



**Town of Marblehead**  
**Zoning Board of Appeals**

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**APPEAL FORM**

(Appeal of the Building Commissioner's Action/Inaction Regarding Zoning Enforcement)

Date: 3/8/21

With respect to the property at (address): 12 BUCHANAN ROAD

Assessor Map Number: 6321 Parcel Number: 49 21 0

Pursuant to Chapter 40A, §8 of the General Laws and Chapter 200-2-I of the Marblehead Zoning Bylaw and **Section 7 of the Rules and Regulations of the Board of Zoning Appeals**, I (we) respectfully appeal to the Board of Appeals the following action taken or not taken, or determination made, by the Building Commissioner and/or Local Inspector:

- ☐ (a) the failure to take a requested enforcement action. The written request for enforcement, the written response (if any), and a written statement specifying the grounds for this appeal are attached to this Form
- ☐ (b) the failure to issue a requested building permit. The application for the building permit, the written notice (if any) of the denial of the permit, and a written statement specifying the grounds for this appeal are attached to this Form.
- ☒ (c) an order or decision of the Building Commissioner and/or Local Inspector. The written order or decision (if any) and a written statement specifying the grounds for this appeal are attached to this Form.

Applicant Signature: [Signature]

Applicant Name Printed: SUREN MASUMYAN

Applicant Address: 12 BUCHANAN ROAD

Applicant Phone Number: (Home) \_\_\_\_\_ (Work) 720/722-2022 (Fax) \_\_\_\_\_

(Email) SUREN.MASUMYAN

Form Complete: Town Engineer's Office: [Signature] Date: 3-12-21  
(Signature)

**Eng. Dept. - MaryAlley Municipal Building, 7 Widger Road, Marblehead, MA 01045**  
**Phone: 781-631-1529** **Fax: 781-631-2617**

Revision Date: 9/22/2011



**Sterrett Law, PLC**  
Boston Experience Vermont Prices

Offices in:  
Boston, Massachusetts  
Williston, Vermont

March 2, 2021

Via E-mail (townclerk@marblehead.org) and Overnight Delivery  
Robin A. Michaud, Town Clerk  
Town of Marblehead  
188 Washington Street, Abbott Hall  
Marblehead, MA 01945

Re: Notice of Appeal to Town of Marblehead Zoning Board of Appeals from  
Building Commissioner, Robert Scott's February 17, 2021 Notice of Violation to  
Suren Masumyan of 12 Buchanan Road Marblehead, MA 01945

Dear Clerk Michaud:

Pursuant to M.G.L. c. 40A, §§ 8, 15, I am filing this Notice of Appeal of Building Commissioner Robert Scott's February 17, 2021 Notice of Violation to Suren Masumyan (the "Notice of Violation"). Please stamp the second copy of the notice I have included with the time and date of receipt and return it to me in the self-addressed envelope so I can provide certified copies to the Building Commissioner and Zoning Board of Appeals as required by G.L. c. 40A, § 15. I have attached Commissioner Scott's Notice of Violation to this letter as Exhibit 1 so it will be a part of the record before the Zoning Board of Appeals for this appeal.

**Grounds for Appeal of Notice of Violation**

Mr. Masumyan is filing an appeal of the Notice of Violation for the following reasons:

1. *The Previous Building Commissioner Assented to Mr. Masumyan's Temporary Outdoor Grill*

As a preliminary matter, Mr. Masumyan is appealing the Notice of Violation because the previous Building Commissioner approved his temporary outdoor grill. When Mr. Masumyan met with the previous Building Commissioner at his property to review the temporary outdoor grill, the previous Building Commissioner told Mr. Masumyan that it was not a problem and that Mr. Masumyan was not in violation of the building code. This fact is supported by evidence that the previous Building Commissioner did not cite Mr. Masumyan for a violation for the temporary outdoor grill.

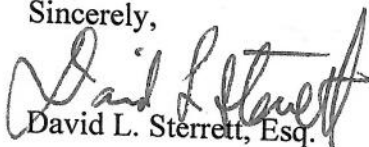
2. *The Temporary Outdoor Grill is Not a "Structure" Regulated by the Building Code*

The Building Code does not envision regulating the temporary grills and firepits that families are installing in their backyards throughout the Commonwealth during the COVID-19 pandemic. Mr. Masumyan's temporary outdoor grill is not a danger to anyone nor is it causing any sort of nuisance to other neighbors. Selective citation of this temporary grill would require the Building Commissioner to search every backyard in Marblehead to investigate everyone's grills. That would be a terrible waste of the Building Commissioner's scarce resources. This temporary outdoor grill is not in violation of the building code and the Building Commissioner's efforts should be focused on actual violations that are a danger to the public.

3. *COVID-19 Restrictions Should Permit Outdoor Installations Until Herd Immunity is Reached in the Commonwealth*

Just like so many families throughout the Commonwealth who have been obeying the Governor's orders to stay home, Mr. Masumyan, his wife, Albina, and their children have been sheltering at home for the last year. Similar to so many other families in Marblehead, they have come up with creative ideas to spend more time outdoors and do their part to prevent COVID-19 from spreading. Outdoor grills and family seating areas have been sprouting up throughout the Town. These are extremely important temporary installations to allow families to get some fresh air and stave off the serious mental health issues that have been a very serious consequence of people being isolated at home. Any enforcement action to remove outdoor installations should be stayed until herd immunity is reached in the Commonwealth and the Governor has allowed a complete return to normal activities.

Sincerely,

  
David L. Sterrett, Esq.

cc: Suren Masumyan

# Exhibit 1



Robert Scott  
Commissioner

Town of Marblehead  
Office of  
**BUILDING COMMISSIONER**

Mary A. Alley Municipal Building  
7 Widger Road, Marblehead, MA 01945



tel: 781-631-2220  
fax: 781-631-2617

February 17, 2021

Suren Masamyan  
12 Buchanan Rd.  
Marblehead, MA 01945

**RE; unpermitted structure**

Mr. Masamyan,

On November 10, 2020, you received my determination that the structures you constructed were built in violation of the special permit granted to you in 2016. The structures were also constructed within the setbacks of the 15 feet required in the Single Residence district. Furthermore the structures have been constructed without the required building permit in violation of 780CMR section R105.

In that letter, you were given 14 days to appeal my determination to the Zoning Board of Appeals and were allowed 30 days in which to remove the violation.

To date, you have been unresponsive to my request for enforcement and have not removed the violation.

I have taken into consideration the State of emergency, due to COVID 19, and the fact that I have been the only full time inspector in the Town of Marblehead, and have allowed you an additional 90 days of leniency, through February 1, 2021.

You are hereby notified that the unpermitted structures are a violation of the side and rear yard setbacks and 780 CMR section R105. As a result of your continued non-response; I am issuing fines, in the amount of \$300 per day for each offense, in accordance with bylaw section 200-43 for the time period of February 1, 2021 through February 17, 2021, in the amount of five thousand one hundred dollars (\$5,100.00).

If you are aggrieved by the contents of this letter or by the action of this office, you have the right to appeal within fourteen (14) days, to the Zoning Board of Appeals in accordance with Section 15 of Chapter 40A of the Massachusetts General Laws.

Robert Scott,

  
Building Commissioner  
[scottr@marblehead.org](mailto:scottr@marblehead.org)