

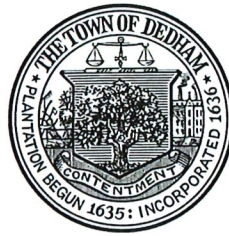
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TOWN OF DEDHAM
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TOWN OF DEDHAM
CLERKS OFFICE

Dedham Town Hall
26 Bryant Street
Dedham, MA 02026-4458
Phone 781-751-9240



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ZONING BOARD OF APPEALS
DECISION

Applicant:	Avi Kurlantzick
Property Address:	7 Bussey Street
Property Owner:	Avi Kurlantzick
Property Owner Address:	7 Bussey Street
Legal Notice:	Applicant requests variances and/or special permits to demolish an existing +/- 1,560 square foot single family dwelling and construct a new +/- 2,700 square foot single family dwelling on a lot with a lot area of 6,024 square feet instead of the required 12,500 square feet, a lot width of 71.1 feet instead of the required 95 feet, lot frontage of 83.4 feet instead of the required 95 feet which dwelling will have side yard setbacks of 11.1 feet and 13 feet instead of the required 15 feet.
Section of Zoning Bylaw:	Town of Dedham Zoning By-Law Sections 4.1, 9.2, 9.3, and Table 2.
Zoning District, Map and Lot:	Single Residence B (SRB), Map 60, Lot 1
Date of Public Hearing:	November 18, 2019
Date of Decision:	November 18, 2019
Vote:	5-0, Unanimous
Voting Members:	James F. McGrail, Esq., J. Gregory Jacobsen, Scott Steeves, Jason L. Mammone, P.E., Sara Rosenthal, AIA, LEED AP, NCARB
Date Filed with Town Clerk:	November 26, 2019

The Zoning Board of Appeals (“ZBA”) of the Town of Dedham, Massachusetts held public hearings on November 20, 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 7:15 p.m., the Chairman called for the hearing on the application of Avi Kurlantzick, of 7 Bussey Street, Dedham, MA (hereinafter referred to as the “Applicant”). Applicant requests variances and/or special permits to demolish an existing +/- 1,560 square foot single family dwelling and construct a new +/- 2,700 square foot single family dwelling on a lot with a lot area of 6,024 square feet instead of the required 12,500 square feet, a lot width of 71.1 feet instead of the required 95 feet, lot frontage of 83.4 feet instead of the required 95 feet which dwelling will have side yard setbacks of 11.1 feet and 13 feet instead of the required 15 feet. The Subject Property is located at 7 Bussey Street, Dedham, MA, Map 60, Lot 1, and is in the Single Residence B (SRB) Zoning District. *Town of Dedham Zoning By-Law Sections 4.1, 9.2, 9.3, and Table 2.*

Applicant was represented by Peter A. Zahka, II, Esq., 12 School Street, Dedham, MA. Also present on behalf of Applicant were the owners of the Subject Property, Avi Kurlantzick and Haley R. Oller. Applicant had previously submitted a certified plot plan of the Subject Property. At the hearing, Attorney Zahka submitted additional plans and drawings 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 7 Bussey Street, Dedham, Massachusetts, and shown on Dedham Assessors Map 60, Lot 1 (hereinafter referred to as the “Subject Property”). The Subject Property is occupied by a single-family dwelling. The Subject Property contains approximately 6,024 sf of land with approximately 83.4 feet on Bussey Street. According to the records maintained by the Dedham Board of Assessors the single-family dwelling was constructed circa 1900 and is located in the Single Residence B (SRB) Zoning District.

The existing lot was established by the recording of an Approval Not Required (ANR) Plan endorsed by the Dedham Planning Board in 1999. Inasmuch as the lot was created in 1999, the same is nonconforming in a number of ways. Table 2 (Table of Dimensional Requirements) of

the Town of Dedham Zoning By-Law sets forth the minimum dimensional requirements applicable to buildable lots in the SRB Zoning District. Per said Table 2, buildable lots in the SRB Zoning District are required to have a minimum frontage and lot width of 95 feet, a minimum lot area of 12,500 square feet, a front yard setback of 25 feet, and minimum side yard setbacks of 15 feet. As stated above and as shown on the plans submitted, the Subject Property has frontage of 83.4 feet, lot area of 6,024 square feet, lot width 71.1 feet, and the proposed dwelling will have a front yard setback of 5.75 feet, and side yard setbacks of 11.1 feet and 13 feet.

