zoned.
2. Having a personal medical disability is not a hardship.
3. A variance goes with the property and recorded against the property, not to an individual.
4. The Board gave a few examples of a hardship, according to Mass. General Law Chapter 40A.
5. By granting a variance, it would set a precedent to other similar lots in the area.
6. Almost every house lot in the area is square in shape and situated on a sloped lot with a sloped driveway. The topography of the lot in question is not unique from other lots in the area.

Questions from the general public – none.

Speaking in opposition to the petition – none.

Speaking remotely in favor of the petition:

- Henry Stevenson – 38 Richard Rd. Marlborough, MA – stated he is not opposed to the proposed carport. He would like to see a design of the carport. His concern was that he does not want to see a wall added to the side of the proposed carport, facing his house.

After much discussion, the applicants requested to “Withdraw Without Prejudice”

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A motion was made by Robert Levine and seconded by Thomas Pope to allow the applicant to "Withdraw Without Prejudice". A roll call vote was taken: Paul Giunta-yea, Robert Levine-yea, Ralph Loftin-yea, Thomas Golden-yea and Thomas Pope-yea. A Vote 5-0 carries to allow the applicant to "Withdraw Without Prejudice".

A motion was made by Robert Levine and seconded by Thomas Golden to close the public hearing. A roll call vote was taken: Paul Giunta-yea, Robert Levine-yea, Ralph Loftin-yea, Thomas Golden-yea and Thomas Pope-yea. Vote 5-0 carries to close the public hearing.

Respectfully submitted,

Handwritten signature of Paul Giunta in cursive script.

Paul Giunta  
Chairman  
Zoning Board of Appeal

Submitted to the City Clerks office on December 4, 2020



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**Zoning Board of Appeals**  
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**Location: 28 Richard Rd.**

**Applicant: Peter Keeping**

**VOTE OF THE BOARD**  
**Signature Sheet**

**In Favor**  
**To Withdraw Without Prejudice**

**In Opposition**  
**To Withdraw Without Prejudice**

Paul Giunta *Paul Giunta*

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

Ralph Loftin *Ralph Loftin*

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

Thomas Golden *Thomas Golden*

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

Thomas Pope *Thomas Pope*

Thomas Pope \_\_\_\_\_

Robert Levine *Robert Levine*

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