

**TOWN OF DEDHAM  
COMMONWEALTH OF MASSACHUSETTS**

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**ZONING BOARD OF APPEALS  
DECISION**

<b>Applicant:</b>	<b>Shawn Greenwood and Matthew Quinn</b>
<b>Property Address:</b>	<b>531 and 535 Washington Street, Dedham, MA 02026</b>
<b>Property Owner:</b>	Shawn Greenwood and Matthew Quinn
<b>Property Owner Address:</b>	118 Madison Street, Dedham, MA 02026
<b>Applicant Representative:</b>	Peter A. Zahka II, Esq., 12 School Street, Dedham, MA Matthew Quinn

CLERKS OFFICE

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TOWN OF DEDHAM

**Legal Notice:**

The applicant seeks to be allowed such Special Permits and/or variances as required to reconfigure two existing nonconforming lots (one lot with 8,893 square feet and lot frontage and width of 68 feet and occupied by an existing two-family dwelling and a free-standing garage, and one lot with an area of 6,000 square feet and lot frontage and width of 50 feet) into two new building lots, one lot which will have a lot area of 9,003 square feet of land, lot frontage and width of 68 feet, impervious area of 46%, and which will continue to be occupied by an existing two-family dwelling with a front yard setback of 17.6 feet, rear yard setback of 21 feet, and side yard setback of 7.2 feet, and an existing free-standing garage which is 6.9 feet from said dwelling and with a rear yard setback of 2.1 feet, and one lot which will have a lot area of 5,890 square feet of land, lot frontage and width of 50 feet, and will have a single family dwelling constructed thereon with side yard setbacks of 11 feet and 11.1 feet, at 531 and 535 Washington Street in the Single Residence B and Aquifer Protection Overlay zoning districts.

**Section of Zoning Bylaw:**

*Town of Dedham Zoning Bylaw Sections 3.1.3, 3.3.1, 3.3.2, 3.3.3, 3.3.4, 3.3.5, 4.1, 4.5, 8.2, 9.2, 9.3, 10, Table 1, and Table 2*

**Zoning District, Map and Lot:** Single Residence B, Aquifer Protection Overlay district, Map 122, Lots 49 and 50  
**Date of Application:** October 16, 2017  
**Date of Public Hearing:** November 15, 2017  
**Date of Decision:** November 15, 2017  
**Vote:** Unanimous approval, 5-0  
**Voting Members:** James F. McGrail, Esq., J. Gregory Jacobsen, Scott M. Steeves, E. Patrick Maguire, MLA, RLA, CLARB, LEED AP,® Jessica L. Porter

**Date Filed with Town Clerk:** December 14, 2017

The Zoning Board of Appeals (“ZBA”) of the Town of Dedham, Massachusetts held public hearings on Wednesday, November 15, 2017, in the Town Office Building, 26 Bryant Street, Dedham, MA. Present were Members of the ZBA, Chairman James F. McGrail, Esq., J. Gregory Jacobsen, Scott M. Steeves, P.E., and E. Patrick Maguire, MLA, RLA, CLARB, LEED AP®. In the absence of Member Jason L. Mammone, P.E., the Chairman appointed Associate Member Jessica L. Porter to sit in his place. The hearings were duly advertised for this meeting of the ZBA in accordance with the requirements of MGL Chapter 40A, Section 11.

At 8:35 p.m., the Chairman called for the hearing on the appeal of Shawn Greenwood and Matthew Quinn, 118 Madison Street Dedham, Massachusetts, to be allowed such special permits and/or variances as required to reconfigure of two (2) existing nonconforming lots (one lot with an area of 8,893 square feet and a lot frontage and width of 68 feet and occupied by an existing two-family dwelling and free-standing garage, and one lot with an area of 6,000 square feet and a lot frontage and width of 50 feet) into two new building lots, one lot which will have a lot area of 9,003 square feet of land, lot frontage and width of 68 feet, an impervious area of 46%, and will continued to be occupied by an existing two-family dwelling with a front yard setback of 17.6 feet, a rear yard setback of 21 feet, and a side yard setback of 7.2 feet, and an existing free-standing garage which is 6.9 feet from said dwelling and with a rear yard setback of 2.1 feet, and one lot which will have a lot area of 5,890 square feet of land, lot frontage and width of 50 feet, and will have a single-family dwelling constructed thereon with side yard setbacks of 11 feet and 11.1 feet, at 531 and 535 Washington Street in the Single Residence B (SRB) and Aquifer Protection Overlay (APO) Zoning Districts. *Town of Dedham*

*Zoning Bylaw Sections 3.1.3, 3.3.1, 3.3.2, 3.3.3, 3.3.4, 3.3.5, 4.1, 4.5, 8.2, 9.2, 9.3, 10, Table 1, and Table 2*

The Applicants were represented by Peter A. Zahka, II, Esq., 12 School Street, Dedham, MA. Also present on behalf of the Applicant was Matthew Quinn. Attorney Zahka had previously submitted a four-page memorandum, a certified plot plan, site photographs of the Subject Property, and renderings of the proposed addition. The minutes from the hearing are the primary source of evidence and are incorporated herein by reference.

