

TOWN OF DEDHAM  
COMMONWEALTH OF MASSACHUSETTS

Members

James F. McGrail, Esq., Chair  
J. Gregory Jacobsen, Vice Chair  
Scott M. Steeves  
Jason L. Mammone, P.E.  
Sara Rosenthal, AIA, LEED AP

Dedham Town Hall  
26 Bryant Street  
Dedham, MA 02026-4458  
Phone 781-751-9242  
Fax 781-751-9225



ASSOCIATE MEMBERS

George Panagopoulos  
Andrew Pepoli

ZONING BOARD OF APPEALS  
DECISION

RECEIVED  
2019 SEP 26 AM 9:02  
TOWN OF DEDHAM  
CLERKS OFFICE

Applicant: Thomas Casey and Linda Casey  
Project Address: 13-15 Sherwood Street, Dedham, MA  
Applicant Representative: Peter A. Zahka, II, Esq., 12 School Street, Dedham  
Legal Notice: The Applicants, Thomas and Linda Casey, requests a Special Permit to construct an addition (which complies with all setbacks) to a pre-existing nonconforming residential dwelling with an existing side yard setback of 3 ft. on a lot with 50 ft. of frontage occupied by two residential dwellings (i.e. extend, alter, and change a nonconforming structure and use).

Section of Zoning By-Law: *Town of Dedham Zoning By-Law Section 3.3, 4.7, 9.2, 9.3, 10 and Table 2.*

Zoning District, Map and Lot: Single Residence B (SRB); Map 114, Lot 7-1 & 7-2

Date of Public Hearing: September 18, 2019  
Date of Decision: September 18, 2019  
Vote: 5-0  
Voting Members: Chairman James F. McGrail, Esq., J. Gregory Jacobsen, Scott M. Steeves, Jason M. Mammone, P.E., and Sara Rosenthal, AIA, LEED AP, NCARB

Date filed with Clerk: September 26, 2019

The Zoning Board of Appeals (“ZBA”) of the Town of Dedham, Massachusetts held public hearings on September 18, 2019, in the Town Office Building, Bryant Street, Dedham, MA. Present were Members of the ZBA, Chairman James F. McGrail, Esq., J. Gregory Jacobsen, Scott M. Steeves, Jason M. Mammone, P.E, and Sara Rosenthal. The hearings were duly advertised for this meeting of the ZBA in accordance with the requirements of MGL Chapter 40A, Section 11.

At 7:05 p.m., the Chairman called for the hearing on the application of Thomas Casey and Linda Casey, of 15 Sherwood Street, Dedham, MA (hereinafter referred to as the “Applicant”). Applicant requests a special permit to construct an addition (which complies with all setbacks) to a preexisting nonconforming residential dwelling with an existing side yard setback of 3 feet on a lot with 50 feet of frontage occupied by two residential dwellings (i.e. extend, alter, and change a nonconforming structure and use). The property is located at 13-15 Sherwood Street in the Single Residence B (SRB) Zoning District. *Town of Dedham Zoning By-Law Section 3.3, 4.7, 9.2, 9.3, 10 and Table 2.*

Applicant was represented by Peter A. Zahka, II, Esq., 12 School Street, Dedham, MA. Also present on behalf of Applicant was Thomas Casey. Attorney Zahka had previously submitted a certified plot plan of the Subject Property. The transcript from the hearing is the primary source of evidence and is incorporated herein by reference. At the hearing Applicant were afforded an opportunity to make a full presentation.

Applicant is the owner of the real estate known and numbered as 15 Sherwood Street, Dedham, Massachusetts, and shown on Dedham Assessors Map 114, Lot 7-1 and 7-2 (hereinafter referred to as the “Subject Property”). Applicant’s dwelling is a residential condominium unit in the 13-15 Sherwood Street condominium. The Subject Property contains approximately 19,801 sf of land with approximately 50 feet on Sherwood Street. The Subject Property is currently occupied by the two dwelling units making up the 13-15 Sherwood Street Condominium. According to the records maintained by the Dedham Board of Assessors the unit at 15 Sherwood Street was constructed circa 1900. According

to the Zoning Map for the Town of Dedham, the Subject Property is located in the Single Residence B (SRB) Zoning District.

Applicant proposes to construct an addition to the existing residential dwelling. Specifically, Applicant proposes to an approximate 496 square foot addition to the rear of the existing dwelling. As proposed, the addition will satisfy all applicable dimensional requirements under the Dedham Zoning By-Law.

The Subject Property and the uses thereon are nonconforming in a number of respects. Section 4.7 of the Dedham Zoning By-Law provides that (with some minor exceptions not applicable here) “there shall be provided for each residential structure . . . a separate lot of land meeting the requirements of this Bylaw for the district in which the structure will be located . . .” As noted above, there are two residential structures on a single lot. Table 2 of the Town of Dedham Zoning By-Law (Table of Dimensional Regulations) provides for the SRB Zoning District a minimum frontage requirement of 95 feet and a minimum side yard requirement of 15 feet (10 feet for lots established prior to 1989). As noted above, the Subject Property has 50 feet on frontage on Sherwood Street and a side yard setback of 3 feet. Section 10 of the Dedham Zoning By-Law defines a “non-conforming building, structure or use” as “an existing, legally established or erected building, structure, lot, or use which predates and does not conform to the current requirements of the district in which it is situation as regards to the size, dimensions, location, or use of building or land”. Accordingly, the Subject Property and the buildings and uses thereon are (pre-existing) nonconforming.

