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TOWN OF DEDHAM

ZONING BOARD OF APPEALS

**DECISION**

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| --- | --- |
| Applicant: | Arthur Lutschaunig |
| Property Address: | 7 Prospect Street, Dedham, MA |
| Property Owner: | Denise M. Swanson et al and Arthur J. Lutschaunig, TE |
| Property Owner Address: | 7 Prospect Street, Dedham, MA |
| Applicant Representative: | Arthur Lutschaunig |
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| Legal Notice: | The applicant seeks to be allowed a variance for a five foot rear yard setback instead of the required 20 feet to construct a two-story building (garage with second floor storage) |
| Section of Zoning Bylaw: | *Town of Dedham Zoning Bylaw Section 4.1, Table of Dimensional Requirements* |
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| Zoning District, Map and Lot: | Single Residence B, 122/11 |
| Date of Application: | December 12, 2016 |
| Date of Public Hearing: | January 18, 2017 |
| Date of Decision: | January 18, 2017 |
| Vote: | Approved 5-0 |
| Voting Members: | James F. McGrail, Esq., J. Gregory Jacobsen, Scott M. Steeves, E. Patrick Maguire, MLA, RLA, CLARB, LEED AP® Jason L. Mammone, P.E. |
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| Date Filed with Town Clerk: | December 30, 2017 |

The Zoning Board of Appeals (“ZBA”) of the Town of Dedham, Massachusetts, held public hearings on Wednesday, January 18, 2017, in the Town Office Building, 26 Bryant Street, Dedham, MA. Present were members of the ZBA, James F. McGrail, Esq., Chairman, J. Gregory Jacobsen, Vice Chairman, Scott M. Steeves, E. Patrick Maguire, MLA, RLA, CLARB, LEED AP®, and Jason L. Mammone, P.E. The hearings were duly advertised for this meeting of the ZBA in accordance with the requirements of MGL Chapter 40A, Section 11. Legal ads were placed for two consecutive weeks in *The Dedham Times*. In addition, abutters within 300 feet of the property in question received notification of the hearings, and notification regarding each hearing was sent to the neighboring towns (Boston, Needham, Canton, and Westwood).

At 7:58 p.m., the Chairman called for the hearing on the appeal of Arthur Lutschaunig to be allowed a variance for a five foot rear yard setback instead of the required 20 feet to construct a two-story building (garage with second floor storage) The property is located at 7 Prospect Street, Dedham, MA, in the Single Residence B zoning district. *Town of Dedham Zoning Bylaw Section 4.1, Table of Dimensional Requirements*

The owner, Arthur J. Lutschaunig, represented himself. The minutes from the hearing are the primary source of evidence and are incorporated herein by reference.At the hearing, the Applicant was afforded an opportunity to make a full presentation.

The Applicant had submitted an Application for a Special Permit on December 12, 2016. This included:

1. Zoning Board of Appeals application
2. Certified plot plan prepared by Michael P. Antonino, 31 Ledgebrook Avenue, Stoughton, MA 02072
3. Renderings of proposed garage prepared by Timothy Burke Architecture, 142 Berkeley Street, Boston, MA 02116

The subject property is known and numbered as 7 Prospect Street, Dedham, MA, and is shown on Dedham Assessors’ Map 122 Lot 11. The certified plot plan indicates that the Subject Property contains 12,354 square feet of land, and has 130 feet of frontage on Prospect Street and 89.7 feet of frontage on Willow Street. According to the 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. According to the records maintained by the Dedham Board of Assessors, the dwelling was constructed in 1905.

Mr. Lutschaunig would like to build an attached garage with a small storage space above it. It will not be living space. It will meet the end of the existing driveway on the Willow Street side and connect with the house on the side. He has talked with a couple of neighbors who seem to be fine with this. It will fit with the character of the house architecturally. There will be a cupola with a weathervane, but as long as this does not exceed the allowed height, it will be fine. No one spoke in favor or in opposition to the petition.

On a motion made by Scott M. Steeves and seconded by J. Gregory Jacobsen, the Zoning Board of Appeals voted unanimously, 5-0, to allow a five foot rear yard setback instead of the required 20 feet to construct a two-story building (garage with second floor storage).

The Board was of the opinion that the Applicant meets the requirements of MGL Chapter 40A, Section 10, specifically that the Applicant would incur a hardship if the variance was not granted. There is no detriment to the public good or derogation in the intent of purpose of the bylaw. In granting of said variance, the ZBA finds that, after consideration of the criteria Dedham Zoning By-Law, the adverse effects of the Applicant’s proposal will not outweigh its beneficial impacts on the Town and neighborhood and will not be substantially more detrimental to the neighborhood.

The Applicant was advised that, in accordance with MGL Chapter 40A, Section 11, no variance shall take effect until the Town Clerk certifies a copy of the decision stating that 20 days have elapsed since the decision was filed with that office, and that no appeal has been filed within such time. The decision must then be recorded in the Norfolk Registry of Deeds, or the land Registration Office of Norfolk County.

Dated: January 18, 2017

Attest, by the Zoning Board of Appeals: James F. McGrail James F. McGrail, Esq., Chairman

J. Gregory Jacobsen

J. Gregory Jacobsen, Vice Chairman

Scott M. Steeves

Scott M. Steeves

E. Patrick Maguire

E. Patrick Maguire, LEED AP

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

Attest, by the Administrative Assistant:

Susan N. Webster

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