

TOWN OF DEDHAM
COMMONWEALTH OF MASSACHUSETTS

ZONING BOARD OF APPEALS

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Associate Members

Jared F. Nokes, J.D.

MEETING MINUTES

Wednesday, June 20, 2018, 7:00 p.m., Lower Conference Room

Present: James F. McGrail, Esq., Chair
J. Gregory Jacobsen, Vice Chair
Scott M. Steeves
E. Patrick Maguire, MLA, RLA, CLARB, LEED AP®
Jason L. Mammone, P.E.

Staff: Susan Webster, Administrative Assistant

Mr. McGrail called the meeting to order at 7:00 p.m. The plans, documents, studies, etc., referred to are incorporated as part of the public record, and are on file in the Planning and Zoning office. In addition, the legal notice for each hearing was read into the record. Abutters within 300 feet of the subject property, as well as abutting towns of Westwood, Needham, Canton, and Boston, were notified of each hearing. The hearings for this meeting of the ZBA were duly advertised in *The Dedham Times* in accordance with the requirements of MGL Chapter 40A, Section 11.

Note: The recording equipment malfunctioned and did not record part of the meeting. Minutes were written with the assistance of notes taken by the Administrative Assistant. Every effort was made to capture all the facts.

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| Applicant/Owner | Frank Gobbi, P.O. Box 220, Westwood, MA |
| Property Address | 530 Providence Highway, Dedham, MA |
| Zoning District | Highway Business |
| Map and Lot | 108/104 |
| Application Date | May 14, 2018 |
| Representative | Peter A. Zahka II, Esq., 12 School Street, Dedham, MA Frank Gobbi |

Legal Notice The applicant seeks to be allowed such Special Permits or variances as may be necessary or proper for construction and maintenance of retaining walls with a height in excess of

four (4) feet (Note: Special Permit was granted on the same request in Case #VAR-06-14-1856 in July 2014, but same has lapsed).

Section of Zoning Bylaw *Town of Dedham Zoning Bylaw Sections 6.5.2 and 9.3*

Present and Voting James F. McGrail, Esq., J. Gregory Jacobsen, Scott M. Steeves, E. Patrick Maguire, MLA, RLA, CLARB, LEED AP®, Jason L. Mammone, P.E.

Mr. Gobbi was granted a Special Permit for a retaining wall up to 14 feet in height in 2014; no action was taken and the Special Permit expired. The property contains 1.4 acres and has frontage on Providence Highway, Eastern Avenue, and Mah Way. There is a two-story commercial building that is in the Highway Business zoning district. A parking plan was approved in 1997. There is a significant grade differential on the side facing Mah Way; this is a safety hazard for children using their bicycles or skateboards. He proposes to replace the asphalt with a retaining wall up to 14 feet in height. He is also looking at ADA accessibility for the grade to meet the doors. He would not need to go to any other boards if the Zoning Board of Appeals approved this. He and the Building Department have been in discussion about raising the grade in front. He may need to go to the Planning Board for this. There will be no change in the parking plan.

Mr. Mammone asked if there were storm drains under the wall. If there are, he would need to go to the Conservation Commission and Engineering. Mr. Gobbi said he never saw an easement for a drain. Mr. Mammone said it would be in the right of way. He was concerned that, if it was disturbed, it could affect the large line, which services a large area in Dedham. If anything happened, there would be significant stormwater back-ups. Mr. Mammone asked him to make sure it is structurally sound. He may need to relocate it to Mah Way to get it off his property. He will coordinate this with Engineering. Mr. McGrail asked him to be sure to shovel his sidewalks in winter because people have had to walk in the street, which is dangerous. Mr. Gobbi agreed to do that.

Mr. Mammone moved to allow a Special Permit/variances for a retaining wall to a maximum of 14 feet in height with the condition that Mr. Gobbi supply construction plans to Engineering. Mr. Jacobsen seconded the motion. The vote to approve was unanimous at 5-0.

