

**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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Dedham, MA 02026
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**Planning Director
Jeremy Rosenberger**

Associate Members

**Norman Vigil, Esquire
Allen MacDuffie**

**Senior Planner
Michelle Tinger**

**ZONING BOARD OF APPEALS
MINUTES - DRAFT**

**Wednesday, August 17, 2022, 7:00 p.m.
Dedham Town Hall**

Present: Scott Steeves, Chair
J. Gregory Jacobsen
Jason L. Mammone, P.E
Tom Ryan, Esq.
Norman Vigil, Esq., Associate Member
Allen MacDuffie, Associate Member

Regrets: Sara Rosenthal, AIA, LEED AP, NCARB, Vice 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, August 17, 2022**. The Chair conducted roll call:

Greg Jacobsen
Jason Mammone
Tom Ryan
Norman Vigil
Allen MacDuffie
Scott Steeves

The Chair called the meeting to order.

140 Providence Highway

Applicant:	Frank Gawdun c/o Chick-fil-A
Project Address:	140 Providence Highway
Zoning District, Map/Lot:	Highway Business (HB) Zoning District, Map 57, Lot 4A
Legal Notice:	Requests a Variance for a free-standing drive-thru canopy with a rear yard setback of +/-16.4 ft. (25 ft. required).
Section of Zoning Bylaw:	Town of Dedham Zoning Bylaw Section 3.3, 9.2, 9.3, and Table 2.

Frank Gawdun was present representing the application. He explained that Chick-fil-A desires to construct a canopy over the drive-thru in order to facilitate the car queue and to protect employees from the elements. During peak times, Chick-fil-A employees are staffed outdoors with tablets to help facilitating the ordering and expedite waiting times. The Applicant requests relief from the required 25 feet of rear setback, as the proposal would only provide 16.4 feet to the rear property line.

The Chair asked if any board members wished to speak. Greg Jacobsen asked if the canopies are being proposed to benefit employees and to increase transaction time. Mr. Gawdun confirmed this was the case and added that a faster queue would increase traffic safety within the Dedham Mall complex. Mr. Jacobsen asked if they are weather-proof to which Mr. Gawdun responded that they are sturdy enough to withstand the local climate. Tom Ryan asked if the canopy would overhang on the right drive-thru lane. Mr. Gawdun responded that it would, hanging over by 8 feet at its largest section. Jason Mammone asked if Chick-fil-A was being proactive with the construction of the canopies or if they have been instructed to do so. Mr. Gawdun explained that all Chick-fil-A locations nationwide are being retrofitted to include these canopies.

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 Variance for a free-standing drive-thru canopy with a rear yard setback of +/-16.4 ft whereas 25 feet are required, provided engineering plans. A roll call vote was taken.

Greg Jacobsen – yes

Jason Mammone – yes

Tom Ryan – yes

Norman Vigil – yes

Scott Steeves – yes

The motion passed unanimously, 5-0.

27 Guild Road

Applicant:	John Nykuist and Clay Reeder
Project Address:	27 Guild Road
Zoning District, Map/Lot:	Single Residence B (SRB) Zoning District, Map 90, Lot 45
Legal Notice:	Request for a Special Permit to construct a two-story +/- 747 sq. ft. detached accessory dwelling unit.
Section of Zoning Bylaw:	Town of Dedham Zoning Bylaw Sections 3.3, 7.7, 9.2, 9.3, and Table 2.

John Nykuist and Clay Reeder were present representing their application. Mr. Nykuist explained that he seeks to build a detached building behind his home to be used primarily for recreation and storage.

The Chair asked if any Board members wished to speak. Greg Jacobsen asked if anyone would be living in the unit, to which Mr. Nykuist responded that there was a loft with a bed to be used by guests in the plans, but it would not be consistently inhabited. Tom Ryan asked why the section about relief requested was blank in the application, to which Mr. Reeder responded that there was no specific zoning relief needed but rather a Special Permit is required for an ADU. Planning Director Jeremy Rosenberger added that the Building Department determined the project to be an ADU likely because of the wet bar and bed included in the plans. Jason Mammone asked if the space could potentially be rented out by future owners, to which Mr. Rosenberger responded that a new owner would have to re-appear before the Board if they desired to keep the space an ADU. Mr. Mammone was hesitant to grant the Special Permit because the recertification process for ADUs after the permitted three-year period were not clear.

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 a Special Permit to construct a two-story +/- 747 sq. ft. detached accessory dwelling unit. A roll call vote was taken.

Greg Jacobsen – no

Jason Mammone – no

Tom Ryan – no

Norman Vigil – yes

Scott Steeves – no

The motion failed, 4-1.

