

TOWN OF DEDHAM
COMMONWEALTH OF MASSACHUSETTS

Members

Scott M. Steeves, Chair
Sara Rosenthal, AIA, LEED AP, Vice Chair
J. Gregory Jacobsen
Jason L. Mammone, P.E.
Tom Ryan, Esquire



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Planning Director
Jeremy Rosenberger

Senior Planner
Michelle Tinger

Associate Members

Norman Vigil, Esquire
Allen MacDuffie

**ZONING BOARD OF APPEALS
MINUTES - DRAFT**

**Wednesday, July 20, 2022, 7:00 p.m.
Dedham Town Hall**

Present: Sara Rosenthal, AIA, LEED AP, NCARB, Vice Chair
J. Gregory Jacobsen
Jason L. Mammone, P.E
Tom Ryan, Esq.
Norman Vigil, Esq., Associate Member
Allen MacDuffie, Associate Member

Regrets: Scott Steeves, Chair

Staff: Jeremy Rosenberger, Town Planner
Michelle Tinger, Senior Planner
Jennifer Doherty, Administrative Assistant

The meeting began at **7:00 pm** on the night of **Wednesday, July 20, 2022**. The Chair conducted roll call:

Greg Jacobsen
Jason Mammone
Tom Ryan
Norman Vigil
Allen MacDuffie
Sara Rosenthal

The Chair called the meeting to order.

110 Stergis Way

Applicant:	Stergis Lots 3, 4, and 5 Owner LLC (Representative: Kevin F. Hampe, Esq.)
Project Address:	110 Stergis Way
Zoning District, Map/Lot:	Highway Business (HB) Zoning District and Flood Plain Overlay District (SRB) Zoning District, Map 149, Lot 3B
Legal Notice:	Request for a Special Permit to alter, change and reduce the size of the existing non-conforming office building and warehouse (+/- 24,894 sq. ft.) by demolishing a section of the existing building and to be allowed to reconstruct a smaller office building (+/- 18,809 sq. ft.) located on the lot within the original footprint and a Special Permit for work within the Flood Plain Overlay District (FPOD).
Section of Zoning Bylaw:	Town of Dedham Zoning Bylaw Section 3.3.C, 3.3G, 9.2, 9.3, and Table 2.

Attorney Kevin Hampe of Winbourne Hampe and Sheehan and Todd Fremont-Smith of Nordblom Company were present representing the application. The 1 ½ story non-conforming building is proposed to be converted into the Boston-area headquarters for the radio company Audacy. Mr. Fremont-Smith explained that the new building would require the demolition of the front section of the current building and would thus have a smaller footprint, but it would have the same rear and right footprint. The Special Permit is needed to keep the current nonconforming right and rear setbacks on the new building, which Attorney Hampe mentioned would not be more detrimental to the property than the existing building.

The Chair asked if any board members wished to speak. Norman Vigil asked how much traffic the property was expected to bring to Legacy Boulevard. Attorney Hampe explained that since there would only be about 30 to 40 employees on site, it should not significantly worsen traffic, but the parking and traffic plans still need to be presented to the Planning Board. Allen MacDuffie felt the proposal was a welcome improvement to Stergis Way, and Tom Ryan appreciated the fact that the proposal included a future access site to Wigwam Pond. Jason Mammone asked about the status of the current tenants and the future uses for the neighboring buildings. The current tenants are believed to be on premises until next January, and there are eventual plans to rehabilitate the other buildings on Stergis Way, but nothing is currently being proposed. Mr. Mammone also asked if the area of the site that is in the floodplain will be altered in any way, to which Mr. Fremont-Smith responded that he did not know but the Applicant understood the process this would require with the Conservation Commission.

The Chair asked if any members of the public wished to speak, and there were none.

A motion was made by Greg Jacobsen and seconded by Norman Vigil to approve the Special Permit. A roll call vote was taken.

Greg Jacobsen – yes

Jason Mammone – yes

Tom Ryan – yes

Norman Vigil – yes

Sarah Rosenthal – yes

The motion passed unanimously, 5-0.

