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2019 FEB 5 AM 9:51
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ZONING BOARD OF APPEALS

DECISION

Applicant: Mr. and Mrs. Timothy Silva
Project Address: 51 Court Street, Dedham, MA
Property Owner: Single Residence B
Property Owner Address: 51 Court Street, Dedham, MA

Applicant Representative(s): Andrew Mulligan, 107 Willow Street, Westwood, MA
Timothy Silva, Owner/Applicant

Legal Notice: To be allowed a variance for a nonconforming side yard setback of 3 feet instead of the required 10 feet to construct a mud room on the rear side of the home. The proposed structure would not be visible from the street, would be one-story, and is to be used as a point of entry. The proposed room would be 16' 3.5" long x 8' 6" wide and will not encroach on the side yard setback any greater than 70% of the existing side of the home.

Section of Zoning Bylaw : *Town of Dedham Zoning Bylaw Sections 3.3.3, 3.3.4, and 4.1, Table 2, Footnote 5*

Zoning District, Map and Lot: Single Residence B, Map 107, Lot 65

Date of Public Hearing: January 16, 2019
Date of Decision: January 16, 2019
Vote: Unanimous approval, 4-0
Voting Members: James F. McGrail, Esq., Chair, Scott M. Steeves, Jason L. Mammone, P.E., George Panagopoulos

Date Filed with Town Clerk: February 5, 2019

The Zoning Board of Appeals ("ZBA") of the Town of Dedham, Massachusetts held public hearings on Wednesday, January 16, 2019, in the Town Office Building, 26 Bryant Street, Dedham, MA. Present were Members of the ZBA, Chair James F. McGrail, Esq., Scott M. Steeves, and Jason L. Mammone, P.E. In the absence of Vice Chair J. Gregory Jacobsen,

the Chair appointed Associate Member George Panagopoulos to sit in his stead. Member E. Patrick Maguire, LEED AP, was also unable to attend the meeting. Associate Member Jared F. Nokes, J.D., was unable to attend. Therefore, there were only four voting members of the Board present for each hearing. Mr. McGrail explained that, according to Zoning Bylaw Section 9.2.5 Quorum, a unanimous vote must be made to approve any petition. The Applicant was informed of this and chose to proceed.

The hearings were duly advertised for two consecutive weeks in *The Dedham Times* in accordance with the requirements of MGL Chapter 40A, Section 11 and the Town of Dedham Zoning Bylaw. Notices of the hearings were sent to abutters within 300 feet of the property in question. Notification of the Public Hearing was sent to the neighboring towns of Boston, Needham, Canton, and Westwood. Copies of all plans referred to in this decision and a detailed record of the Zoning Board of Appeals proceedings are filed in the Dedham Planning and Zoning Department.

At 7:15 p.m., the Chairman called for the hearing on Mr. and Mrs. Timothy Silva, 51 Court Street, Dedham, MA. The Applicants seek to be allowed a variance for a nonconforming side yard setback of 3 feet instead of the required 10 feet to construct a mud room on the rear side of the home. The proposed structure would not be visible from the street, would be one-story, and is to be used as a point of entry. The proposed room would be 16' 3.5" long x 8' 6" wide and will not encroach on the side yard setback any greater than 70% of the existing side of the home. *Town of Dedham Zoning Bylaw Sections 3.3.3, 3.3.4, and 4.1, Table 2, Footnote 5*

The Applicant was represented by Andrew Mulligan, 107 Willow Street, Westwood, MA. Accompanying Mr. Mulligan was the owner, applicant, Timothy Silva. The minutes from the hearing are the primary source of evidence and are incorporated herein by reference.

The subject property is known and numbered as 51 Court Street, Dedham, MA, and is shown on Dedham Assessors Map 107, Lot 65. The certified plot plan indicates that the Subject Property contains 10,646 square feet of land, 71.2 feet of frontage on Court Street, and 149.83 feet of frontage on Village Avenue. According to the Dedham Zoning map, the property is located in the Single Residence B zoning district. Currently, the property is occupied

by a single family dwelling. According to records maintained by the Dedham Board of Assessors, the building was constructed in 1810.