The Dedham Zoning Board of Appeals (ZBA) is authorized and empowered to grant requested relief under a number of provisions of the Dedham Zoning By-Law. Sections 3.3.2 and 3.3.3 of the Dedham Zoning By-Law provide that the ZBA may grant special permits to change, alter, extend, or reconstruct nonconforming uses and structures, respectively. Per said Sections 3.3.2 and 3.3.3 the ZBA “may award a special permit . . . if it determines that [the proposed change, alteration, extension, or reconstruction] shall not be substantially more detrimental than the existing nonconforming [use or structure] to the neighborhood.” Furthermore, with respect to nonconforming single and two

family residential structures, Section 3.3.5 of the Dedham Zoning By-Law provides, in pertinent part, that if “the nonconforming nature of such structure shall be increased by the proposed reconstruction, extension, alteration or change, the Board of Appeals may, by Special Permit, allow such reconstruction, extension, alteration, or change where it determines the proposed modification will not be substantially more detrimental than the existing nonconforming structure to the neighborhood.” Said Section 3.3.5 lists a number of circumstances that are not deemed to increase the nonconformity including additions on lots with insufficient frontage and area where the addition otherwise complies with current setback requirements.

In acting upon requests for special permits, the ZBA is guided by Section 9.3.2 of the Dedham Zoning By-Law which provides that:

Special permits shall be granted . . . only upon [the] written determination that the adverse effects of the proposed use will not outweigh its beneficial impacts to the town or the neighborhood, in view of the particular characteristics of the site, and of the proposal in relation to that site. In addition to any specific factors that may be set forth in this By-Law, the determination should include consideration of each of the following:

1. Social, economic, or community needs which are served by the proposal;
2. Traffic flow and safety, including parking and loading;
3. Adequacy of utilities and other public services;
4. Neighborhood characteristics and social structure;
5. Impacts on the natural environment; and
6. Potential fiscal impact, including impact on town services, tax base, and employment.

Applicant respectfully submits that the requirements and criteria for the issuance of the requested special permits are satisfied. Specifically, Applicant’s proposed changes, alterations, extension and reconstruction of the nonconforming structures and uses is not substantially more detrimental than the existing nonconforming uses and structures and

the adverse effects of the proposal do not outweigh its beneficial impacts. Applicant's proposed addition is to the rear of the existing structure and complies with all dimensional requirements under the Dedham Zoning By-Law. Upon completion of the project, the dwelling will continue to be a single-family dwelling with little change to the aesthetics of the Subject Property. The same will have no impact on traffic flow, parking, or the environment. It is submitted that if not for the existence of two buildings on the same lot, Applicant could proceed with the project as of right.

No one appeared in support or opposition of the proposed relief. Applicant submitted a list of "Signatures in Support of Petition" signed by 12 abutters on Sherwood Street.

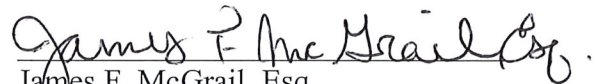
Upon motion duly made the ZBA voted unanimously (5-0) to approve and grant Applicant's request for a Special Permit to construct an addition (which complies with all setbacks) to a preexisting nonconforming residential dwelling (at 15 Sherwood Street) with an existing side yard setback of 3 feet on a lot with 50 feet of frontage occupied by two residential dwellings (i.e. extend, alter, and change a nonconforming structure and use). Said approval is conditional upon Applicant submitting to the ZBA a plot plan certified by a registered land surveyor.<sup>1</sup>

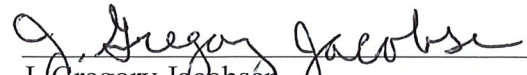
Appeals of this decision, if any, shall be made pursuant to Section 17 of Chapter 40A of the General Laws of Massachusetts and shall be filed within twenty days after the date of filing of notice of this decision with the Town Clerk. Applicant is advised that, in accordance with MGL Chapter 40A, Section 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.

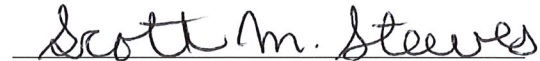
---

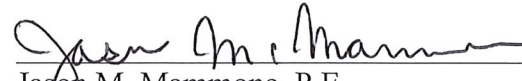
<sup>1</sup> Applicant submitted a plot plan with the Application which was certified ("stamped") by civil engineer. The ZBA requires a plan certified ("stamped") by a registered land surveyor.

Dated: September 26, 2019

  
James F. McGrail, Esq.

  
J. Gregory Jacobsen


  
Scott M. Steeves

  
Jason M. Mammone, P.E.



Sara Rosenthal, AIA, LEED AP, NCARB

Attested to by Administrative Assistant

  
Jennifer Doherty