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| Applicant | Anna Haluch, Pro Sign Graphics, 65 Belmont Street, South Easton, MA 02375 |
| Property Address | 694 Washington Street, Dedham, MA |
| Property Owner/Address | NPL Real Estate Trust, M. Nesterenko and R. Luvishchuk, Trs., 52 Sharpe Road, Newton, MA 02459 |
| Zoning District | Local Business |
| Map and Lot | 136/4 |
| Application Date | May 15, 2018 |
| Representative | Anna Haluch |

Legal Notice The applicant seeks to be allowed a waiver from the Town of Dedham Sign Code to remove the manual gas price changer and replace it with an internally illuminated 41" x 46" digital

Section of Zoning Bylaw gas price changer on the existing 10 foot high pylon sign that will be 10 feet high.
Town of Dedham Sign Code Sections 237-18 Illumination, 237-19 Computation of Sign Area and Height, 237-4 Definitions, Off-Premises Sign, Table 1, Permitted Signs by Type and District

Present and Voting James F. McGrail, Esq., J. Gregory Jacobsen, Scott M. Steeves, Jason L. Mammone, P.E.

Ms. Haluch said the manual sign at the gas station has been replaced by a digital gas changer. It will be internally illuminated with photo cells. She said the light can be dimmed if the residents complain about the brightness. The sign is actually at the edge of Montague Road, which is a private way, and not on the gas station premises. There is an agreement with the owner of 700 Washington Street to allow the sign there; she has a letter to that effect. Ms. Haluch said that the residents of Montague Road own the right and are aware of the sign, although she does not have their permission in writing; she said that Building Commissioner Kenneth Cimenno said that was fine. She is asking for a waiver from the Town of Dedham Sign Code for 0 (zero) setback, internal illumination, and a sign that would be higher than eight (8) feet. She said the height has not changed from the previous sign. The square footage of the new sign would be 13 square feet, whereas it had been 11 square feet.

Mr. McGrail asked how much the total sign area is, and she said that if the canopy was over the allowed amount, they can remove the graphics on it. Mr. Mammone asked her why they did not locate the sign on the gas station property. She stated that it would be cost prohibitive to move it. Mr. Mammone asked how the sign got put on the private way. She did not know how it was originally put there. Mr. McGrail wondered if it was put there by mistake. He asked Ms. Haluch if the gas station paid rent to the owners or the owner of 700 Washington Street; she did not know.

Note: At this point, the recording equipment malfunctioned. The rest of the meeting was transcribed based on notes taken by the Administrative Assistant.

Paul Pisano, 7 Montague Road, was the previous owner of the gas station. He said the sign has been on the private way since the 1950's. He said that when he was the owner, he took care of the neighbor and kept the station clean. He said he was fine with the sign, but the property is not clean. Spyridon Bouzianis, 5 Montague Road, agreed that the property is not clean. There have been mice on the property, and the residents have complained to the Board of Health. He asked that the bee hive be removed because he is highly allergic to bee stings.

Mr. McGrail said that the owner needs to be present. He suggested that this hearing be tabled to July 18, 2018, and advised Ms. Haluch to get the abutters to sign off on the waiver. Mr. Jacobsen move to table the discussion until July 18, 2018, seconded by Mr. Steeves. The vote was unanimous at 5-0.

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| Applicant | Deborah DiCenzo |
| Property Address | 110 Alden Street, Dedham, MA |
| Property Owner/Address | Same |
| Zoning District | Single Residence B |
| Map and Lot | 168/92 |

Application Date May 21, 2018
Representative Deborah DiCenzo (formerly Deborah Dawson)

Legal Notice The applicant seeks to be allowed a variance for a front yard setback of 8 feet instead of the required 25 feet, a side yard setback of 3 feet instead of the required 10 feet, and space between buildings of 3 feet instead of the required 10 feet to build a free-standing carport with a ridge height not to exceed 15 feet.

Section of Zoning Bylaw *Town of Dedham Zoning Bylaw Section 4.1, Table 2*

Present and Voting James F. McGrail, Esq., J. Gregory Jacobsen, Scott M. Steeves, Jason L. Mammone, P.E.

