

**Town of Dedham**  
COMMONWEALTH OF MASSACHUSETTS

**ZONING BOARD OF APPEALS**

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

**Associate Members**  
Norman Vigil, Esq.  
Allen MacDuffie

**Planning Director**  
Jeremy Rosenberger



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**Senior Planner**  
Michelle Tinger

**Economic Development Planner**  
Jayson Schultz

**Office Manager**  
Kelli Leahy

**Wednesday, April 19, 2023, 7:00 p.m.**  
**Dedham Town Hall**

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

Staff: Michelle Tinger, Senior Planner  
Jayson Schultz, Economic Development Planner

The meeting began at **7:00 p.m.** on the night of **Wednesday, April 19, 2023**. Chair Steeves conducted roll call:

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

Chair Steeves called the meeting to order.

<b>Applicant:</b>	David H. Dalzell and Kathleen D. Dalzell
<b>Project Address:</b>	780 Washington Street
<b>Zoning District, Map/Lot:</b>	General Residence (GR), Single Residence B (SRB), and Research Development & Office (RDO) Zoning

	Districts and the Wireless Overlay District, Map 136/Lot 11.
<b>Legal Notice:</b>	Requests a Special Permit for a +/- 17 ft maximum retaining wall (4 feet allowed).
<b>Section of Zoning Bylaw:</b>	Town of Dedham Zoning Bylaw Section 280-4.4, 6.5, 9.2, 9.3, and Table 2.

Attorney Peter Zahka, InSite Project Manager Chris Fazendin, and Bohler Engineer Andrew Platt were present on behalf of the application. The Applicant is requesting a Special Permit for retaining walls with heights up to 18 feet with front and side yard setbacks of approximately 5 feet at 780 Washington Street (a/k/a 835 Providence Highway) in a General Residence zoning district.

The subject property contains approximately 323,141 square feet of land with approximately 523 feet of frontage on Washington Street and 391 feet of frontage on Providence Highway. There are no existing buildings, but the property has approximately 66,100 square feet of asphalt and 700 linear feet of retaining walls. The Applicant intends to construct a 16,207 square foot, single-story daycare with a 6,000 square foot playground and a parking lot.

As evidenced by the existing retaining walls, there is a significant grade change across the entire property; the elevation is 177' at the highest point of the wall and 90' at the lowest point. The Applicant would like to remove the existing retaining walls and replace with approximately 950 linear feet of wall ranging in height from 2 feet to 18 feet. The new retaining wall will be more decorative and visually appealing; the additional linear footage will also provide protection to neighboring wetlands.

Member Ryan inquired if there is language in the current bylaw that requires fencing on top of the retaining wall. Attorney Zahka is not aware of a bylaw requirement; however, the Applicant will put a guardrail and fence on top of the walls.

Chairman Steeves asked if there were any members of the public wishing to speak, and there were none.

Upon a motion made by Member Jacobsen and duly seconded by Vice Chair Rosenthal, the Board voted in favor (5-0) to accept and grant the requested Special Permit for a +/- 17 ft maximum retaining wall (4 feet allowed).

A roll call vote was taken:

- Greg Jacobsen – yes
- Tom Ryan – yes
- Sara Rosenthal – yes
- Jason Mammone – yes

Scott Steeves – yes

**The motion passed unanimously, 5-0.**

<b>Applicant:</b>	Sam & Leslie Griesmer
<b>Project Address:</b>	84 Glenridge Road
<b>Zoning District, Map/Lot:</b>	Single Residence A (SRA), Map 88/Lot 15
<b>Legal Notice:</b>	Request a Special Permit for an attached accessory dwelling unit with +/- 2,596.05 gross sq. ft. and +/- 1,291 sq. ft. net living area. Additionally, the Applicants are requesting a waiver from the accessory dwelling unit provisions to allow for a total area exceeding the maximum allowable 1,000 sq. ft. or 33%.
<b>Section of Zoning Bylaw:</b>	Town of Dedham Sections 4, 7.7, 9.2, and 9.3

Homeowners Sam and Leslie Griesmer and Moran & Associates Architect Mollie Moran were present on behalf of the application. In September 2021 the Board granted a Special Permit for an attached two-story accessory dwelling unit (ADU) with a total of 1,385 square feet instead of the allowed 1,000 square feet.

