



Town of Marblehead
Zoning Board of Appeals

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Town Clerk Stamp

APPEAL FORM

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

Date: 06/21/2021

With respect to the property at (address): 65 WARE LANE

Assessor Map Number: 25 Parcel Number: 27

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.

X (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: Linda A. Gifford

Applicant Name Printed: LINDA GIFFORD

Applicant Address: 65 WARE LANE

Applicant Phone Number: (Home) 781-789-8888 Work) (781) 639-3418 (Fax) _____

(Email) lindagiff@yahoo.com

Form Complete: Town Engineer's Office: [Signature] Date: 6-22-21
(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

Linda Gifford

June 21, 2021

Marblehead Zoning Board of Appeals
Abbot Hall, 188 Washington Street
Marblehead, MA 01945

Re: Complaint 65 Ware Lane – Map 25 – Parcel 27

Dear Zoning Board of Appeals Chairman & Members:

On June 14, 2021 I received a letter from Robert Ives, Interim Building Commissioner, detailing a complaint relative to my white, vinyl fence between my backyard and the backyard of Mr. Mark Pelletier, 76 Clifton Avenue. Mr. Pelletier filed a Request for Zoning Enforcement on May 25, 2021 noting a violation of Marblehead Zoning By-Law 200-16H. Apparently my fence is 6' 1" from his side in certain sections. I am not sure why this is all of a sudden an issue; the fence was installed in late 2018 and has been the subject of several discussions between Mr. Pelletier and myself.

This fence has been a problem for Mr. Pelletier since its installation but I thought I had remedied the situation. Admittedly, Olsen Fence was negligent in the installation of the fence around my in-ground pool leaving a gap greater than 2". Mr. Pelletier filed a complaint with the Marblehead Building Department and so began the saga of closing the gap under the fence. Initially Mr. Pelletier suggested and offered 6" X 6" building timbers to be placed underneath each panel. This work was well on its way to being completed when he changed his mind, noting the timbers would continually shift so were not a good solution to the issue.

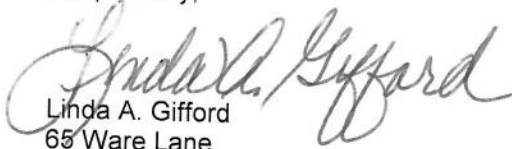
The next attempted solution was a metal grate pushed 12" into the ground and backfilled with landscape edging and rock. Although this closed any opening under the fence, Mr. Pelletier was not satisfied because it did not stop mud and rocks from finding their way into his yard. Once again I received a letter from the Building Department noting that the gap had to be closed from Mr. Pelletier's side of the fence.

The last and final solution involved paying a mason to build short cinder block walls under each panel of my fence to close the gap and retain the grade which is what Mr. Pelletier wanted all along. Please see the screen shot of a text message from Mr. Pelletier to me dated November 4, 2019 that thanks me for taking care of the issue and informs me he will be ripping up his yard in the Spring of 2020 to re-do his patio. I have not heard another word about the fence until I received the letter from Mr. Ives on June 14th. I've included pictures of the gap in the fence when it was originally installed and a picture of Mr. Pelletier's redone patio which reflects a change to the grade.

I respectfully request a special permit be granted to allow the fence to remain in place. I cannot be responsible for the projects Mr. Pelletier undertakes on his side of the fence nor can I be held accountable when he changes the landscape on his side of the fence.

I appreciate your time and attention to this matter.

Respectfully,



Linda A. Gifford
65 Ware Lane
Marblehead, MA 01945
cell - 781-789-8888



Robert S. Ives, Jr.
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

Linda Gifford
65 Ware Lane
Marblehead, MA 01945

June 14, 2021

Re: Complaint 65 Ware Ln
Map 25 - Parcel 27

Dear Ms. Gifford:

I am in receipt of a complaint regarding the height of the fence between your property located at 65 Ware Lane and the property at 76 Clifton Avenue. In response to this complaint the fence height was measured and found to vary between approximately five feet and six feet, with the exception of a section which measures approximately six feet one inch in height where it abuts a paver brick terrace located on the property at 76 Clifton Avenue.

Marblehead Zoning By-Law **200-16.H** states "Maximum fence or wall which is not a retaining wall height. In all zone districts the maximum height of any fence shall be six feet. Fences shall be measured upward from the lowest point at which the fence post, fence, or wall (not a retaining wall) meets the ground to the top of the fence, fence post, or wall whichever is higher. Fence posts may be a maximum of six feet six inches. Only the posts may exceed six feet. [Amended 5-1-2000 ATM by Art. 50; 5-6-2019 ATM by Art. 26]"

Accordingly you are hereby ordered to correct this issue within 30 days, or file for a Special Permit from the Marblehead Zoning Board of Appeals to vary Section **200-16.H**. If neither action is taken IAW **200-2.I** a penalty of \$300 per day will be assessed.

If you are aggrieved by this notice you may appeal within thirty (30) days to the Zoning Board of Appeals by filing a notice of appeal specifying the grounds thereof with the Town Clerk, as outlined in the Marblehead Zoning Bylaw, Chapter 200, Section **200-2.H**

If you have questions or need additional information please contact my office at 781-631-2220.

Respectfully,

Robert Ives
Building Commissioner

Cc: Zoning Board of Appeals
File 25/25 and 25/27



Mark >

planning on coming?

So he isn't there? I'll follow up with him now.

Not yet

Nov 4, 2019, 5:57 PM

Been a crazy couple weeks since I started the job. Just wanted to say thank you for taking care of the fence. That will work out fine. We are going to rip out our entire patio as well as half of the garden and redo the whole thing in the Spring

Mon, May 3, 11:21 AM



Text Message





