

TOWN OF DEDHAM
COMMONWEALTH OF MASSACHUSETTS

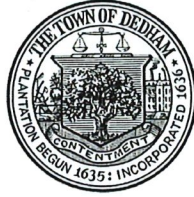
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ZONING BOARD OF APPEALS

2019 JUN 20 AM 10:40

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James F. McGrail, Esq., Chair
J. Gregory Jacobsen, Vice Chair
Scott M. Steeves
Jason L. Mammone, P.E.



Dedham Town Hall
26 Bryant Street
Dedham, MA 02026-4458
Phone: 781-751-9242

Associate Members

Jared F. Nokes, J.D.
George Panagopoulos

ZONING BOARD OF APPEALS
DECISION

Applicant: Hub Development, LLC, 20 Milton Street Dedham, Ma.
Project Address: 230 Sprague Street, Dedham, Ma.
Property Owner: Hub Development, LLC

Property Owner Address: 20 Milton Street, Dedham, Ma.
Applicant Representative: Kevin F. Hampe, Esquire 411 Washington Street
Dedham, MA

Legal Notice: The Applicant, Hub Development, LLC, of 20 Milton Street, Dedham, seeks to be allowed a special permit in accordance with section 3.3.7 of the Dedham Zoning By-Laws, to voluntarily demolish the existing nonconforming structure on Lot 340 and to construct a new single family dwelling to be located on the lot in an area other than on the original footprint of the existing structure and to be allowed to exceed the volume and area of the nonconforming structure. The Applicant also seeks to be allowed variance to build a single family dwelling on the adjacent LOT 339 which has a lot area of 10,734 square feet instead of 12,500 square feet and having a frontage of 50.07 feet instead of the 95 feet in a Single Residence B Zone (SRB). *Town of Dedham Bylaw Section 3.3.7, Section 4.0 and Section 9.2.1 of the Town of Dedham Zoning By-Laws and MGLA CH. 40A Sec.10 and MGLA CH.40A Sec.9.*

Section of Zoning By-Law: Town of Dedham Zoning By-Law section 3.3.7.c,
Section 4.0 and Section 9.2.1 and M.G.L.A. CH. 40A
Sec. 9

Zoning District, Map and Lot: Single Residence B, Map 168, Lot 81

Date of Public Hearings: March 20, 2019, April 24, 2019 and May 22, 2019.

Date of Decision: May 22, 2019

Vote: 5-0 Unanimous

Voting Members: Chairman James F. McGrail Esq., Jason Mammone
Scott Steeves, Gregory Jacobsen, and George
Panagopoulos

Date filed with Clerk: June 20, 2019

The Zoning Board of Appeals (ZBA) of the Town of Dedham held a public hearing on Wednesday, March 20, 2019 in the Town office building, 26 Bryant Street, Dedham, MA. Present were members, Chairman James F. McGrail, Esq., Jason Mammone P.E., Scott Steeves, Gregory Jacobsen, and George Panagopolous.

The original hearing was duly advertised for two consecutive weeks in the Dedham Times in accordance with the requirements of MGLA CH 40A sec. 11 and the Town of Dedham Zoning By-Law. Notice of the hearing was sent to the abutters within 300 feet of the property in question. Notification of the public hearing was sent to the neighboring towns of Boston, Canton, and Westwood. Copies of all plans referred to in the decision and the detailed record of the Zoning Board of Appeals proceedings are filed in the Dedham Planning and Zoning Department.

On March 20, 2019, the Chairman called for the hearing of Hub Development LLC on their request for a special permit and variance on Lots 340 and Lot 339 located at 230 Sprague Street, Dedham, Ma. The applicant was represented by Attorney Kevin F. Hampe and Antonio Ferrara, the manager of the Applicant was in attendance. Attorney Hampe indicated that there exists a dilapidated single family bungalow style house on lot 340. The house is considered a non-conforming structure as it is located on the property line between Lot 340 and Lot 339 and does not meet the present day set-back requirements. The roof of the existing house actually encroaches on Lot 339 by 4 inches. Lot 339 is vacant but for the encroachment of the roof. According to a determination of the building department, the encroachment prevented Lot 339 from being a buildable lot under the lot size exemption section of the town's zoning by-law.