Since the original approval, the homeowner's plans have been revised to reduce construction costs. The plans now propose an attached one-story ADU with a total area of 1,360 square feet and with a net living area of 1,291 square feet.

Ms. Moran clarified that the square footage net living area (1,291 square feet) was posted in the legal notice, however the request is for the gross square footage living area (1,360 square feet).

In the memo accompanying the application, Ms. Moran outlined how each requirement for the issuance of a Special Permit has been met.

For the record, Chair Steeves noted there were 14 signatures in support of the petition.

Member MacDuffie inquired about the reasoning for such a large ADU. Ms. Moran replied that the homeowners will move into the ADU, and they need that square footage to ensure a comfortable living space. The homeowner's son and his family (a total of two adults and two children) will be moving into the main home.

It was confirmed that Special Permits last for three years and the Applicant must request a recertification of the permit every three years to ensure that it does not lapse. The Board

revisited discussion relative to this topic with the Building Commissioner and Assistant Building Inspector at the March meeting.

The Board discussed and it was agreed that the lot is sufficient in size for the addition.

Upon a motion made by Member Ryan and duly seconded by Member Jacobsen, the request for a Special Permit for an attached accessory dwelling unit with +/- 2,596.05 gross sq. ft. and +/- 1,291 sq. ft. net living area (1,360 square foot gross living area). Additionally, the Applicants are requesting a waiver from the accessory dwelling unit provisions to allow for a total area exceeding the maximum allowable 1,000 sq. ft. or 33%.

A roll call vote was taken:

- Greg Jacobsen – yes
- Tom Ryan – yes
- Sara Rosenthal – yes
- Jason Mammone – yes
- Scott Steeves – yes

**The motion passed unanimously, 5-0.**

<b>Applicant:</b>	John and Helena Reilly
<b>Project Address:</b>	152 Sprague Street
<b>Zoning District, Map/Lot:</b>	Single Residence B (SRB), Map 168/Lot 65
<b>Legal Notice:</b>	Request a Variance and or Special Permit for the addition of a +/- 416 sq. ft. dormer on the second floor; proposed addition would intensify, but not increase the pre-existing nonconforming left side yard setback (+/- 5.6 ft. existing, 10 ft. required).
<b>Section of Zoning Bylaw:</b>	Town of Dedham Sections 280-9.2, 9.3, and Table 2

Applicants John and Helena Reilly were present for the application. Mr. Reilly explained that they are adding dormers on both sides of the existing dormer on the back of their house in order to enlarge the interior of the upstairs bedrooms.

The Chair asked if any Board members had questions or comments. Member Mammone asked for clarification on what an “aluminum dwelling” was as written on the plan, which Mr. Reilly clarified that it only meant the siding of the house was aluminum.

Vice Chair Rosenthal asked if the existing dormer would be altered in any way, which Mr. Reilly answered that it would not. The Chair then asked if there were any members of the public wishing to speak, and there were none.

The Chair noted three abutters signed their support for the application.

Upon a motion made by Member Jacobsen and duly seconded by Vice Chair Rosenthal, the Board voted in favor (5-0) to accept and grant the requested Variance and/or Special Permit for the addition of a second floor with a side yard setback of +/- 5 ft. (10 ft. required).

