



TOWN SEAL

tel: 781-631-1529

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Revision Date: 12-02-20

Town of Marblehead ZONING BOARD OF APPEALS

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

REVISED ZBA APPLICATION

PAGE 1 of 3

2024 FEB 26 PM 4:35

Town Clerk

Project Address 84 Harbor Ave

Assessor Map(s) 918 Parcel Number(s) 3 & 3A

OWNER INFORMATION

Signature [Signature] O.B.O. JEROME & HOLLY O'NEILL date 2/26/24

Name (printed) Jerome & Holly O'Neill

Address 18 Orchard Street, Marblehead, MA

Phone Numbers: home 978-968-513 work 617-434-7730

E-mail hollyaoneill@gmail.com fax N/A

APPLICANT or REPRESENTATIVE INFORMATION (if different from owner)

Signature [Signature] date 2/26/24

Name (printed) Tobin Shulman

Address 126 Dodge Street, Beverly, MA

Phone Numbers: home 617-460-4504 work 978-927-3745

E-mail tobin@svdesign.com fax

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

See attached.

- 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 Building Department at the scheduled hearing. (Section 3(D), Board of Zoning Appeals Rules & Regulations).

REQUIRED SIGNATURES

1. Building Commissioner (pages 1, 2 and 3) [Signature] 2-26-2024
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

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Project Address 84 Harbor Ave **Map(s) / Parcel(s)** 918 / 3 & 3A

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

Building Official  Date 2-26-2024

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

Project Address 84 Harbor Ave

Map(s) / Parcel(s) 918 / 3 & 3A

NET OPEN AREA (NOA)

	<u>EXISTING</u>	<u>PROPOSED</u>
Lot area = A	22,000	22,400
Area of features		
footprint of accessory building(s) - ex. garage, new cabana and shed	370	505
footprint of building	2,130	3,030
footprint of deck(s), porch(es), step(s), bulkhead(s)	495	215
number of required parking spaces <u>2</u> x (9' x 18' per space)	324	324
area of pond(s), or tidal area(s) below MHW	removed from lot area	removed from lot area
other areas (explain) _____		
Sum of features = B	3,319	4,074
Net Open Area (NOA) = (A - B)	18,681	18,326

GROSS FLOOR AREA (GFA)

accessory structure(s) - ex. garage, new cabana and shed	370	640
basement or cellar (area >5' in height)	1,330	0
1st floor (12' or less in height) NOTE: [for heights exceeding	1,940	3,030
2nd floor (12' or less in height) 12' see definition	1,125	2,990
3rd floor (12' or less in height) of STORY §200-7]	0	0
4th floor (12' or less in height)	0	0
attic (area >5' in height)	0	0
area under deck (if >5' in height)	135	0
roofed porch(es)	425	200
Gross Floor Area (GFA) = sum of the above areas	5,325	6,860

<u>Proposed total change in GFA</u> = (proposed GFA - existing GFA)	=	1,535
<u>Percent change in GFA</u> = (proposed total change in GFA ÷ existing GFA) x 100	=	28.8 %
<u>Existing Open Area Ratio</u> = (existing NOA ÷ existing GFA)	=	3.50
<u>Proposed Open Area Ratio</u> = (proposed NOA ÷ proposed GFA)	=	2.67

This worksheet applies 1. plan by/dated North Shore Survey Corporation, February 20, 2024
to the following plan(s): 2. plan by/dated SV Design, LLC, 10/16/2023
3. plan by/dated _____

Building Official  Date 2-26-2024



Project Description & Relief Request

Jerome and Holly O'Neill
84 Harbor Ave
Marblehead, MA 01945

The property located at 84 Harbor Ave is in the Shoreline Expanded Single Residence (SESR) Zoning District. The lot is non-conforming in regard to Lot Area. The existing single family home is non-conforming in regard to its Front Yard Setback, Rear Yard Setback, Side Yard Setback, Waterfront Setback, and Building Height.

The owners propose the demolition of the existing home, and the construction of a new single family home, moved back on the lot. The foundation of the existing home will partially remain, as it is integrated with the seawall. The new house will continue to be non-conforming as to Front Yard Setback, and the other setback and height non-conformities will be eliminated.

The Applicant seeks a special permit under Section 200-37 for dimensional relief and an exception to Section 200-34.

