



**City of Marlborough  
Zoning Board of Appeals**

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

**ZBA Case**      **1425-2013**  
**Location:**    **289 Elm St.**

**Date: February 12, 2014**

**WITHDRAWAL  
(General Laws Chapter 40A, Section 16)**

**To:**            Sky High Studios and Sandra & Anthony Antico Real Estate, LLC  
                  c/o Atty. Bergeron, Mirick O'Connell

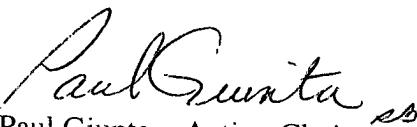
**Address:**    100 Front St.

**City:**        Worcester, MA 01608-1477

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

**289 Elm St. being Map 68, Parcels 20B & 19**

And the said Board of Appeals further certifies that the decision attached hereto is a true and correct copy.

  
Paul Giunta – Acting Chairman

  
Susan Brown - Secretary

Submitted to the City Clerks' office on February 12, 2014.



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ZBA Case # 1425-2013

Date: February 12, 2014

Name: Sky High Studios and Sandra & Anthony Antico Real Estates, LLC

Location: 289 Elm St.

**Zoning Board of Appeals  
Notice of Decision**

The Zoning Board of Appeals, acting under the Zoning Ordinance of the City of Marlborough and the Zoning Enabling Act of the Commonwealth of Massachusetts, after a public hearing held at the Marlborough City Hall, 140 Main St. on January 7, 2014 with a continuation date of February 11, 2014.

**Petition:** This is an appeal from the decision of the Building Commissioner from his Cease and Desist Order regarding Sky High Studio, Inc. 289 Elm St., dated Oct. 8, 2013. This appeal is being brought pursuant to Mass General Laws Chapter 40A, Sections 8 and 15. The Order of the Building Commissioner as stated in part: "is a business that is not listed as allowed in the Zoning District for which the business is located. This area is Zoned Limited Industrial (LI) and this Use is not listed as an allowed Use under Table §650-17 and §650-16(B) of the City of Marlborough's Zoning Ordinance. The area in question is at 289 Elm St., being on Map 68, Parcels 20B and 19 of the Assessor's Maps.

**Board Members present on January 7, 2014 were:** Paul Giunta-Acting Chairman, Tom Golden, Ralph Loftin, Mitchell Gorka, and Robert Levine.

**Board Members present on February 11, 2014 were:** Paul Giunta-Acting Chairman, Tom Golden, Ralph Loftin and Mitchell Gorka. Absent - Robert Levine

The Board voted 4-0 to allow the applicants to "Withdraw" their petition from the Zoning Board of Appeals. Referencing attach letter from Atty. Bergeron to the Zoning Board of Appeals RE: Notice of Withdrawal of Appeal, dated Feb. 7, 2014 ..stating in part "This matter is being resolved successfully in the City Council."

Respectfully submitted,

*Paul Giunta ss*  
Zoning Board of Appeals  
Paul Giunta – Acting Chairman

Submitted to the City Clerk's office on February 12, 2014.



# City of Marlborough Zoning Board of Appeals

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ZBA Case # 1425-2013

Date: February 12, 2014

Name: Sky High Studios c/o Atty. Bergeron

Location: 289 Elm St.

## Zoning Board of Appeals Record

The Zoning Board of Appeals, acting under the Marlborough Zoning Ordinance and General Laws, Chapter 40A, as amended, a meeting was held on January 7, 2014 (Tuesday) with a continuation date of February 11, 2014.

**Board Members present on January 7, 2014 were:** Paul Giunta-Acting Chairman, Tom Golden, Ralph Loftin, Mitchell Gorka, and Robert Levine.

**Board Members present on February 11, 2014 were:** Paul Giunta-Acting Chairman, Tom Golden, Ralph Loftin and Mitchell Gorka. Absent - Robert Levine

Proceedings:

1. Date of Appeal: Nov. 6, 2013
2. Name and Address of Applicant: Sky High Studios, Inc. 289 Elm St. Marlborough, MA and Sandra and Anthony Antico Real Estate, LLC, 72 Jefferson St., Marlborough, MA 01752. c/o Arthur P. Bergeron, Esq. Mirick O'Connell, 100 Front St., 17<sup>th</sup> Floor, Worcester, MA 01608.
3. Administrative body from whose decision or order of appeal was taken: Building Dept.
4. Appeal filed with: Zoning Board of Appeals and City Clerks' Office
5. Nature & Basis of Appeal: This is an appeal from the decision of the Building Commissioner from his Cease and Desist Order regarding Sky High Studio, Inc. 289 Elm St., dated Oct. 8, 2013. This appeal is being brought pursuant to Mass General Laws Chapter 40A, Sections 8 and 15. The Order of the Building Commissioner as stated in part: "is a business that is not listed as allowed in the Zoning District for which the business is located. This area is Zoned Limited Industrial (LI) and this Use is not listed as an allowed Use under Table §650-17 and §650-16(B) of the City of Marlborough's Zoning Ordinance. The area in question is at 289 Elm St., being on Map 68, Parcels 20B and 19 of the Assessor's Maps.
6. Section of the Zoning Ordinance involved: See # 5 above.

7. Notice was sent by Certificate of Mailing to parties in interest, including the petitioner, abutters, owners of land directly opposite on any public or private street or way, owners of land within 300 feet of the property lines, including owners of land in another municipality, all as they appear on the most recent applicable tax lists.
8. Original documents are on file with the Board of Appeals and the City Clerks' Office.
9. **Findings/Minutes:**
  1. The public hearing was opened at 7:00 PM with the reading of the legal ad by Board Member, Ralph Loftin.
  2. The applicant and their representative, Atty. Bergeron were not present this evening.
  3. There was also no one in the audience.
  4. The Chairman stated that today is the 62<sup>nd</sup> day from the filing date of the application. The Chairman also stated that according to Mass General Law, the Board has 65 days to open up a hearing from the date of filing.
  5. The Board was aware that the applicant has applied for a Special Permit before the City Council. The date of that hearing will be January 13<sup>th</sup>, 2014. The Board assumes that if the applicant receives a Special Permit from City Council, the applicant will "withdraw" his application before the Zoning Board of Appeals.
  6. The motion was made by Mitch Gorka to continue the public hearing to a date certain. The motion was seconded by Paul Giunta. The Board voted 5-0 to continue the public hearing to Feb. 11<sup>th</sup>, 2014 at 7:00 PM. The Board asked, Susan Brown, to convey this message to Atty. Bergeron.
  7. On a motion made by Paul Giunta and seconded by Ralph Loftin, the meeting was continued to February 11, 2014 at 7:00 PM.
  8. February 11, 2014 (Tuesday) - 7:00 PM - The hearing was continued.
  9. There was no one in the audience.
  10. Members present were: Paul Giunta-Acting Chairman, Tom Golden, Mitchell Gorka and Ralph Loftin.
  11. The Board read into the file a letter from Atty. Bergeron, dated February 7, 2014 RE: Notice of Withdrawal of Appeal and was placed on file. The applicants and Atty. Bergeron were not present.
  12. On a motion made by Mitchell Gorka and seconded by Ralph Loftin to grant the applicant to "Withdraw" their petition that is before the Board. The Board voted 4-0 to grant the applicant to "Withdraw" their petition that is before the Board.

13. On a motion made by Ralph Loftin and second Tom Golden, the public hearing was closed.



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ZBA Case # 1425-2013

Date: February 11, 2014

Location: 289 Elm St. (Sky High Studios and Sandra & Anthony Antico Real Estate, LLC)

VOTE OF THE BOARD  
WITHDRAWAL

**In Favor**

**In Opposition**

*Paul G. Hunte*

\_\_\_\_\_

*Richard G. Goff*

\_\_\_\_\_

*Witchell P. Hulse*

\_\_\_\_\_

*Tom J. Idem*

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RECEIVED FEB 10 2014

FILE COPY

Arthur P. Bergeron  
Mirick O'Connell  
100 Front Street  
Worcester, MA 01608-1477  
abergeron@mirickoconnell.com  
t 508.929.1652  
f 508.463.1385

February 7, 2014

Mr. Paul Giunta, Acting Chairman  
Marlborough Zoning Board of Appeals  
City Hall  
Marlborough, MA 01752

Re: Notice of Withdrawal of Appeal

Dear Mr. Giunta:

My clients, Sky High Studios, Inc and Sandra & Anthony Real Estate LLC hereby withdraw their appeal to the Zoning Board of Appeals from a decision of the Building Commissioner regarding certain property on Elm Street in Marlborough. This matter is being resolved successfully in the City Council. Thank you for your patience in this matter.

Sincerely,



Arthur P. Bergeron

APB/alm