400 West Street

Applicant:	Peter Reynolds (Representative: Mollie Moran)
Project Address:	400 West Street
Zoning District, Map/Lot:	Single Residence A (SRA) Zoning District and Flood Plain Overlay District (FPOD), Map 15, Lot 2
Legal Notice:	Request for Special Permits for a retaining wall with a maximum height of +/- eight (8) feet and work within the Flood Plain Overlay District.
Section of Zoning Bylaw:	Town of Dedham Zoning Bylaw Sections 6.5, 8.1, 9.2, and 9.3.2.

Architect Mollie Moran was present representing the application. Ms. Moran explained that the applicant plans to replace two retaining walls on the property, which is necessary due to the house on site being rebuilt and one of the existing walls blocking access to the garage. While the advertisement was for 8 feet, the walls are only planned to be 5.5 feet.

The Chair asked if any board members wished to speak. Jason Mammone felt more inclined to approve a 5.5-foot retaining wall as opposed to an 8-foot wall, due to the property being within the Flood Plain Overlay District. Ms. Moran stated that the 5.5-foot height was in the current plans.

The Chair asked if any members of the public wished to speak, and there were none.

A motion was made by Jason Mammone and seconded by Greg Jacobsen to approve the Special Permits for a retaining wall with a maximum height of 5.5 feet and work within the Flood Plain Overlay District. A roll call vote was taken.

Greg Jacobsen – yes

Jason Mammone – yes

Tom Ryan – yes

Norman Vigil – yes

Sarah Rosenthal – yes

The motion passed unanimously, 5-0.

43 Pratt Avenue

Applicant:	James and Diane McLeish (Representative: Peter A. Zakha II, Esq.)
Project Address:	43 Pratt Avenue
Zoning District, Map/Lot:	General Residence (GR) Zoning District, Map 143, Lot 130
Legal Notice:	Request a Special Permit for a retaining wall with a maximum height of six (6) feet.
Section of Zoning Bylaw:	Town of Dedham Zoning Bylaw Sections 6.5, 9.2, and 9.3.

Attorney Peter Zahka was present representing the application. The McLeishes are in the process of renovating their property, which included replacing an aging retaining wall

with a new one of the same dimensions. In the Conservation Commission process the Applicants found out that they needed a Special Permit to replace the retaining wall because the Building Department has no way of knowing the size of the original retaining wall. Attorney Zahka explained that the new wall was indeed the same height as the old wall (six feet), but it was suggested to appear before the ZBA to officially resolve the matter.

The Chair asked if any board members wished to speak. Tom Ryan asked for a clarification of a typo in the application.

The Chair asked if any members of the public wished to speak, and there were none.

A motion was made by Greg Jacobsen and seconded by Norman Vigil to approve the Special Permit. A roll call vote was taken.

Greg Jacobsen – yes

Jason Mammone – yes

Tom Ryan – yes

Norman Vigil – yes

Sarah Rosenthal – yes

The motion passed unanimously, 5-0.

172 Village Avenue

Applicant:	Daniel Palenscar
Project Address:	172 Village Avenue
Zoning District, Map/Lot:	Single Residence B (SRB) Zoning District, Map 89, Lot 25
Legal Notice:	Requests for a Special Permit for a +/- 148 sq. ft. addition that will exceed the maximum allowed lot coverage of 25% (29.1% proposed) for the Aquifer Protection Overlay District (APOD).
Section of Zoning Bylaw:	Town of Dedham Zoning Bylaw Sections 8.2.G.5, 9.2, and 9.3.

Mr. Palenscar was present representing the application. The Applicant seeks to add 148 square feet of area to the back of the existing garage, which would allow the creation of a master bedroom on the second story. The addition would give the property 29.1% lot coverage, where only 25% is allowed.

The Chair asked if any board members wished to speak. Jason Mammone asked what the current lot coverage was, and Mr. Palenscar estimated it was probably between 26 and 28 percent. Mr. Mammone was uncomfortable granting the Special Permit because the Applicant had not accounted for stormwater management despite the project increasing impervious surface on the property. Tom Ryan asked what the appropriate process for stormwater management would be for a project this size. Assistant Building Commissioner Fred Johnson was in the audience and explained that a project does not trigger a stormwater management process until the addition exceeds 500 square feet. He clarified that stormwater management and aquifer protection were separate issues with separate regulations. Mr. Mammone again expressed concern about the project as there was no plan in place to replenish the aquifer.

