



TOWN SEAL
tel: 781-631-1529

fax: 781-631-2617
Revision Date: 12-02-20

Town of Marblehead **ZONING BOARD OF APPEALS**

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

ZBA APPLICATION

PAGE 1 of 3

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TOWN CLERK
2022 JAN 19 PM 4:11

Project Address 27 Brown Street, Marblehead, MA 01945

Assessor Map(s) 914 Parcel Number(s) 17 - 0

OWNER INFORMATION

Signature [Signature] date January 19, 2022

Name (printed) Neil W. Rice and Mary E. Rice, Trustees

Address 27 Brown Street, Marblehead, MA 01945

Phone Numbers: home - - work - - See below for contact information

E-mail n.rice@comcast.net fax - -

APPLICANT or REPRESENTATIVE INFORMATION (if different from owner)

Signature [Signature] date January 19, 2022

Name (printed) Robert C. McCann McCann & McCann, P.C.

Address 89 Newbury Street, Suite 302, Danvers, MA 01923

Phone Numbers: home - - work 978-739-8484

E-mail rmccann@mccannlaw.com fax 978-739-8455

PROJECT DESCRIPTION & RELIEF REQUESTED (attach additional page if necessary)

SEE ATTACHED DESCRIPTION

- Please schedule a Zoning / Application review with the Building Department by calling 781-631-2220.
- Obtain the Town Clerk's stamp and submit 12 copies of each of the following to the Town Engineer's Office:
 - The signed and stamped application (3 pages);
 - Current survey plan (not older than 90 days) as prepared by a Registered Professional Land Surveyor;
 - The project design plans as required;
 - Check for the applicable fee payable to the Town of Marblehead.
- Any relevant permit(s) that were previously issued must be available for review by the Board of Appeals at the scheduled hearing. (Section 3 (D), Board of Zoning Appeals Rules & Regulations).

REQUIRED SIGNATURES

1. Building Commissioner (pages 1, 2 and 3) [Signature] 1-19-2022

2. Town Clerk's stamp (upper right corner)

View Bylaws - (Chapter 200, zoning - online at: www.marblehead.org

Reviewed by
Building Department
for Zoning Board
Of Appeals

PROJECT DESCRIPTION & RELIEF REQUESTED

27 Brown Street, Marblehead, MA 01945
Neil W. Rice and Mary E. Rice, Trustees

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For Zoning Board
Of Appeals

The Applicants request that the Zoning Board of Appeals issue a Special Permit under the Zoning By-Laws allowing the subdivision of land located at **27 BROWN STREET** in an **EXPANDED SINGLE RESIDENCE DISTRICT** with no structures being modified for the purpose of adjusting the Lot Lines with the property located at 340 Ocean Avenue as shown on the Survey filed herewith entitled "LOT LINE MODIFICATION 27 BROWN ST. / 340 OCEAN AVE.". The property has less than the required Lot Frontage, Lot Width, greater than the allowed Front Set back and less than the required Side and Rear Yard Set Backs. No new nonconformities are being created. The subdivision will allow for the transfer of equal square footages of land between 27 Brown Street and 340 Ocean Avenue which transfer requires a Special Permit as a result of a prior Zoning Board of Appeals Decision attached to this Application as "Exhibit A".

Town of Marblehead
ZBA-APPLICATION
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Revision Date: 12-02-2020

Project Address 27 Brown Street, Marblehead, MA 01945 Map(s)/Parcel(s) 914/17 - 0

ZONING DISTRICT (circle all that apply)

B B1 BR CR SCR ECR GR SGR SR SSR ESR SESR HBR U SU

CURRENT USE (explain) Single-Family

CURRENT USE CONFORMS TO ZONING (Article IV, Table 1)

Yes X No (explain)

PROPOSED CHANGE OF USE

No X Yes (explain)

PROPOSED CONSTRUCTION QUALIFIES AS "Building New" (§200-7) Yes No X

No construction proposed

EXISTING DIMENSIONAL NON-CONFORMITIES (check all that apply)

- Lot Area – Less than required (§200-7 and Table 2)
X Lot Width – Less than required (§200-7)
X Frontage – Less than required (§200-7 and Table 2)
X Front Yard Setback – **greater** than **allowed** (Table 2)
X Rear Yard Setback – Less than required (Table 2)
X Side Yard Setback – Less than required (Table 2)
 Height – Exceeds maximum allowed (§200-7 and Table 2)
 Open Area – Less than required (§200-7, §200-15.B(2) and Table 2)
 Parking – Less than required; undersized; **tandem (§200-17 to §200-21)** (circle all that apply)
 Other Non-conformities (explain)
 No Existing Dimensional Non-Conformities