4 Newcourt Lane

Applicant:	Zachary R. Blume and Elizabeth Young Blume (Representative: Peter A. Zakha II, Esq.)
Project Address:	4 Newcourt Lane
Zoning District, Map/Lot:	Single Residence B (SRB) Zoning District, Map 107, Lot 91
Legal Notice:	Request for a Special Permit and/or Variance to construct a two-story addition to a pre-existing nonconforming single-family dwelling; existing dwelling is pre-existing nonconforming with regard to the rear yard setback (12.5 ft. existing, 15.4 ft. proposed, and 20 ft. required).
Section of Zoning Bylaw:	Town of Dedham Zoning Bylaw Sections 3.3, 9.2, 9.3, and Table 2.

Attorney Peter Zahka and Applicants were present representing the application. Attorney Zahka explained that the Applicants seek to add a two-story addition that would. The relief is required due to the Building Department’s determination that the frontage is not on Newcourt Lane but rather on the right side of the house facing Washington Street, as this was the original right of way on file with the Town. Thus, the left side of the home which is to be renovated is considered the rear and must comply with rear setbacks. While the existing setback is only 12.5 feet where 25 feet are required, the renovation proposes a setback of 15.4 feet, making the setback less detrimental than existing conditions.

The Chair asked if any board members wished to speak. Greg Jacobsen asked who is living on the property, which Ms. Blume responded that she lives at the home with her husband and their three children.

The Chair asked if any members of the public wished to speak, and there were none. He mentioned for the record that the Board received eight signatures from abutters in support of the project.

A motion was made by Tom Ryan and seconded by Greg Jacobsen to approve the Special Permit and/or Variance to construct a two-story addition to the pre-existing nonconforming dwelling with a rear setback of 15.4 feet whereas 25 feet are required. A roll call vote was taken.

Greg Jacobsen – yes

Jason Mammone – yes

Tom Ryan – yes

Norman Vigil – yes

Scott Steeves – yes

The motion passed unanimously, 5-0.

38 Arbor Lane

Applicant:	Jessamine Wigfall
Project Address:	38 Arbor Lane
Zoning District, Map/Lot:	General Residence (GB) Zoning District, Map 24, Lot 71
Legal Notice:	Request for a Special Permit for an +/- 625 sq. ft. attached accessory dwelling unit and waiver from accessory dwelling unit requirement for the minimum lot size area requirement (13,750 sq. ft. required, 7,450 sq. ft. provided).
Section of Zoning Bylaw:	Town of Dedham Zoning Bylaw Sections 3.3, 7.7. 9.2, 9.3, and Table 2.

Jessamine Wigfall was present representing her application. She explained that she purchased the home in 2010 which was marketed as having an in-law apartment, and her mother has resided in the downstairs space since. She only recently found out that the property was not permitted for an accessory dwelling unit and was advised by the Building Department to appear before the Board to ask for a Special Permit to determine the space as a lawful accessory dwelling unit. She has removed the stove in her mother's space in the meantime to comply with the existing status.

The Chair asked if any board members wished to speak. Greg Jacobsen asked if the space would continue to be used for the applicant's mother, which Ms. Wigfall responded that it would be. Jason Mammone asked Planning Director Jeremy Rosenberger if there was ever a permit for an accessory dwelling unit on the property, which he answered that there has not been.

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 Tom Ryan to approve the Special Permit. A roll call vote was taken.

Greg Jacobsen – yes

Jason Mammone – yes

Tom Ryan – yes

Norman Vigil – yes

Scott Steeves – yes

The motion passed unanimously, 5-0.

15 Belknap Street

Applicant:	Michelina Petruzzello and Iva Conte (Representative: Peter A. Zakha II, Esq.)
Project Address:	15 Belknap Street
Zoning District, Map/Lot:	Single Residence B (SRB) Zoning District, Map 79, Lot 34
Legal Notice:	Request for Special Permits and/or Variances to demolish two (2) existing two-family dwellings

	and construct two (2) new, two-family dwellings; existing dwelling (front) is pre-existing nonconforming with regard to the front yard setback (10 ft. existing, 25.5 ft. proposed, and 25 ft. required) and left side yard setback (8 ft. existing, 11 ft. proposed, and 10 ft. required).
Section of Zoning Bylaw:	Town of Dedham Zoning Bylaw Sections 3.3, 9.2, 9.3, and Table 2.

Attorney Peter Zahka and the Applicant were present representing the application. Attorney Zahka explained the project would replace two existing two-family homes with two new dwellings, with added parking spaces and wider setbacks that would bring the property into compliance with the front and left yard setbacks.

