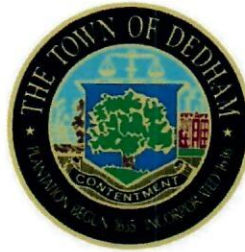


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TOWN OF DEDHAM
ZONING BOARD OF APPEALS
DECISION



Applicant: Dennis Cunningham
Property Address: 40 Riverside Drive, Dedham, MA
Property Owner: Leah Kane and Dennis Cunningham
Property Owner Address: 40 Riverside Drive, Dedham, MA
Applicant Representative: Dennis Cunningham

Legal Notice: To be allowed a side yard setback of 5.5 feet instead of the required 10 feet, a side yard setback of 9.2 feet instead of the required 20 feet, a front yard setback of 16.4 feet instead of the required 20 feet, and a rear yard setback of 16.2 feet instead of the required 20 feet to construct a second floor on his dwelling to accommodate his growing family.

Section of Zoning Bylaw: *Town of Dedham Zoning Bylaw Section 4.1, Table of Dimensional Requirements*

Zoning District, Map and Lot: General Residence, Map14, Lot 38
Date of Application: May 22, 2017
Date of Public Hearing: June 21, 2017
Date of Decision: June 21, 2017
Vote: Approved unanimously, 5-0
Voting Members: James F. McGrail, Esq., J. Gregory Jacobsen, E. Patrick Maguire, MLA, RLA, CLARB, LEED AP,[®] Jason L. Mammone, P.E., Jared F. Nokes, J.D.

Date Filed with Town Clerk: July 12, 2017

The Zoning Board of Appeals (“ZBA”) of the Town of Dedham, Massachusetts, held public hearings on Wednesday, , 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, E. Patrick Maguire, MLA, RLA, CLARB, LEED AP,[®] and Jason L. Mammone, P.E. In the absence of

Member Scott M. Steeves, Mr. McGrail appointed Associate Member Jared F. Nokes, J.D., to sit in his stead. 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 7:09 p.m., the Chairman called for the hearing on the appeal of Dennis Cunningham, 40 Riverside Drive, Dedham, MA, to be allowed such Special Permits and/or variances as required for a side yard setback of 5.5 feet instead of the required 10 feet, a side yard setback of 9.2 feet instead of the required 20 feet, a front yard setback of 16.4 feet instead of the required 20 feet, and a rear yard setback of 16.2 feet instead of the required 20 feet to construct a second floor on his dwelling to accommodate his growing family. *Town of Dedham Zoning Bylaw Section 4.1, Table of Dimensional Requirements*

The Applicant 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 such Special Permits and/or variances, which included:

1. Zoning Board of Appeals application
2. Certified plot plan prepared by Michael Paul Antonino, Registered Land Surveyor, 31 Ledgebrook Avenue, Stoughton, MA
3. Photographs of existing conditions
4. Elevations of proposed changes prepared by WRA Design, 71 Rossmore Road Jamaica Plain, MA 02130

The subject property is known and numbered as 40 Riverside Drive, Dedham, MA, and is shown on Dedham Assessors' Map 14, Lot 38. The certified plot plan indicates that the Subject Property contains 4,365 square feet of land and has 46.45 feet of frontage. According to the Dedham Zoning Map, the Subject Property is located in the General Residence 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 1938.

Mr. Cunningham lives in a two-story Cape dwelling. He would like to add three bedrooms for his growing family. He looked into adding dormers, but these would be too shallow. He proposes taking off the roof of the house, raising the ceiling a couple of feet, and adding shed dormers, windows, and a new roof. He is going straight up and not encroaching on the property line. No one spoke in favor or in opposition to the petition.

On a motion made by Jason L. Mammone, P.E., and seconded by E. Patrick Maguire, MLA, RLA, CLARB, LEED AP,[®] the Zoning Board of Appeals voted unanimously (5-0) to approve a side yard setback of 5.5 feet instead of the required 10 feet, a side yard setback of 9.2 feet instead of the required 20 feet, a front yard setback of 16.4 feet instead of the required 20 feet, and a rear yard setback of 16.2 feet instead of the required 20 feet to construct a second floor on his dwelling to accommodate his growing family.

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: June 21, 2017

Attest, by the Zoning Board of Appeals:

James F. McGrail, Esq., Chairman

J. Gregory Jacobsen, Vice Chairman

E. Patrick Maguire, MLA, RLA, CLARB, LEED AP[®]

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

Jared F. Nokes
Jared F. Nokes, J.D.

Attest, by the Administrative Assistant:

Susan N. Webster
Susan N. Webster