NEW DIMENSIONAL NON-CONFORMITIES (check all that apply)

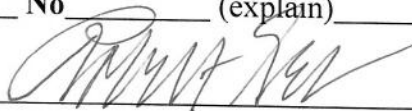
- Lot Area – Less than required (§200-7 and Table 2)
 Lot Width – Less than required (§200-7)
 Frontage – Less than required (§200-7 and Table 2)
 Front Yard Setback – Less than required (Table 2)
 Rear Yard Setback – Less than required (Table 2)
 Side Yard Setback – Less than required (Table 2)
 Height – Exceeds maximum allowed (§200-7 and Table 2)
 Open Area – Less than required (§200-7, §200-15.B(2) and Table 2)
 Parking – Less than required; undersized; tandem (§200-17 to §200-21) (circle all that apply)
 Exceeds 10% Expansion Limits for Nonconforming Building (§200-30.D)
X Other Non-conformities (explain) no new nonconformities
 No Existing Dimensional Non-Conformities

ADDITIONAL HEARINGS REQUIRED

Conservation Commission	Yes <u> </u>	No <u>X</u>
Historic District Commission	Yes <u> </u>	No <u>X</u>
Planning Board	Yes <u>X</u>	No <u> </u> If granted, ANR Plan required

DESIGN & SURVEY PLANS MEET –ZBA- RULES & REGULATIONS (Sections 3(A) and 3(C))

Yes X No (explain)

Building Official  Date 1-19-2022

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For Zoning Board
Of Appeals

ZBA-APPLICATION

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Revision Date: 12-02-2020

Project Address 27 Brown Street, Marblehead, MA 01945 Map(s)/Parcel(s) 914 / 17 - 0**NET OPEN AREA (NOA)****EXISTING****PROPOSED**

Lot area = A

40,083

Area of features

footprint of accessory building(s)

0

footprint of building

3,472

footprint of deck(s), porch(es), step(s), bulkhead(s)

1,236

number of required parking spaces 2 x (9'x18' per space)

324

area of pond(s), or tidal area(s) below MHW

0

other areas (explain) _____

0

Sum of features = B

5,032

Net Open Area (NOA) = (A - B)

35,051

GROSS FLOOR AREA (GFA)

accessory structure(s)

0

basement or cellar (area >5' in height)

0

1st floor (12' or less in height) NOTE:[for heights exceeding

3,472

2nd floor (12' or less in height) 12' see definition

2,086

3rd floor (12' or less in height) of STORY §200-7]

0

4th floor (12' or less in height)

0

attic (area >5' in height)

1,898

area under deck (if >5' in height)

0

roofed porch(es)

1,236

Gross Floor Area (GFA) = sum of the above areas

8,692

Proposed total change in GFA = (proposed GFA - existing GFA)

= 0

Percent change in GFA = (proposed total change in GFA ÷ existing GFA) x 100

= 0 %

Existing Open Area Ratio = (existing NOA ÷ existing GFA)

= 4.03 : 1.00

Proposed Open Area Ratio = (proposed NOA ÷ proposed GFA)

= No Change

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Building Department
For Zoning Board
of AppealsThis worksheet applies 1. plan by/dated Hancock Survey Dated 9/3/21 Revised 1/18/22to the following plan(s): 2. plan by/dated No Construction - No Architectural Plans

3. plan by/dated _____

Building Official [Signature] Date 1-19-2022

3
75
JAN 19 2006

**TOWN OF MARBLEHEAD
BOARD OF APPEALS**

2006101000006 Bk:26161 Pg:293
10/10/2006 08:22:00 OTHER Pg 1/3

**Application of Lisa R. Seymour
for a Special Permit pursuant to § 200-36.A.
with respect to the property located at
27-29 Brown Street
Assessors Map No. N14, Lots 2A & 17**

Pursuant to notice mailed, postage prepaid, to the petitioners, abutters, and persons to whom such notice is required to be given, and pursuant to advertisements in *The Marblehead Reporter* on September 8 and September 15 of 2005, the Board of Appeals held a scheduled hearing at the Selectmen's Room at Abbot Hall, Marblehead, Massachusetts on Tuesday, September 27, 2005 at or after 9:00 p.m.

Sitting for the Board of Appeals were members Bennet, Shefftz, alternates Casey, Papanek, and member Tenenbaum acting as Chair.