Ms. DiCenzo is seeking approval of a free-standing carport. She has health issues and would like to have a cover over her car so she will not have to shovel. The carport will cover two vehicles. Mr. McGrail noted that she has signatures in support from 23 neighbors:

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| Joshua Grossman | 111 Alden Street | Erin Martin | 143 Taylor Avenue |
| Anita Rioux | 117 Alden Street | Richard Archer | 126 Alden Street |
| Pearl Conopka | 142 Taylor Avenue | Alena Pelipenko | 93 Alden Street |
| Joseph Fay | 110 Kimball Road | Anne DeVirgilio | 116 Kimball Road |
| Gina Cicerone | 117 Kimball Road | John Limberis | 89 Alden Street |
| Peter Maygar | 94 Alden Street | John Masters | 90 Alden Street |
| John Gillis | 120 Alden Street | Virginia Gillis | 120 Alden Street |
| Amanda Navikas | 198 Sprague Street | Kim Chaplain | 182 Sprague Street |
| Stephen Leivi | 182 Sprague Street | Nicholas Poulakis | 81 Alden Street |
| Susan Costa | 82 Alden Street | Paul Raulinaitis | 123 Kimball Road |
| Susan Trabucco | 130 Kimball Road | Richard Trabucco | 130 Kimball Road |
| Flora Morina | 100 Alden Street | | |

Mr. Maguire commented that it is not an attractive carport, and wondered if there was a better solution.

Mr. Steeves moved to allow a variance for a front yard setback of 8 feet instead of the required 25 feet, a side yard setback of 3 feet instead of the required 10 feet, and space between buildings of 3 feet instead of the required 10 feet to build a free-standing carport with a ridge height not to exceed 15 feet at 110 Alden Street. Mr. Jacobsen seconded the motion. The vote to approve was 4-1, with Mr. Maguire voting nay.

Applicant **Northeastern University**
Property Address **370 Common Street, Dedham, MA**
Property Owner/Address Northeastern University, 360 Huntington Avenue, Boston, MA 02115
Zoning District Single Residence A
Map and Lot 51/13
Application Date May 14, 2018
Representative Peter A. Zahka II, Esq., 12 School Street, Dedham, MA
 Amy Lane, Project Manager for Northeastern University
 Zach Chrisco, of Sasaki Associates, Project Engineer

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| Legal Notice | The applicant seeks to be allowed a Special Permit for retaining walls in excess of four (4) feet in height. |
| Section of Zoning Bylaw | <i>Town of Dedham Zoning Bylaw Sections 6.5.2, 9.2, and 9.3</i> |
| Present and Voting | James F. McGrail, Esq., J. Gregory Jacobsen, Scott M. Steeves, Jason L. Mammone, P.E. |

Member E. Patrick Maguire, MLA, RLA, CLARB, LEED AP®, recused himself from this hearing due to a professional relationship with the Applicant. Mr. McGrail informed the Applicant that there would be only four members present for this petition, and that a unanimous vote to approve would be necessary. He gave the Applicant the option of continuing the meeting until July 18, 2018, but the Applicant chose to continue.

The location contains over 800,000 square feet of land with 900 feet of frontage on Common Street. There is a 36,000 square foot building (Barletta Hall) on the site, as well as track and field areas. The entire parcel is within the Single Residence A zoning district. Recently, the Applicant constructed a new “throwing area” for track & field events in an existing parking lot behind Barletta Hall. In connection with the Project, a number of retaining walls were erected. Due to the topography of the land, portions of the retaining walls have heights in excess of 4 feet. The maximum height of any portion of the retaining walls is 8 feet. The retaining walls are not visible off the Subject Property. The Applicant notes that the Dedham Conservation Commission has already issued all necessary permits for the Project which included the retaining walls.

Mr. Steeves moved to allow a Special Permit for retaining walls in excess of four (4) feet in height, seconded by Mr. Jacobsen. The vote to approve was unanimous at 4-0¹.

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| Applicant | J. B. McCall IV |
| Property Address | 74 Church Street, Dedham, MA |
| Property Owner/Address | Louise T. Auchincloss et all, Joseph B. McCall IV et ux, 74 Church Street, Dedham, MA |
| Zoning District | Single Residence B |
| Map and Lot | 107/74 |
| Application Date | May 22, 2018 |
| Representative | J. B. McCall IV |

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| Legal Notice | The applicant seeks to be allowed a Special Permit for an eight (8) foot fence that will transition to four (4) feet to be located between 74 Church Street and 76 Church Street. |
| Section of Zoning Bylaw | <i>Town of Dedham Zoning Bylaw Section 10.0 Definitions</i> |
| Present and Voting | James F. McGrail, Esq., J. Gregory Jacobsen, Scott M. Steeves, Jason L. Mammone, P.E., Jared F. Nokes, J.D. |

¹ Member E. Patrick Maguire, MLA, RLA, CLARB, LEED AP® recused himself from the hearing or the vote due to a professional relationship with the Applicant.