A roll call vote was taken:

- Greg Jacobsen – yes
- Tom Ryan – yes
- Sara Rosenthal – yes
- Jason Mammone – yes
- Scott Steeves – yes

**The motion passed unanimously, 5-0.**

<b>Applicant:</b>	Frank N. Gobbi
<b>Project Address:</b>	530 Providence Highway
<b>Zoning District, Map/Lot:</b>	Highway Business (HB) Zoning District and the Wireless Overlay District, Map 108/Lot 104
<b>Legal Notice:</b>	Requests a Special Permit for the construction and maintenance of retaining walls with a height of approximately 13.5 ft (4 ft. allowed).
<b>Section of Zoning Bylaw:</b>	Town of Dedham Zoning Bylaw Section 280-6.5.2, 9.2 and 9.3.

\*Member Mammone recused himself from voting on this application; Member Vigil voted in his stead.

Attorney Peter Zahka and Frank Gobbi were present for the application. The Applicant requests a Special Permit for the construction and maintenance of retaining walls with a height of +/- 14 feet (where 4 feet is allowed). The subject property contains 1.4 acres of land and is currently occupied by a two-story commercial building with a floor area of approximately 43,600 square feet.

There is a significant grade differential on the property which consists of sloped asphalt. The Applicant views the wall as unsightly and a potential safety hazard. He would like to replace the sloped asphalt with pre-cast block retaining walls.

There will be a 4-foot-high chain link fence on top of the retaining walls and every effort will be made to add landscaping. There will be no change to the number of parking spaces.

Attorney Zahka noted this is the third time this application has come before the Board. Both previous Special Permits were approved, however have expired. Additionally, there was a disagreement with the Conservation Commission as to whether a Stormwater Management Permit would be needed. The disagreement has been resolved by the courts, Mr. Gobbi understands that a Stormwater Management Permit is necessary, and the retaining walls will be taken into consideration with the Stormwater Management Plan.

Attorney Zahka added there is a pipe behind the area where the retaining walls will be located. Ownership of this pipe is currently in litigation; the court's determination of ownership may impact the property's Stormwater Management Plan.

Member Jacobsen inquired about the timeline for a decision on the litigation of the pipe. Attorney Zahka replied that he is not involved in the litigation but believes the two parties have filed cross motions with the land court.

Chair Steeves agreed the retaining walls would be a significant aesthetic improvement but expressed concerns about approving a petition with pending litigation. Member Vigil asked for additional details about the litigation.

Mr. Gobbi reported the pipe in question was built circa 1910 when Route 1 was originally constructed. There was an intermittent brook where part of Route 1 was constructed, the pipe was installed to ensure the brook could flow from one side of the route to the other. Due to the natural contours of the land, the pipe is located deep beneath Route 1. Over the years the Town expanded the drain line to aid water flow, but there was no easement given to property owners with a portion of the pipe on their land.

Mr. Gobbi was informed that he cannot tap into the pipe and use it for his stormwater management plan unless he cares for and regularly cleans the entire length of the pipe. The litigation will confirm who owns the pipe, who is responsible for management, and whether it should remain there. He believes that the decision will not have an impact on the wall or parking lot.

Vice Chair Rosenthal added that the pipe matters because a Stormwater Management Plan is needed. Chair Steeves inquired why a decision cannot wait until the litigation is settled. These concerns were raised the two times the application was presented to the Board; when he saw it on the agenda for a third time, he was under the impression that the issues had been addressed and resolved.

Attorney Zahka replied that Mr. Gobbi would like to move on to the next step and begin putting together a Stormwater Management Plan to present to the Conservation

Commission. The is a modification to the site plan, which will also require Planning Board approval. He added that pending lawsuits with the Town should not be taken into consideration when making a decision about a special permit.

**Carmen DelloIacono, 145 West Jersey Street** made a brief statement in support of Mr. Gobbi’s application, noting the project would be an improvement over the unsightly wall.

Member Ryan commented a retaining wall would be a considerable improvement over what is there currently, noting only for Mr. Gobbi’s property, but for the nearby businesses.

A motion was made by Member Ryan and seconded by Member Vigil to approve the request for a Special Permit for the construction and maintenance of retaining walls with a height of approximately 13.5 ft (4 ft. allowed).