The Chair asked if any board members wished to speak. Jason Mammone noted the apparent shrinking of green space on the sight, to which the Applicant's son Luigi Petruziello responded that the yard currently does not have much green space so not much green space would be lost. Greg Jacobsen asked how many spaces are needed for four rental units, to which Attorney Zahka responded that 1.5 spaces are required per unit, but the proposal includes more than enough parking for all four units. Norman Vigil asked how many bedrooms are existing and how many are proposed. The existing units have two bedrooms each and are proposed to have three bedrooms each. Tom Ryan asked where the right of way is on the property, and Attorney Zahka explained the right of way was on the right of the property.

The Chair asked if any members of the public wished to speak. Konstantinos Moustakis of 1 Belknap Street felt the project was good for the neighborhood because the proposed new driveways would be an improvement to the parking situation on the street. Anna Natalie of 123 Bussey Street expressed concern about potential construction vehicles disturbing traffic on the narrow street, to which Attorney Zahka responded that the Building Commissioner will likely regulate the times the vehicles will be allowed on the public street and the vehicles would be on private property when possible.

A motion was made by Greg Jacobsen and seconded by Tom Ryan to approve the Special Permits and/or Variances to demolish the two existing buildings and construct two new two-family dwellings. A roll call vote was taken.

Greg Jacobsen – yes

Jason Mammone – yes

Tom Ryan – yes

Norman Vigil – yes

Scott Steeves – yes

The motion passed unanimously, 5-0.

24 Mills Street

Applicant:	Thomas and Hope Johnson (Representative: Peter A. Zakha II, Esq.)
Project Address:	24 Mills Street
Zoning District, Map/Lot:	Single Residence B (SRB) Zoning District, Map 138, Lot 100
Legal Notice:	Request for Special Permits and/or Variances as required to maintain an existing single-family dwelling on a lot (Lots 8B and 9) with an area of 8,700 sq. ft. (12,500 sq. ft. required) and a front yard setback of 14.1 ft. (25 ft. required), and for the construction of a new single-family dwelling on a lot (Lots 10 and 11) with an area of 10,800 sq. ft. (12,500 sq. ft. required) and frontage and lot width of 90 ft. (95 ft. required), or for a determination that said lots are protected building lots and zoning relief is not required.
Section of Zoning Bylaw:	Town of Dedham Zoning Bylaw Sections 3.3, 4.5, 9.2, 9.3, and Table 2.

Attorney Peter Zahka and the Applicant were present representing the application. Attorney Zahka explained that the subject property is divided into four lots that were laid out in 1895: 8B, 9, 10, and 11. The existing dwelling is located on Lot 9, and the Applicant wishes to divide the property so that another dwelling can be built on Lots 10 and 11, which have always been vacant. The Applicant plans to reside in the new construction and sell the existing home on Lots 8B and 9. Attorney Zahka felt that the lots should be considered “protected” under Dedham Zoning Bylaw 280.4.5 because the lots would be at least 5,000 square feet and have a frontage of over 50 feet. The Applicant seeks a variance because they will suffer a financial hardship if the relief is not granted, and the shape of the property in 1968 caused a hardship which precluded the combination of the land to abutting lots to form a buildable lot. The Applicant seeks the Board’s determination that Lots 10 and 11 are a buildable lot and/or to approve the variances necessary to build a structure on the lot. The new construction will comply with all setback requirements in the existing Dedham Zoning Bylaw.

The Chair asked if any board members wished to speak. Greg Jacobsen asked how many people would be living in the new house, to which the Applicant responded that she would reside there with her husband. Jason Mammone asked if any similar lots existed in the neighborhood, to which Attorney Zahka responded that he was not sure but that these lots were likely one of the only lots considered “protected” on Mills Street. He clarified that if the relief is granted the lots would be separated entities (the existing pool will be removed to make room for the new house and to respect the new property lines). Tom Ryan asked if the lots have been altered after 1968 when the updated lot restrictions took effect, to which Attorney Zahka responded that it had not, but at the time these bylaws prevented the lots from being merged with the abutting lots and thus did not explicitly allow a buildable lot at the subject property. In granting Variances to this property, the Board would end this predicament and clarify that it is indeed a buildable (albeit nonconforming) lot.

The Chair asked if any members of the public wished to speak on the application. Ali Rizvi of 4 Matthews Street expressed his strong support of the Applicant and felt that the new construction keeps in character with the neighborhood and would allow the Applicant to remain in the neighborhood. The Chair noted for the record 17 signatures from abutters in support of the application, including a letter from Bob and Debbie Smith of 12 Mills Street.