Attorney Hampe indicated that the Applicant proposes to build a single family, colonial style, 4 bedroom, 2.5 bathroom house on each lot. Each house would be 2 stories and would be 29 feet by 48 feet and located on the lot in accordance with the plans submitted. Each house would have a driveway and garage. In addition, the applicant submitted a landscape plan with his memorandum. The applicant was requesting a special permit to demolish the existing dilapidated dwelling on Lot 340 and to increase the size of the new dwelling and to relocate it from its present location. On Lot 339, the applicant was requesting a variance from the frontage and lot area requirements for the construction of a new dwelling which would conform to all setback requirements. The applicant argues that the construction of two smaller houses on the lots would be in keeping with the character of the neighborhood. The applicant indicated to the Board that if the requested relief was not granted, the applicant would be able to construct a large single family dwelling encompassing both lots.

At the March 20, 2019 hearing, two immediate abutters on each side of the lots expressed concerns about the size of the houses, water runoff, and effect on their adjacent properties. Attorney Hampe requested the Board to continue the hearing to the next scheduled April 24, 2019 hearing date, to allow the applicant to meet with these neighbors to address their concerns. On April 24, 2019, the applicant again requested a continuance to the May 22, 2019 scheduled meeting date, as the parties had been unable to schedule a meeting to discuss these issues.

On May 22, 2019, the hearing was reconvened and Attorney Hampe informed the Board that his client had meet with both immediate abutters and an agreement had been reached with both parties. The applicant agreed to install a drainage system at the time of construction on the property of an immediate abutter, Mr. Stephen Gigliotti at 222 Sprague Street, to help alleviate an existing flooding and drainage problem. This would be done at the time the applicant begins construction on the new house on Lot 340.

The applicant also agreed with Mr. Paul Nugent of 149 Turner Street to reduce the height of the proposed house on Lot 339 by 3 feet, install and relocate a new fence between Lot 339 and Mr. Nugent's back yard and to install shrubs and landscaping in the area abutting the fence between the properties. Both parties requested that the Board make these items conditions of the special permit.

The Board found that the Applicant had met the requirements for the issuance of a special permit for the demolition of the existing non-conforming structure and the relocating and enlarging of a new dwelling on Lot 340 in accordance with section 3.3.7c. of the Town of Dedham Zoning By-Law. In addition the Board found that the relief granted would not be more detrimental to the existing neighborhood and would be an improvement from the existing condition.

The Board also found that the applicant had met the requirements for granting the variances requested for frontage and lot area in accordance with MGLA CH. 40 A section 10.

The Board felt that Lot 339 would have been a grandfathered buildable lot but for the de minimus roof encroachment. The Board felt that the encroachment caused the applicant to suffer a financial hardship. The Board also found that the size of the lot was in keeping with other lots in the neighborhood and that the new house would meet all setback requirements of the zoning by-law.

Upon Motion by Mr. Steeves and seconded by Mr. Jacobsen, the Board unanimously voted to grant the variances and special permit relief requested by the applicant with the following conditions attached to the special permit.

1. That the Applicant install a drainage system on the property at 222 Sprague Street at the time of construction to alleviate an existing flooding and drainage problem on the site and to prevent any additional water runoff from Lot 340 onto 222 Sprague Street.
2. That the Applicant reduce the height of the house on Lot 339 by 3 feet and to relocate and install a new fence between Lot 339 and the property at 149 Turner Street and install landscaping and shrubs along the fence in compliance with the agreement of the parties.

Appeals of this decision, if any, shall be made pursuant to Section 17 of Chapter 40A of the general Laws of the Commonwealth of Massachusetts and shall be filed within 20 days after the date of filing of this decision with the Town Clerk.

Dated: June 20, 2019

In accordance with MGL Chapter 40A, Section 11, no special permit shall take effect until a copy of this decision bearing the certification of the Dedham Town Clerk that twenty 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:

Attest by the Zoning Board of Appeals:

James F. McGrail
James F. McGrail, Esq., Chair

J. Gregory Jacobsen
J. Gregory Jacobsen, Vice Chair

Scott M. Steeves
Scott M. Steeves

Jason L. Mammone
Jason L. Mammone, P.E.

George Panagopoulos
George Panagopoulos

Attest by the Administrative Assistant:

Julie Doherty