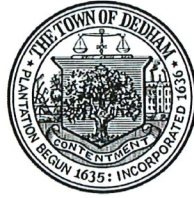


TOWN OF DEDHAM
COMMONWEALTH OF MASSACHUSETTS

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ZONING BOARD OF APPEALS



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26 Bryant Street

Dedham, MA 02026-4458

Phone: 781-751-9242

Jennifer Doherty

Administrative Assistant

jdoherty@dedham-ma.gov

Members

James F. McGrail, Esq., Chair
J. Gregory Jacobsen, Vice Chair
Scott M. Steeves
Jason L. Mammone, P.E.
George Panagopoulos, Associate
Andrew Pepoli, Associate

DECISION

Applicant/Owner	94 Dedham Boulevard LLC
Property Address	94 Dedham Boulevard, 108 & 122 Garfield Road, Dedham, MA
Zoning District	Single Residence B
Map and Lot	98/4
Representative(s)	Edward J. Richardson, Esq., 339 Washington Street, Dedham, MA Edward Musto, Principal, 94 Dedham Boulevard, LLC, 36 Blue Hill Drive, Westwood, MA
Legal Notice	The Applicant, 94 Dedham Boulevard, LLC, 36 Blue Hill Drive, Westwood, MA, seeks to be allowed a variance for a proposed lot at 94 Dedham Boulevard and 108 & 122 Garfield Road having 60.01 feet of frontage instead of the required 95 feet, lot area of 7,363 square feet instead of the required 12,500 square feet, lot width of 60.01 feet instead of the required 95 feet, and side yard of 10 feet instead of the required 15 feet The property is located at 94 Dedham Boulevard, Dedham, MA, Map 98, Lot 4 and is in the Single Residence B zoning District.
Section of Zoning Bylaw	<i>Town of Dedham Zoning Bylaw Section 4.1, Table 2</i>
Date of Application	4/5/2019
Date of Public Hearing(s)	4/5/20/2019 & 6/19/19
Date of Decision	6/19/2019
Vote	Denial (4-0 Unanimous)
Voting Members	James F. McGrail, Chair Gregory Jacobsen, Vice Chair Scott M. Steeves Jason L. Mammone, P.E

The Zoning Board of Appeals ("ZBA") of the Town of Dedham, Massachusetts, held public hearings on Wednesday, May 20, 2019 and Wednesday June 19, 2019, at Dedham Town Hall, 26 Bryant Street, Dedham,

Massachusetts. Present were members of the ZBA, James F. McGrail, Chair, J. Gregory Jacobsen, Vice Chair, Scott M. Steeves, and Jason Mammone, P.E.

The hearings for this meeting of the ZBA were duly advertised in *The Dedham Times* on April 12, 2019 and April 19, 2019 in accordance with the requirements of Massachusetts General Law, Chapter 40A, Section 11, and the Town of Dedham Zoning Bylaw. In addition, notices of the hearings were sent to abutters within 300 feet of the property in question on April 9, 2019. Notification of each hearing was sent to the abutting 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 Town of Dedham Planning Department.

The Applicant, Edward Musto, was represented by Attorney Edward J. Richardson Attorney at the hearings. The minutes from the hearings are the primary source of evidence and are incorporated herein by reference.

On April 5, 2019, the Applicant submitted an application, which included:

1. Zoning Board of Appeals application
2. Plan of land entitled "Zoning Board of Appeals, Plan of Land, #94 Dedham Boulevard", dated December 56, 2018, and prepared by Glossa Engineering of East Walpole, MA
3. Elevation and Floor Plans, entitled "Front Elevation", "Rear Elevation", and "Side Elevation", dated June 21, 2012, and prepared by D & D Enterprises Residential Drafting.
4. Town of Dedham Assessors Database information

The subject property is known and numbered as 94 Dedham Boulevard, Dedham, Massachusetts, and is shown on Dedham Assessor's Map 98, Lot 4. The certified plot plan indicates that the Subject Property contains 14,726 square feet of land. According to the Town of Dedham Zoning Map, the Subject Property is located in the Single Residence B zoning district. Currently, the property is occupied by a single family dwelling with a detached garage. According to the records maintained by the Dedham Board of Assessors, the building was constructed in 1952.

At the initial public hearing on Wednesday, April 24, 2019, Attorney Richardson said this is a companion case with 108 & 122 Garfield Road. As such, these cases include parcels of land that are to be split off Garfield Road, as well as 94 Dedham Boulevard. With regard to 94 Dedham Boulevard, he submitted a supplemental list of documents including the "Ewell plan" from the late 1800's, the West Roxbury Gardens plan showing the layout of the property, plans that show the parcels on Border Street (now Garfield Road), a copy of the Dedham Assessors map for the area, and a tax taking of the property from the 1920's when it was four separate lots.

It is believed that the parcel, because of its shape going between Dedham Boulevard and Garfield Road, does not apply everywhere. The land and the surrounding area were substantially developed in the 1940's, 1950's, and 1960's when it was zoned General Residence at the time, and the lots were small. It is now zoned Single Residence B. The lot came into existence when the property had been taken for taxes in 1920. At that time, low value tax taking was basically no title at all, so in some cases, the owners would register the land. Mr. Richardson believes that the existing house will be demolished.

Rita Mae Cushman, 121 Garfield Road, stated her house faces the property. She asked the owner how many houses he would be putting up, and he said two. She was shocked to find out that he intended to build more. She is opposed to the petition.