Mr. McCall is requesting a Special Permit to erect an eight (8) foot fence between his home and the St. Paul's Church nursery school to minimize the noise that he hears from the children and to prevent them from looking over the fence. The fence would taper down to four (4) feet. The existing fence would be removed. He will have a survey performed to determine on which property the current fence is located. Mr. Maguire thought this would not be necessary since St. Paul's Church is supportive of the fence.

Mr. McCall asked about the Historic Districts Commission since the house is in the Historic Districts. Mr. McGrail advised him to contact them.

Mr. Jacobsen moved to approve a Special Permit for an eight (8) foot fence that will transition to four (4) feet to be located between 74 Church Street and 76 Church Street. Mr. Steeves seconded the motion. The vote to approve was unanimous at 5-0.

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| Applicant | Arthur L. and Elizabeth J. Munchbach, Steven Munchbach, Carolyn Elizabeth Begley |
| Property Address | 10 Snow Lane, Dedham, MA |
| Property Owner/Address | As above |
| Zoning District | Single Residence B |
| Map and Lot | 151/25 |
| Application Date | May 23, 2018 |
| Representative | Peter A. Zahka II, Esq., 12 School Street, Dedham, MA |
| Legal Notice | To be allowed such Special Permits and variances as necessary for creation of an accessory dwelling unit. |
| Section of Zoning Bylaw | <i>Town of Dedham Zoning Bylaw Sections 7.7, 9.3, and Table 1</i> |
| Present and Voting | James F. McGrail, Esq., J. Gregory Jacobsen, Scott M. Steeves, E. Patrick Maguire, MLA, RLA, CLARB, LEED AP®, Jason L. Mammone, P.E. |

The Applicants are seeking a Special Permit/variances for the construction of a 540 square foot addition to their single family dwelling to be used as an accessory dwelling unit. The property contains 16,000 square feet of land with 130 feet of frontage on Snow Lane. The existing single family dwelling was built in 1984 and contains three bedrooms. The proposal is for Steven Munchbach and Carolyn Elizabeth Begley to purchase the house from Arthur L. and Elizabeth J. Munchbach, and for Arthur L. and Elizabeth J. Munchbach to live in the accessory dwelling unit.

The Applicants submitted signatures from 13 neighbors, all of whom are direct abutters, in support of their petition.

Mr. McGrail asked if all four names were on the legal ad, and they were. He said that they have met all the requirements for an accessory dwelling unit: selling house to their son and living in the in-law apartment.

Mr. Steeves moved to allow such Special Permits and variances as necessary for creation of an accessory dwelling unit, seconded by Mr. Jacobsen. The vote to approve was unanimous at 5-0.

Applicant Evan and Colleen Grenier
Property Address 80 Sanderson Avenue, Dedham, MA
Property Owner/Address Same
Zoning District Single Residence B
Map and Lot 127/18
Application Date May 23, 2018
Representative Evan and Colleen Grenier, owners
Matt Bryant, contractor

Legal Notice The applicant seeks to be allowed Special Permit to extend a nonconforming structure by adding a second floor above an existing nonconforming first floor structure, and to be allowed a variance to construct a second floor bedroom above the existing first floor structure that will have a side yard setback of 5.5 feet instead of the required 10 feet.

Section of Zoning Bylaw *Town of Dedham Zoning Bylaw Sections 3.3.3, 3.3.4, 3.3.5, and 4.1 Table of Dimensional Requirements*

Present and Voting James F. McGrail, Esq., J. Gregory Jacobsen, Scott M. Steeves, Jason L. Mammone, P.E.

Mr. and Mrs. Grenier currently live in a two-bedroom house with one child and another on the way. They would like to add a second floor, and are seeking a Special Permit to extend the nonconforming structure by adding this above a nonconforming first floor structure. They will also require a side yard setback of 5.5 feet instead of the required 10 feet to construct the second floor.

Jason Slater, 79 Sanderson Avenue, and John Whalen, 89 Lincoln Street, both direct abutters, spoke in favor of the petition.

Mr. Steeves moved to approve a Special Permit to extend a nonconforming structure by adding a second floor above an existing nonconforming first floor structure, and to be allowed a variance to construct a second floor bedroom above the existing first floor structure that will have a side yard setback of 5.5 feet instead of the required 10 feet. Mr. Jacobsen seconded the motion. The vote to approve was unanimous at 5-0.