The Silvas moved from Hingham to 51 Court Street. The existing side yard setback for half to three-quarters of the house is 3 feet. In the rear corner is a flat porch. The driveway is on Village Avenue, and they are seeking a variance to construct a mud room so that when they pull into the driveway, there is a place to enter and hang up coats. There are two letters from neighbors. The applicants have put a substantial amount of money into the home since buying it, including a new kitchen and new bathrooms, and have worked extensively with the Historic Districts Commission on these. If the petition is approved, they will see that commission next Wednesday. Only 8' 6" will be visible from the street.

Mr. Mammone said he did not have certified floor plans in his package so measurements are not known. Mr. Mulligan said that Steve DesRoche of Neponset Valley Survey Associates, 95 White Street, Quincy, MA 02169 is preparing this for Building Commissioner Kenneth Cimeno. They are waiting for Mr. DesRoche to return from Florida to submit this. Mr. McGrail said that the decision can be conditioned that the applicant is to provide a certified plot plan confirming the measurements. A second condition will be that the applicant go to the Historic Districts Commission for their feedback. When the motion is made, it will not include "The proposed structure would not be visible from the street" because it is not germane to the Zoning Board of Appeals; this is a Historic Districts Commission decision.

The audience had no comments.

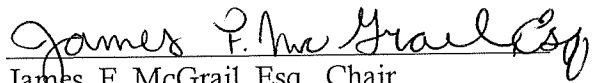
Mr. Steeves moved to allow a variance for a nonconforming side yard setback of 3 feet instead of the required 10 feet to construct a mud room on the rear side of the home. The proposed structure would be one-story, and is to be used as a point of entry. The proposed room would be 16' 3.5" long x 8' 6" wide and will not encroach on the side yard setback any greater than 70% of the existing side of the home. The property is located at 51 Court Street, Dedham, MA. A condition of the approval is that the applicant is to provide a stamped certified plot plan to the Building Department as part of this application, and the applicant will inform the Historic Commission for their feedback. Mr. Panagopoulos seconded the motion. The vote was unanimous at 4-0.

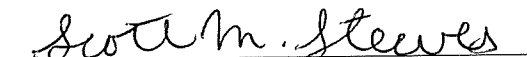
In granting said variance, the Zoning Board of Appeals finds that the proposed modification will not be substantially more detrimental to the neighborhood. Furthermore, the ZBA finds that, after consideration of the criteria in Section 9.3.2 of the Dedham Zoning Bylaw, the adverse effects of the Applicant's proposal will not outweigh its beneficial impacts on the Town and the neighborhood. In granting said variance, the Zoning Board of Appeals finds that the Applicant has satisfied the requirements of Section 10 of Chapter 40A of the General Laws of Massachusetts, a literal enforcement of the Dedham Zoning Bylaw requirements would cause a substantial financial hardship to the Applicant, and that the relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent of purpose of the Dedham Zoning Bylaw.

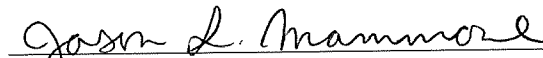
The Applicant is advised that, in accordance with MGL Chapter 40A, Section 11, no variance shall take effect until a copy of this decision bearing the certification of the Dedham Town Clerk that twenty (20) days have elapsed after the decision has been filed with the Dedham Town Clerk and no appeal has been filed or that an appeal has been filed within such time shall be recorded in the Norfolk County Registry of Deeds or the Land Registration Office of Norfolk County.

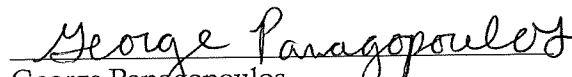
Date: February 5, 2019

Attest by the Zoning Board of Appeals:


James F. McGrail, Esq., Chair


Scott M. Steeves


Jason L. Mammone, P.E.


George Panagopoulos