The Subject Property is Applicant's principal residence. Applicant proposes to demolish the existing single-family dwelling and construct a new single-family dwelling on the Subject Property. The proposed new dwelling will have a front yard setback of 5.75 feet. In addition, Applicant proposes a deck to connect the new dwelling to the existing garage which has side yard setbacks of 11.1 feet and 13.0 feet. By connecting the garage to the main house, the same is considered an "attached" (as opposed to a "detached") garage and would be required to have the same side yard setbacks of 15 feet applicable to the principal dwelling.

In order to construct the new dwelling (and connect the same to the garage as stated above) Applicant is required and has requested such special permits and variances as required to allow the demolition of the existing single-family dwelling and to construct a new single family dwelling with side yard setbacks of 11.1 feet and 13 feet (instead of the required 15 feet) on an existing lot with frontage of 84.4 feet (instead of the required 95 feet), lot area of 6,024 square feet (instead of the required 12,500 square feet), and lot width of 71.1 feet instead of the required 95 feet.

It is noted that the proposed new dwelling will have a front yard setback of 5.75 feet (instead of the required 25 feet). However, pursuant to Section 4.3.1 of the Dedham Zoning By-Law, Applicant does not require relief from the front yard setback requirements. Said Section 4.3.1 provides in pertinent part that:

Notwithstanding the Table of Dimensional Requirements, no building in any district need be further from the exterior line of any street than the average distance from such line of the dwellings or other principal buildings located on the lots adjacent thereto on either side.

As shown on the plans submitted by Applicant the lots located adjacent to the Subject Property are occupied by existing dwellings with front yard setbacks of less than 5 feet. Therefore, Applicant' proposed setback of 5.75 feet is allowed as of right pursuant to said Section 4.3.1.

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."

Section 9.2.2 of the Dedham Zoning By-Law provides that the ZBA has the power "to hear and decide appeals or petitions for variances from the terms of this By-Law, with respect to particular land or structures as set forth on G.L. c. 40A, § 10." Section 10 of Chapter 40A of the General Laws of Massachusetts states that a variance may be granted if:

Owing to circumstances relating to soil conditions, shape or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located, a literal enforcement of the provision of the ordinance or by-law would involve substantial hardship, financial or otherwise, to the petitioner or appellant and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of such ordinance or by-law.

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 and variance are satisfied. Applicant proposes to utilize the Subject Property as it is currently used – as a single-family residential dwelling for his family. Applicant notes that the Subject Property, along with all its neighboring lots, are oddly shaped. While a new nonconformity is established by connecting the new house to the existing garage, no changes are being made to the footprint of the garage. Furthermore, (except for the garage as noted above) Applicant is creating no new nonconformities but is actually bring the main structure into compliance with the side yard setback requirements. The Subject Property is Applicant's principle residence and without the requested relief Applicant would be unable to provide a better and updated dwelling for his family and would suffer a hardship.


No one appeared in support or opposition of the proposed relief. Applicant submitted a list of "Signatures in Support of Petition" signed by ten (10) abutters on Bussey Street, Rockland Street, and Grove Street (Boston).

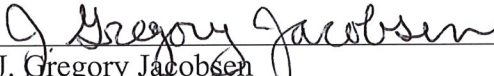
Upon motion duly made the ZBA voted unanimously (5-0) to approve and grant Applicant's request for variances and/or special permits to demolish existing +/- 1,560 square foot single-family dwelling and construct a new +/- 2,700 square foot single family dwelling on a lot with a lot area of 6,024 square feet instead of the required 12,500 square feet, lot frontage of 83.4 feet instead of the required 95 feet, and lot width of 71.1 feet instead of the required 95 feet, which

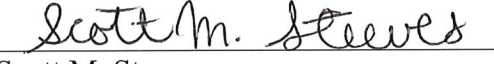
dwelling will have side yard setbacks of 11.1 feet and 13 feet instead of the required 15 feet. Said approval is conditional upon Applicant submitting a revised plot plan which provides the rear yard setback¹.

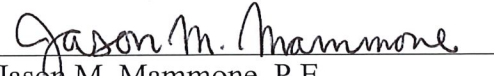
Appeals of this decision, if any, shall be made pursuant to Section 17 of Chapter 40A of the General Laws of Massachusetts and shall be filed within twenty days after the date of filing of notice of this decision with the Town Clerk. Applicant is advised that, in accordance with MGL Chapter 40A, Section 11, no variance 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 and that 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


Dated: November 26, 2019


James F. McGrail, Esq.



J. Gregory Jacobsen


Scott M. Steeves


Jason M. Mammone, P.E.


Sara Rosenthal, AIA, LEED AP

Attest by the Administrative Assistant:


Jennifer Doherty

¹ The required revised plot plan was submitted to the ZBA on November 21, 2019.