Applicant Lorna Dempsey
Property Address 124 Milton Street, Dedham, MA
Property Owner/Address Lorna Dempsey, 74 Bonham Road, Dedham, MA
Zoning District LMA
Map and Lot 113/40
Application Date May 24, 2018
Representative Peter A. Zahka II, Esq., 12 School Street, Dedham, MA

Legal Notice The applicant seeks to be allowed such Special Permits and variances as required to reconstruct a recently demolished nonconforming two-family house with a new two-family

Section of Zoning Bylaw house with a side yard setback of 11.3 feet and a floor area ratio of 0.45.
Town of Dedham Zoning Bylaw Sections 3.3.2-3.3.7, 9.2, 9.3, Table 1, and Table 2

Present and Voting James F. McGrail, Esq., J. Gregory Jacobsen, Scott M. Steeves, E. Patrick Maguire, MLA, RLA, CLARB, LEED AP®, Jason L. Mammone, P.E.

The Applicant proposed construction of a two-family house on the site of a previously demolished two-family nonconforming house. The property contains 9,550 square feet of land with 70.21 feet of frontage on Milton Street. It is in the Limited Manufacturing A zoning district. The old house had been constructed in 1900, and there had been evidence of a three or four-family house in the past. There was a Zoning Board of Appeals approval in 2003 for condominiums, but the financing fell through. In 2008, the Zoning Board of Appeals approved a three-family house, but again, financing fell through. The house has since been razed.

Mr. Zahka said that the Applicant has a right to reconstruct the building on the same footprint, but instead proposes to reconfigure it, eliminating or decreasing some of the nonconformities. The new house will have a front yard setback of 30 feet, left side yard setback of 11.3 feet, right yard setback of 15.2 feet, and floor area ratio (FAR) of 45%. There will be four (4) parking spaces, two of which will be in side garages. The Applicant will need to go before the Conservation Commission for storm water issues. The Applicant presented a signed list of abutters who are in favor of the petition.

Mr. Jacobsen moved to allow such Special Permits and variances as required to reconstruct a recently demolished nonconforming two-family house with a new two-family house with a side yard setback of 11.3 feet and a floor area ratio of 0.45. Mr. Steeves seconded the motion. The vote to approve was unanimous at 5-0.

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| Applicant | Oscar Bar Dedham, LLC |
| Property Address | 380 Washington Street, Dedham, MA |
| Property Owner/Address | Makarios Series, LLC, Washington Street Series, 262 Main Street, Norfolk, MA 02056 |
| Zoning District | Central Business |
| Map and Lot | 108/67 |
| Application Date | May 21, 2018 |
| Representative | Peter A. Zahka II, Esq. |

Legal Notice The applicant seeks to be allowed such waivers from the Town of Dedham Sign Code as required for two (2) window signs with an area of approximately 21.65 square feet and one (1) window sign with an area of approximately 16.96 square feet, which signs are greater than the 25% window area.

Section of Sign Code *Town of Dedham Sign Code Sections 238-29, 237-30, Table 1, and Table 2*

Present and Voting

James F. McGrail, Esq., J. Gregory Jacobsen, Scott M. Steeves, E. Patrick Maguire, MLA, RLA, CLARB, LEED AP®, Jason L. Mammone, P.E.

The front three (3) windows at the Applicant’s pub/restaurant are “frosted” with the name “Oscar’s” and other lettering etched therein. The Applicant indicates that it installed this “frothing” to provide some privacy for patrons seated at tables adjacent to the windows and to shield these patrons from direct sunlight. Per Table 2 of the Dedham Sign Code, window signs are limited to a maximum of 25% of the window area. At the time of installation, it was the Applicant’s understanding that only the etched lettering would be considered the window sign (and the area of the signs were in compliance with the Sign Code). Subsequently, however, the Building Department determined that the entire window “frost” is included in the calculation of the sign area for these window signs. Based upon such calculation each of the three (3) window signs exceeds the maximum allowable 25% of the window area.

In light of the above, the Applicant has requested waivers from the provisions of the Dedham Sign Code in order to maintain the existing three (3) window signs. At the outset of the hearing, the Applicant indicated that it plans to replace the windows (and eliminate the window signs) within the next 18 months. As such, the Applicant limited its request for a waiver for a period of 18 months in order to provide time for permitting of the new windows and any related signs and the installation of the same.