A motion was made by Tom Ryan and seconded by Greg Jacobsen to approve the Special Permits and/or Variances A roll call vote was taken.

Greg Jacobsen – yes

Jason Mammone – yes

Tom Ryan – yes

Norman Vigil – yes

Scott Steeves – yes

The motion passed unanimously, 5-0.

600 Providence Highway

Applicant:	Commonwealth Behavioral Health, LLC
Project Address:	600 Providence Highway

Zoning District, Map/Lot:	Highway Business (HB) Zoning District, Map 123, Lot 16
Legal Notice:	Request for a Special Permit for a proposed +/- 6,400 sq. ft. Substance Abuse Treatment Clinic.
Section of Zoning Bylaw:	Town of Dedham Zoning Bylaw Sections 3.1, 6.6, 9.2, 9.3, and Table 1.

Co-owners Eric Dyer and Justin Cambria were present representing their application. They seek a Special Permit to open a Substance Abuse Treatment Clinic in the Dedham Marketplace building. Their business would help those affected by substance abuse disorders by providing therapy and counseling programs. There will be a nurse practitioner on site to potentially prescribe medication to patients, but no drugs will be administered to patients on site.

The Chair asked if any board members wished to speak. Greg Jacobsen asked what the success rates were for the Applicants' previous work. Mr. Cambria responded that typically the rate is very low in this business but that providing additional services like this facility will offer can give people a better chance to stay clean. Mr. Jacobsen asked what floor the facility would be on and more about the nurse practitioner that would be on site. The facility will be on the second floor, and Mr. Dyer confirmed that no drugs will be administered on site whatsoever. Allen MacDuffie asked for clarification about the term "outpatient" in the zoning bylaw to which Planning Director Jeremy Rosenberger responded that medical office space and substance abuse treatment facilities were seen as different per Dedham zoning bylaws. Norman Vigil expressed concerns about the signage for the facility not being presented and particularly the facility's proximity to a middle school and preschool. Jason Mammone asked why the Applicants mentioned that they might not be accepting MassHealth, to which they responded that the contract negotiations could prove difficult, but they are more than willing to provide scholarships to patients. Tom Ryan asked if the facility could close at 8pm instead of the proposed 9pm, and to come back in a year to reassess, which the Applicants were open to.

The Chair asked if any members of the public wished to speak on the application. Nicole Stern of 30 Willow Street owns a business at the property and was hesitant to support the proposal. While she appreciated the Applicants' efforts to help those suffering with substance abuse, she felt the location was less than ideal. She noted how many children visit the property on a daily basis (including a math tutoring center, dance studio, and program for autistic children). She was not notified of this hearing as a business owner (nor were the fellow tenants she spoke with) but instead as an abutter to the property. Carla Boudreau of 21 Willow Street asked the Applicants what their screening process would be if the demand for their services exceeded their capacity, to which they mentioned that their projections would not suggest this, at least in the first several years of operation. Leanne

Jasset of 115 Milton Street is also a tenant at the site and felt it was a poor location despite the Applicants' best efforts to help those in need. The Chair noted for the record that Planning Board member Jessica Porter submitted a letter in support of the application.

The Chair began a discussion on adding restrictions to any approval the Board makes, as they did for another substance abuse treatment facility in town. The Applicants felt they determining an estimated number of patients is hard to pinpoint, but they do not expect to reach capacity in the first year of operation.

A motion was made by Greg Jacobsen and seconded by Tom Ryan to continue the discussion of the application at the next meeting on September 21. A roll call vote was taken.

Greg Jacobsen – yes

Jason Mammone – yes

Tom Ryan – yes

Norman Vigil – yes

Scott Steeves – yes

The motion passed unanimously, 5-0.

Proposed Restaurant Zoning Amendment

Planning Director Jeremy Rosenberger presented the Department's proposal to allow restaurants by-right in the Planned Commercial, Research/Development/Office, Highway Business and Central Business Zoning Districts, while keeping the requirement for a Special Permit in the Limited Manufacturing, Local Business, and General Business Zoning Districts.

Meeting Minutes

A motion was made by Greg Jacobsen to approve the minutes of July 20, 2022. The motion was seconded by Tom Ryan and a roll call vote was taken.

Greg Jacobsen – yes

Jason Mammone – yes

Tom Ryan – yes

Norman Vigil – yes

Scott Steeves – yes

The motion passed unanimously, 5-0.

Old Business/New Business

ADUs, planning department,

Adjournment

A motion was made by Greg Jacobsen to adjourn the meeting at 9:48pm. A roll call vote was taken, all agreed, and the meeting was adjourned.