Reviewed by
Building Department
For Zoning Board
Of Appeals



Paul L. Feldman
P: 617.589.3831 | F: 617.523.6215
pfeldman@davismalm.com

February 26, 2024

Lisa Lyons
Senior Clerk, Engineering
Town of Marblehead
7 Widger Road
Marblehead, MA 01945

Re: 84 Harbor Avenue

**Reviewed by
Building Department
For Zoning Board
Of Appeals**

Dear Lisa,

Last October, Jerome & Holly O'Neill (the "Applicant"), filed an application with the Zoning Board of Appeals ("ZBA") seeking relief from certain dimensional requirements to build a new home on a non-conforming lot. They also filed an application with the Planning Board for site plan review. During the hearing with the Planning Board, an abutter questioned the ownership of the subject lot that was shown on the survey plan. The Applicant had its title examiner re-confirm the title to their property and the Applicant submitted a letter to the ZBA from the title attorney dated January 16, 2024, confirming the property shown on the submitted survey plan is owned by the Applicant.

As zoning counsel, we reviewed the title work and determined that the zoning information shown on the survey plan needed to be updated, and that the proposed new home needs relief from the front yard setback that was not called out in the application filed in October. In connection with the hearing of this matter to be held March 26, 2024, we submit a revised application updating the zoning information and request that the matter be re-advertised and re-noticed for the March 26 hearing.

The proposed house is the same. The enclosed revised application updates the location of the frontage for the lot. As initially filed, the frontage was understood to be 20 feet on Harbor Ave and therefore, the lot was non-conforming regarding the required 100-foot frontage requirement under the zoning by-law. In fact, based on a review of the title and the lot configuration of the Applicant's property at the time it was created, the lot has 112 feet of frontage on Harbor View, and therefore is conforming as to the 100-foot frontage requirement. Enclosed is a 1958 plan that created the adjacent lot known as 86 Harbor Ave, showing the required 100 feet of frontage along Harbor View for that lot. In 2019 the Land Court approved a plan that showed the complete property owned by the Applicant with more than 100 feet of frontage along Harbor

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View. That plan is also enclosed. Thus, the Applicant owns the land shown as Lot 2 on the 2019 plan as registered land and as confirmed by the title attorney, also owns the land that comprises Harbor View, which is recorded land. But, as stated, given the orientation of the frontage, the zoning information and relief being sought is being updated with this submission.

I have enclosed a revised ZBA Application and a revised survey plan. Below is a chart (changes from original submission highlighted in yellow) and an explanation of the changes to the zoning information.

	Required	Revised Required	Exiting	Revised Existing	Proposed	Revised Proposed
Lot Area	35,000	35,000	26,400+/-*	22,000'+/-*	26,400+/-*	20,400'+/-*
Frontage	100'	100'	20'	112'+/-	20'	101'+/-
Front	20'	25'**	269'+/-	19'+/-	126'+/-	5'+/-
Side	25'	25'	11.4'+/-	0'	25.5'+/-	26'+/-
Rear	15'	25'**	N/A	11.4'	N/A	25.5'+/-
Waterfront	25'	25'	0'	0'	58'+/-	26'+/-
Building Height	30'	30'	55.6'	55.6'+/-	29.5'	29.5'+/-

* To mean High Water

** Perpendicular to the Shoreline

Lot Area is currently and will continue to be non-conforming, but the total area is slightly different because under the zoning by-law, the area within a street is not included in lot area.

Lot frontage is conforming and will continue to be conforming. Harbor View is a street because under the zoning by-law, a street is a "way in existence when the Subdivision Control Law became effective, having sufficient width and suitable grades, and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon," and Harbor View is a constructed private way with hard packed gravel way for 112 feet, which has provided access to the two single family



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houses for over 65 years and has existed for over 100 years. 11 feet of the current gravel way will be removed as part of the proposed construction leaving 101 feet of frontage that is in compliance with the zoning by-law.

Given the revised orientation of the lot, the existing home is non-conforming as to front, side, rear and waterfront setbacks and height. Under the proposed new dwelling, other than front setback, the current dimensional non-conformities will be eliminated.

For completeness, lot width and open space are both conforming given the revised orientation of the lot and will remain conforming with the proposed home.

Given the forgoing, for clarity, the requested relief continues to be for:

1. a special permit for dimensional relief under Section 200-37 of the by-law: rather than the relief being for lot area, lot frontage, and lot width as requested in the original application, the revised relief is for lot area and front setback, and
2. a special permit for relief under Section 200-37 for an exception to Section 200-34 of the by-law.

Very truly yours,

A handwritten signature in cursive script, appearing to read 'Paul L. Feldman'.

Paul L. Feldman

PLF:

Reviewed by
Building Department
For Zoning Board
Of Appeals