Mr. Steeves moved to grant such waivers from the Town of Dedham Sign Code as required for two (2) window signs with an area of approximately 21.65 square feet and one (1) window sign with an area of approximately 16.96 square feet, which signs are greater than the 25% window area. Mr. Maguire seconded the motion. The vote to approve was unanimous at 5-0.

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| Applicant | Paul J. and Barbara R. Corey |
| Property Address | 769 East Street, Dedham, MA |
| Property Owner/Address | Same |
| Zoning District | Single Residence B |
| Map and Lot | 152/48 |
| Application Date | May 29, 2018 |
| Representative | <ul style="list-style-type: none"> • Kevin F. Hampe, Esq., 411 Washington Street, Dedham, MA • Paul J. and Barbara R. Corey |

Legal Notice The applicants seek to be allowed a variance for a side yard setback for an existing single family dwelling to remain 13.1 feet instead of the required 15 feet on a newly created lot in the Single Residence B zoning district.

Section of Zoning Bylaw *Town of Dedham Zoning Bylaw Section 4.0, Table 2*

Present and Voting James F. McGrail, Esq., J. Gregory Jacobsen, Scott M. Steeves, E. Patrick Maguire, MLA, RLA, CLARB, LEED AP®, Jason L. Mammone, P.E.

Mr. Hampe explained that the property is in the Single Residence B, and is a single lot at this time. The property contains an historic house built in 1695. The property is under agreement

to be sold to a developer who wants to subdivide the property and construct another single family dwelling. In order to do that, a variance for a side yard setback is needed. When it was constructed, it complied with side yard setback requirements of the Town of Dedham Zoning Bylaw. The requirements have changed, and require a 15 foot side yard setback for lots created after 1989. The existing house will remain in the same location and will be 13.1 feet from the side yard instead of the required 15 feet. It will contain 12,711 square feet. The second lot will contain 12,589 square feet and 149.65 feet of frontage on Madison Street. The existing garage will be removed; this is located primarily on the new lot.

Anne Mercer, 750 East Street, was concerned that a huge house would be constructed on the new lot. Mr. Corey said he cannot control what the new owner does as long as it is allowed. Richard McGowan, 770 East Street, lives across the street. He said his view will change if this goes through, and his quality of life will diminish. He stated that he was not in favor of this, saying that the quality of Dedham has been changing and giving relief seems counterintuitive. Mr. Maguire said that the house complied with regulations when it was built. Mr. Hampe said that the house is an historic house and he said this would preserve it. However, another option would be to take the house down and two new houses could be built. Mr. Maguire said that the Coreys could have simply taken the house down and not have to come to the Zoning Board of Appeals.

Michael Morris, 762 East Street, said that he lived in Houston, Texas, where there is no zoning. He said their historic district was destroyed. He said that waiving requirements is a slippery slope, and that he would hate to see the house destroyed. However, he was concerned about the Town waiving certain requirements. Mr. McGrail agreed with his comments about Houston, and said he would like the historic home maintained. Mr. Morris asked if there was any guarantee that the house would remain. Mr. McGrail said there was not. If he sells the house and the new owners choose to take it down, so be it. Ms. Mercer suggested that a covenant be put into the sale; Mr. McGrail said this was not the Board's issue. He also said he would support the application in hopes that the house will be saved. He agreed with the neighbors about taking houses down and building huge new houses. Mr. Corey said that he and his wife wanted to sell the property as a unit. The owner-to-be promised to market the house.

Mr. Steeves moved to allow a variance for a side yard setback for an existing single family dwelling to remain 13.1 feet instead of the required 15 feet on a newly created lot in the Single Residence B zoning district. Mr. Maguire seconded the motion. The vote to approve was unanimous at 5-0.

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| Applicant | 63 Colonial Drive, LLC/Stephen Clifford |
| Property Address | 63 Colonial Drive, Dedham, MA |
| Property Owner/Address | 63 Colonial Drive, LLC, 30 Milton Street, Dedham, MA |
| Zoning District | Single Residence B |
| Map and Lot | 77/129 |
| Application Date | May 23, 2018 |
| Representative | Stephen Clifford |

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| Legal Notice | The applicant seeks to be allowed a front yard setback of 10 feet instead of the required 25 feet to construct a new single family dwelling. |
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Section of Zoning Bylaw *Town of Dedham Zoning Bylaw Section 4.1, Table of Dimensional Requirements*

Present and Voting James F. McGrail, Esq., J. Gregory Jacobsen, Scott M. Steeves, E. Patrick Maguire, MLA, RLA, CLARB, LEED AP®, Jason L. Mammone, P.E.