The Chair asked if any members of the public wished to speak, and there were none.

A motion was made by Tom Ryan and seconded by Norman Vigil to approve the Special Permit. A roll call vote was taken.

- Greg Jacobsen – yes
- Jason Mammone – no
- Tom Ryan – yes
- Norman Vigil – yes
- Sarah Rosenthal – yes

The motion passed, 4-1.

8 Old Farm Road

Applicant:	Kathleen E. Murphy (Representative: Peter A. Zakha II, Esq.)
Project Address:	8 Old Farm Road

Zoning District, Map/Lot:	Single Residence B (SRB) Zoning District, Map 90, Lot 25
Legal Notice:	Request for a Special Permit for a +/- 550 sq. ft. driveway that will exceed the maximum allowed lot coverage of 25% (+/- 28.6% proposed) for the Aquifer Protection Overlay District (APOD).
Section of Zoning Bylaw:	Town of Dedham Zoning Bylaw Sections 8.2.G.5, 9.2, and 9.3.

Attorney Peter Zahka was present representing the application. He explained that the home renovation is nearly complete, and now has an impervious surface of greater than 25%. The Applicant is before the ZBA after most construction is complete because she did not realize the rule about a 25% impervious surface maximum in an Aquifer Protection Overlay District, nor was this brought up when she applied for her building permits. Despite abutters' concerns with stormwater on the property, the project does not trigger a Stormwater Management Permit as confirmed by the town's Conservation Agent. Attorney Zahka noted that the adverse effects of the new project do not outweigh potential beneficial impacts, which is the intent and purpose of aquifer protection. While the impervious surface is being added to the property to a total of 28.6%, the size of the driveway is actually decreasing. The increase in impervious surface comes from the addition to the house, and the Applicant will ensure that any water running off the roof will be directed into her own lawn.

The Chair asked if any board members wished to speak. Norman Vigil asked the Applicant if she is opposed to pervious driveway, and if the neighbors' gravel driveways are considered pervious. Planning Director Jeremy Rosenberger explained that gravel driveways are typically considered impervious to which Mr. Vigil remarked that currently no property on Old Farm Road has a pervious driveway.

Allen McDuffie understood the hardship felt by the Applicant in having a small lot in the Aquifer Protection Overlay District, and felt she had good intentions despite the miscalculations with the project. He suggested permeable porous cells for the driveway to stay within the allowed maximum impermeable surface.

Tom Ryan felt that the Board need not be overly strict on the Applicant as she was not asking for a variance but rather a Special Permit. He understood that the Aquifer Protection Overlay District regulations were not brought up with the Building Department, and this was an innocent oversight.

Sarah Rosenthal asked if the proposed measurements from the application are true to the actual construction, which the Applicant and Attorney Zahka confirmed that they were.

Jason Mammone asked where the stormwater drains to off the new roof which is only 11.5 feet from the property line. He asked if the Applicant would agree to ensuring the diversion of water into her own backyard, which she was willing to commit to.

The Chair noted for the record that one letter was submitted in support of the Applicant and five letters were submitted in opposition. She asked if any members of the public wished to speak. John Hose of 32 Old Farm Road said he did not oppose the new driveway, but he remained concerned about stormwater drainage on the street.

A motion was made by Jason Mammone and seconded by Greg Jacobsen to approve the Special Permit to exceed the maximum allowable lot coverage in an Aquifer Protection Overlay District, with the condition that any stormwater that runs off the roof closest to the property line be directed into the Applicant's own yard. A roll call vote was taken.

Greg Jacobsen – yes

Jason Mammone – yes

Tom Ryan – yes

Norman Vigil – yes

Sarah Rosenthal – yes

The motion passed unanimously, 5-0.

Meeting Minutes

A motion was made by Greg Jacobsen to approve the minutes of June 15, 2022. The motion was seconded by Norman Vigil and a roll call vote was taken.

Greg Jacobsen – yes

Tom Ryan – yes

Norman Vigil – yes

Allen MacDuffie – yes

Sara Rosenthal – yes

The motion passed unanimously, 4-0.

Old Business/New Business

Adjournment

A motion was made by Greg Jacobsen to adjourn the meeting at 8:09pm. A roll call vote was taken, all agreed, and the meeting was adjourned.