The applicant appeared with Attorney Lawrence J. Markell and a site plan drawn by Gail L. Smith, Professional Land Surveyor, dated June 8, 2005, seeking permission for the resubdivision of existing lots located at 27 and 29 Brown Street, within an Expanded Single Residence district. Lot 2 (29 Brown Street) will have less than required area for the district at 20,889 square feet. Parcel A, which was part of Lot 2, will be conveyed to the owner of Lot 1 at 27 Brown Street, and shall be combined with Lot 1 to form one contiguous lot totaling 40,083 square feet (Lot 1: 35,315 SF, plus Parcel A: 4,768 SF).

While the proposed reconfiguration of the lots increases Lot 2's pre-existing nonconformity as to lot area, reducing the lot from 25,657 to 20,889 SF, the increase in the nonconformity is relatively de minimus, as there is still ample open area, with a proposed Net Open Area to Gross Floor Area Ratio of 3.28:1. An agreement was reached between the applicant and abutter Robert W. Sides, Jr., represented by Attorney Robert C. McCann, whereby Parcel A shall not be sold, transferred or conveyed separately from Lot 1, and no structures of any kind shall be built or placed on Parcel A, nor shall any portion of Parcel A be used to compute any set back areas applicable to Lot 1. With these conditions, Mr. and Mrs. Sides, the abutters most directly affected, do not object to the subdivision as proposed. Member Shefftz proposed an additional condition that none of the above-referenced lots be further subdivided, especially in light of Lot 1's increased size, to ensure that the lots as

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Filed with Town Clerk _____ on _____ at _____

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Building Department
For Zoning Board
Of Appeals

MARGINAL REFERENCE REQUESTED
BOOK 26112 PAGE 366

modified would not adversely affect the neighborhood and produce further nonconformities in the zoning district.

Based on the above factors, the Board made the necessary findings as set forth in Section 200-36.B of the By-Laws as most recently amended, to wit: That the granting of the application will be consistent with the general purpose and intent of the Bylaw; that the specific site is an appropriate location for the lots as modified; that neither the lots as modified nor the use of the buildings will adversely affect the neighborhood; that there will be no nuisance or serious hazard to vehicles or pedestrians resulting from the modification of the lots; and that adequate and appropriate facilities will be provided for the proper operation of the lots as modified and the existing buildings thereon.

The Board voted unanimously as follows:

Mr. Bennet—Yes
Mr. Casey—Yes
Ms. Shefftz—Yes
Ms. Papanek—Yes
Ms. Tenenbaum—Yes

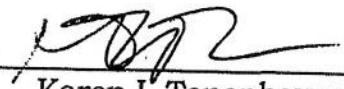
The Special Permit for reconfiguration of the lots as shown on the attached plan, which is incorporated into this decision and made a part thereof, is granted, with the following conditions:

1. Parcel A as shown on Plan of Land 27 & 29 Brown Street, Marblehead, North Shore Survey Corporation, dated June 8, 2005 will be combined with Lot 1, as shown on said plan, and will not be sold, transferred or conveyed separately therefrom.
2. No structures of any nature or kind shall be built or placed on said Parcel A; nor shall any portion of Parcel A be used in computing any set back areas applicable to said Lot 1.
3. Lot 1, Lot 2 and Parcel A shall not be further subdivided.
4. This special permit is issued on the condition that there shall be no construction at any time following the vote of the Board of Appeals which either differs from the construction set forth on drawings approved and stamped by the Board of Appeals by that vote, or which is inconsistent with this decision and these conditions, without the applicant obtaining prior written approval from the Board of Appeals for such construction. Additionally, no

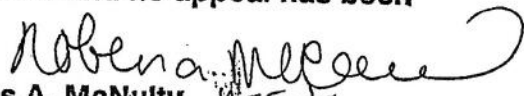
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demolition, building or occupancy permit, whether temporary, conditional or permanent, shall issue for any work on the premises unless and until a copy of this decision, endorsed by the Town Clerk, is recorded in the Registry of Deeds as required by General Laws Chapter 40A. The application for and/or issuance of any such permit prior to the recording of the endorsed copy of this decision shall render this special permit null and void.

BOARD OF APPEALS
TOWN OF MARBLEHEAD

By: 
Karen I. Tenenbaum

I hereby certify that twenty days
Have elapsed since this decision has
been filed in the office of the
Town Clerk and no appeal has been
filed.


Thomas A. McNulty *Asst*
Town Clerk-Marblehead *Town Clerk*

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For Zoning Board
Of Appeals

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