Mr. Clifford stated that the property is a triangular lot containing 6,489 square feet. He intends to build a single family dwelling that will be between 1,800 to 2,000 square feet. He requires a front yard setback of 10 feet instead of the required 25 feet. He stated that no other setback are necessary. He said the hardship is because of the lot shape and existing ledge throughout the property. He said that when he checked the lot, they hit ledge from two feet to five feet deep. The lot had previously been owned by the Roman Catholic Archbishop of Boston since 1873.

Nicole Keane, 70 Thomas Street, lives directly across from the property. She presented 22 signatures in opposition to the petition, which listed the following concerns (typed verbatim):

- Colonial Drive is a narrow throughway with a sharp and blind curve just before the proposed house. Shortening the setback from the town-approved amount could allow for a dangerous instance of a car driving around the curve and not seeing someone or something in the lot and hitting it or them.
- There is significant rock ledge that encompasses the lot that would require blasting such that nearby houses may have a concern of structural damage to their own houses.
- Access to utilities may have to go through existing neighbor's yards destroying landscaping and/or existing structures.
- There [is] a beautiful stand of trees, some of the last few large and mature trees in the neighborhood, that will be cut down to make way for a house. The lot size is so small that there isn't the ability to replant trees.

Mr. McGrail asked Mr. Clifford if he had met with the neighbors. He said he had not. He said the lot was created in 1873 and meets the special lot exception. Mr. McGrail asked if he could build the house as a matter of right and stay within restrictions. Mr. Clifford said he could, but it would be very small.

Samantha Tram, 72 Thomas Street, said that the ledge is under the other houses, and asked if they will be damaged.

Steven Mellen, 65 Colonial Drive, said the petition affects him directly with regard to his driveway. He said he would lose his driveway and access to his garage. He said that Mr. Clifford is aware of the rules and regulations, and should have done his due diligence in inspecting the property. He does not see the hardship of the petition. He said the site is unbuildable because of the ledge, and it does not make sense to put a house there.

Mr. McGrail advised a neighborhood meeting, but Mr. Clifford said he could address issues at this meeting. Mr. McGrail said this meeting is not the forum for that. He advised him to find a place to meet and to try to reach common ground. This hearing was tabled until July 18, 2018.

Applicant Kevin Costello
Property Address 35 Roosevelt Road, Dedham, MA
Property Owner/Address Kevin Costello, 398 Greenlodge Street, Dedham, MA
Zoning District Single Residence B, Aquifer Protection Overlay district
Map and Lot 196/23
Application Date May 29, 2018
Representative Peter A. Zahka II, Esq., 12 School Street, Dedham, MA
Kevin Costello, Owner

Legal Notice The applicant seeks to be allowed such Special Permits and variances as required to construct a single family dwelling on a lot with an area of 7,500 square feet instead of the required 12,500 square feet, lot frontage and width of 75 feet instead of the required 95 feet, and with a resulting impervious surface of 25% of the lot area, including the area to the center line of any new street, in the Single Residence B zoning district and the Aquifer Protection Overlay district.

Section of Zoning Bylaw *Town of Dedham Zoning Bylaw Sections 8.2, 9.2, 9.3, and Table 2*

Present and Voting James F. McGrail, Esq., J. Gregory Jacobsen, Scott M. Steeves, E. Patrick Maguire, MLA, RLA, CLARB, LEED AP®, Jason L. Mammone, P.E.

Mr. Zahka said the lot has 7,500 square feet of land with 75 feet of frontage on the unpaved portion of Roosevelt Road. In the past, there had been a misunderstanding that all lots in the area were grandfathered; this is not true. The lots were taken in foreclosure prior to the zoning change. In 2014, a petition came before the Zoning Board of Appeals regarding Lot 19. The lot was shifted in the 1950's. An applicant came to the ZBA in 2014 and said they assumed that they were grandfathered; they were not. Mr. Zahka has met with Building Commissioner Kenneth Cimeno regarding grandfathering. If there is no grandfathering in this case, then all the houses that were built are to be considered nonconforming; they can remain, however. None of those houses were granted variances or Special Permits.