A roll call vote was taken:

- Greg Jacobsen – yes
- Tom Ryan – yes
- Sara Rosenthal – yes
- Norman Vigil – yes
- Scott Steeves – no

**The motion passed, 4-1.**

<b>Applicant:</b>	Clarisse St. Hubert
<b>Project Address:</b>	18 Gainsville Road
<b>Zoning District, Map/Lot:</b>	General Residence (GR) Zoning District and the Aquifer Protection Overlay District (APOD), Map 169/Lot 48
<b>Legal Notice:</b>	Requests a Special Permit and/or Variance for a +/- 362 sq. ft. addition on the second floor; proposed addition would intensify, but not increase the pre-existing nonconforming front yard setback (+/- 8.8 ft. existing, 20 ft. required).
<b>Section of Zoning Bylaw:</b>	Town of Dedham Sections 280-8.2 and Table 2

It was noted there was no one present for the application.

A motion was made by Member Jacobsen and seconded by Vice Chair Rosenthal to continue the application without prejudice for a future meeting.

A roll call vote was taken:

Greg Jacobsen – yes  
Tom Ryan – yes  
Sara Rosenthal – yes  
Jason Mammone – yes  
Scott Steeves – yes

**The motion passed unanimously, 5-0.**

Ms. Tinger will contact the Applicant with this update and reschedule to a future meeting.

**15 Belknap**

Vice Chair Rosenthal recused herself from voting on this application; Member Vigil voted in her stead.

Walter Conte was present on behalf of the application. Since the petition at 15 Belknap was approved by the Board, the state released its updated Residential Stretch Code, RC105. The new code sets forth guidelines for solar-roof zones on new construction for all detached one- and two-family dwellings and townhouses. Specific to this petition, section RC105.3 requires that the total solar roof zone must be at least 300 square feet.

Mr. Conte requested that the original plan be modified to include a vaulted front façade to meet the requirement. He added that the Building Commissioner, Mr. Ken Cimeno, referred him to the Board for approval.

Mr. Conte confirmed that the only change to the original plan is the roof, and the project remains in compliance with the floor area ratio.

A motion was made by Member Jacobsen and seconded by Member Ryan that a new ZBA application is not required for this change in plans.

A roll call vote was taken:

Greg Jacobsen – yes  
Tom Ryan – yes  
Norman Vigil – yes  
Jason Mammone – yes  
Scott Steeves – yes

**The motion passed unanimously, 5-0**

**Meeting Minutes**

As a follow-up to the March meeting with Mr. Ken Cimeno and Mr. Fred Johnson to discuss Accessory Dwelling Unites (ADUs), Ms. Tinger spoke with Town Counsel about the Board’s authority to approve ADU petitions. Town Counsel determined that applicants must comply with all conditions of Section 280-7.7 in the zoning bylaw to qualify for a



hearing with the Board. The Board does not have the authority to waive any of the conditions. It was also confirmed that applicants who are granted the special permit must reapply every three years to have the permit renewed.

Town Counsel suggested the Board consider the proposal of a zoning amendment to change the language in section 280-7.7 of the bylaw. Member Vigil noted it would be the Planning Board who would bring any proposed change to Town Meeting.

Member Ryan requested additional information from Town Counsel and details on how surrounding communities handle the ADU approval process. Chair Steeves agreed.

A motion was made by Member Jacobsen to approve the minutes of the March 15, 2023 meeting. The motion was seconded by Member Ryan and a roll call vote was taken.

Greg Jacobsen – yes  
Tom Ryan – yes  
Sara Rosenthal — yes  
Scott Steeves – yes  
Jason Mammone — yes

**The motion passed unanimously, 5-0.**

#### **Adjournment**

A motion was made by Member Jacobsen and seconded by Member Ryan to adjourn the meeting at 8:30 p.m. A roll call vote was taken, all agreed, and the meeting was adjourned.