Mr. McGrail clarified that there is a house with an address on Dedham Boulevard. Mr. Musto said it has been torn down, and the original foundation will be demolished. A new house would be built in its place and another in the back. He has spoken with the neighbors on occasion, but there has been no neighborhood meeting. Diane Palombi, 99 Dedham Boulevard, spoke about the house Mr. Musto built. Mr. McGrail said the Board encourages applicants to have neighborhood meetings to make sure the neighbors have opportunity to fully

understand exactly what is proposed. He told Mr. Musto to do that. Mr. McGrail asked if he would be living in the new house, and Mr. Musto said he would have to check with his wife.

Mr. McGrail suggested that this hearing be continued to May 22, 2019, so the applicant can meet with the neighbors. Mr. Steeves moved to continue these hearings to that date, seconded by Mr. Jacobsen, and voted unanimously 4-0.

At the continued public hearing on May 22, 2019, an issue regarding water drainage problems was brought up. Mr. Mammone stated that a current project with the MWRA on Dedham Boulevard may have resolved some of the drainage issues, however it would not be significantly noticed until the construction was fully complete. He added some of the issues could not be resolved because of the bedrock inherent in the area, which did not drain rainwater as well as soil. He recommended paying attention to the Conservation Commission process of the application in order to address any drainage issues. The Applicant and neighbors requested a continuance to the next hearing. The Applicant agreed to waive constructive approval and a motion was made by Greg Jacobsen to continue to the June 19, 2019 meeting. The motion was seconded by Scott Steeves and all were in favor, 5-0. Town Planner Jeremy Rosenberger said they will provide a form for both parties to sign waiving constructive approval of the application.

At the continued public hearing on June 19, 2019, Attorney Richardson explained that there had been meetings with the neighbors to discuss the project. The original proposal was to build one home that was 3,000 sq. ft. and they could build that by right. They were asking for variances to build two homes instead. The neighbors were concerned because the homes in the area were roughly 1,700 sq. ft. There were also concerns about the houses being too close to other people's lots. Chairman McGrail asked how negotiations with the neighbors were going and had they come to an agreement. He asked who from the audience wished to speak.

Jeffrey Gallant of 100 Dedham Boulevard spoke and said he would rather have one house instead of the proposed two, he is also concerned with the drainage issues. Lynne Foley, 122 Garfield Road was also in favor of just one house, but she had a question as to which side it would be facing. Michelle McColgan of 74 Harding Terrace would like to see one house only built and she is concerned with the drainage. Rita Mae Cushman, of 121 Garfield Road, would like to see just one house built there. George Cooper, 115 Garfield Road would like to see one house only built. At this point Chairman McGrail asked for a show of hands as to how many people were in attendance for this hearing, and how many of them wished to have just one home built. Every person wanted just one house to be built. The following neighbors were also in attendance for this project: Enis Mattozzi, of 20 Emmett Ave, Janet Mattozzi of 20 Emmett Ave, Charlie Krueger of 11 Stafford Street, Diane Palombi of 99 Dedham Boulevard, Bruce Lovely of 17 Emmet Ave, Deirdre and George Zaferacopoulos of 171 Colburn Street were all in favor of one house being built instead of two.

Some discussion ensued as to how the Applicant would like to proceed, if they should withdraw without prejudice, go back to speak with the neighbors, or proceed and be denied.

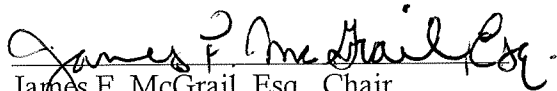
Scott Steeves made a motion to deny the requested zoning relief for 94 Dedham Boulevard, LLC for the lot at 94 Dedham Boulevard as the proposed project did not meet the requirements for a hardship and criteria pursuant to Dedham Zoning Bylaw 9.3.2. The motion was seconded by Gregory Jacobsen, and all were in favor of denying the requested zoning relief, 4-0 unanimous in favor of a denial.

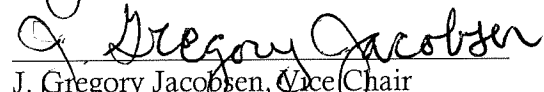
Scott Steeves made a motion to deny the requested zoning relief for a proposed lot at 108 and 122 Garfield Road as the proposed project did not meet the requirements for a hardship and criteria pursuant to Dedham Zoning Bylaw 9.3.2. The motion was seconded by Gregory Jacobsen, and all were in favor of denying the request zoning relief, 4-0 unanimous in favor of a denial.

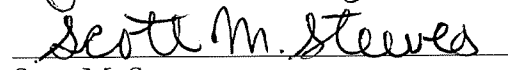
The Applicant is advised that any person aggrieved by this decision may appeal to a court of competent jurisdiction pursuant to G.L. Chapter 40A, Section 17.

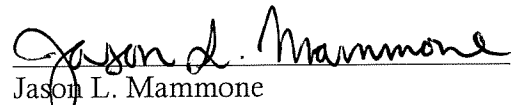
Date: July 25, 2019

Attest by the Zoning Board of Appeals:



James F. McGrail, Esq., Chair


J. Gregory Jacobsen, Vice Chair


Scott M. Steeves


Jason L. Mammone

Attest by the Administrative Assistant:


Jennifer Doherty