It is unclear if this property is entitled to be grandfathered; Mr. Cimeno said it is not. Only relief from a zoning perspective is requested. There is currently no issue with the Conservation Commission, but if a house is to be built, it must go to them for storm water management. The Applicant would also have to go to the Planning Board for roadway improvements, and the Engineering Department for a sewer line. If they are denied at any of these boards, it cannot go any further.

The house would be built on a slab; there will be no basement. It will require detailed engineering. If there is run off, it must be corrected; there is an Aquifer Protection Overlay district bylaw. The Conservation Commission will make the ruling on this. It is not clear what improvements will be required by the Planning Board. Mr. Zahka presented a list of 24 signatures in support of the petition.

At this point, the meeting became unruly because many people spoke and interrupted at the same time. Dictation was very difficult because of this.

Kathryn Vaughn, 16 Roosevelt Road, said the neighbors were shown plans for a 1,000 square foot house that fits in with the other houses in the neighborhood. In actuality, a 2,000 square foot house was built. She signed the petition because she felt that she was lied to. Mr. McGrail said that the Board could, if it voted in favor of the petition, put a condition that the Applicant can only build to what he says, which is a 1,500 square foot footprint for a house originally measuring 38' x 48.' He said the house needs to be shortened to a 45' x 30' footprint. Ms. Vaughn said that the area has a lot of woods, and there is a high water table at the end of the road. She said she was told that it was conservation land, and asked how Mr. Costello could build there. She also asked how many other houses would be built after this one. Mr. McGrail said this petition is only the first stop for the Applicant. He will have to go to the Conservation Commission for its approval as well. The only thing that the Zoning Board of Appeals is ruling on is his dimensional requests, and the Board has nothing to do with the Conservation Commission. Mr. Zahka also commented, but due to recording equipment malfunction, his comments could not be heard.

Bob, address unknown, said that there are six Cape houses that have problems with water. He is concerned about typhoid. There is an artesian well, and they do not know if there will be a problem keeping it pure. Mr. Zahka said that there needs to be an Order of Conditions from the Conservation Commission, and the neighbors will be notified of their meeting.

Alan LaBelle, 454 Greenlodge Street, said his concern is conservation. He was not in favor of the petition.

Scott Mulholland, 28 Roosevelt Road, said the lot goes right up to his property. He is concerned about water, saying he has had it two to three feet high. He asked where the water would go. His real estate agent told him the lot was unbuildable. He is also concerned about wildlife, saying that he has deer outside and wants to keep them.

David DiDonato, 440 Greenlodge Street, said that his objection is not personal. He has a problem with water up to the rear of his house in a normal rain, as does his neighbor. There are woods and wetlands. He was told that nothing could be built there. Several years ago, he wanted to buy the property to extend his yard, and was told that he could not cut down the trees or put anything there. He asked if it was still a lot. Mr. McGrail said that is why the Applicant is before the Board. He needs permission to build on the property, and has a lot of work ahead of him with various boards, i.e., Planning Board and Conservation Commission. Mr. Costello said that he has met with Conservation Commission twice and there have been no problems. Mr. Zahka said that every new house goes to Conservation Commission for a storm water permit. It is very difficult to build within the wetlands. If the building will be within 100 feet of the buffer zone, the owner needs to file with Conservation Commission for an Order of Conditions. They regulate wetlands according to State law.

Mr. McGrail said he understood the neighbors' concerns. He said that in these situations, there are sometimes opportunities to correct water issues and improve things. He reiterated that the wetlands issues are issues for Conservation Commission, not the Zoning Board of Appeals.

After much discussion, Mr. McGrail said that Mr. Costello needs to meet with the neighbors. He said that 85% of their concerns should be answered by Conservation Commission. Mr. Zahka said that a plan will be put together and shown to the neighbors. He will bring it to the next meeting as well. Mr. Steeves moved to table this petition until July 18, 2018, seconded by Mr. Jacobsen. The vote was unanimous at 5-0.

Review of Minutes

Mr. Jacobsen moved to approve the minutes of May 16, 2018. Mr. Steeves seconded the motion. The vote to approve was unanimous at 5-0.

Mr. Steeves moved to adjourn, seconded by Mr. Mammone. The vote to adjourn was unanimous at 5-0. The meeting ended at 9:30 p.m.

Respectfully submitted,

Susan Webster
Administrative Assistant