The Subject Property, owned by Shawn Greenwood and Mathew Quinn (hereinafter referred to collectively as the "Applicant"), consists of two parcels known and numbered as 531 Washington Street and 535 Washington Street, Dedham, MA. The portion of the Subject Property known as 535 Washington Street is shown on Dedham Assessors' Map 122, Lot 49, and contains 8,893 square feet of land with 68 feet of frontage on Washington Street (and about 118 feet of frontage on Richards Street). According to the records maintained by the Dedham Board of Assessors, this parcel is occupied by a two-family home built in 1871. The portion of the Subject Property known and numbered as 531 Washington Street contains 6,000 square feet of land with 50 feet of frontage on Washington Street. According to the records maintained by the Dedham Board of Assessors, this parcel is vacant (and to our knowledge has always been vacant)<sup>1</sup>. There is a small encroachment of the garage at 535 Washington Street onto the lot of 531 Washington Street. The Subject Property is located in the Single Residence B (SRB) Zoning District. The Subject Property is also located in the Aquifer Protection Overlay (APO) Overlay District.

The parcel known as 535 Washington Street consists of two separate lots: (a) one lot contains 8,616 square feet of land and was established by deed description but without a recorded plan prior to 1871 and (b) one lot containing 277 square feet of land established by a plan recorded in 1949. The parcel known as 531 Washington Street consists of a single lot established by deed but without a recorded plan. This parcel came out of a different title and was

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<sup>1</sup> As discussed further in this Project Narrative the garage on 535 Washington Street encroaches onto 531 Washington Street. However, for purposes of zoning regulations and assessing 531 Washington Street is considered vacant.

once a part of 525 Washington Street which has been occupied by a dwelling constructed around 1900.

Applicant intends to construct a single-family dwelling on the vacant lot at 531 Washington Street. Single family dwellings are allowed as of right in the SRB Zoning District. However, residential developments are allowed as of right in the APO District “provided that not more than twenty-five (25%) of a building lot . . . is rendered impervious.” Residential developments in the APO District where the “resulting impervious surface would exceed twenty-five (25%) of the lot area” are allowed by special permit by the Zoning Board of Appeals.

In order to eliminate the small garage encroachment and to provide a plan depicting the two new lots (eliminating any potential title or zoning issues) the Applicant desires to file a new (Approval Not Required) plan with the Registry of Deeds depicting the two slightly reconfigured lots. As reconfigured, one lot (535 Washington Street) will have a lot area of 9,003 square feet, lot frontage and width of 68 feet, impervious area of 46%, and will be continued to be occupied by an existing two-family dwelling with a front yard setback of 17.6 feet, rear yard setback of 21 feet, and side yard setback of 7.2 feet. The existing garage on this property is 6.9 feet from said dwelling and will have a rear yard setback of 1.0 foot. As reconfigured, the second lot (531 Washington Street) will have a lot frontage and width of 50 feet, a lot area of 5,890 square feet, and will be occupied by a single-family dwelling to be constructed with a front yard setback of 25.5 feet, rear yard setback of 25.5 feet, and side yard setbacks of 11 feet. In order to file such a plan and maintain the existing zoning rights, the Applicant requires a number of variances to the dimensional requirements under the Dedham Zoning By-Law.

As stated above, the Applicant seeks to reconfigure the two lots comprising the Subject Property into two new lots while maintaining the existing dimensional nonconformities for the two-family dwelling and with the ability to construct a single-family dwelling on the reconfigured existing vacant lot. The reconfiguration is desirable in order to eliminate a small encroachment of a garage and to provide a recordable plan for the two new lots (the existing lots were created without the benefit of a recorded plan). In addition, the Subject Property is

in the Aquifer Protection Overlay district and the existing dwelling already has an impervious area in excess of 25%.

Sections 3.3.2 – 3.3.5 of the Dedham Zoning By-Law authorize and empower the ZBA to grant special permits for the alteration, change, and extension of pre-existing nonconforming uses and structures. Section 8.25 of the Dedham Zoning By-Law provides that residential developments with an impervious area of up to 25% are allowed in the APO District as a matter of right. Section 8.2.7 of the Dedham Zoning By-Law authorizes the ZBA to grant special permits for residential developments in the APO District with impervious area in excess of 25%.

In acting upon requests for Special Permits, the ZBA is guided by Section 9.3.2 of the Dedham Zoning By-Law which provides that:

Special permits shall be granted by the Special Permit Granting Authority, unless otherwise specified herein, only upon its written determination that the adverse effects of the proposed use will not outweigh its beneficial impacts to the town or the neighborhood, in view of the particular characteristics of the site, and of the proposal in relation to that site. In addition to any specific factors that may be set forth in this By-Law, the determination shall include consideration of each of the following:

1. Social, economic, or community needs which are served by the proposal;
2. Traffic flow and safety, including parking and loading;
3. Adequacy of utilities and other public services;
4. Neighborhood character and social structures;
5. Impacts on the natural environment;
6. Potential fiscal impact, including impact on town services, tax base, and employment.

In addition, pursuant to Section 9.2.2 of the Dedham Zoning By-Law the ZBA has the power “to hear and decide appeals or petitions for variances from the terms of this By-Law, with respect to particular land or structures as set forth on G.L. c. 40A, § 10.” Section 10 of Chapter 40A of the General Laws of Massachusetts states that a variance may be granted if:

Owing to circumstances relating to soil conditions, shape or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located, a literal enforcement of the provision of the ordinance or by-law would involve substantial hardship, financial or otherwise, to the petitioner or appellant and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of such ordinance or by-law.

The Applicant respectfully submits that the proposed project satisfies the above stated requirements and criteria for the issuance of the requested special permits and/or variances. At the outset, it is important to note that the majority of the requested special permits and/or variances maintain the existing nonconformities for the existing two-family dwelling. Inasmuch as Applicant desires to record a new plan, the reconfigured lots will be deemed "established" on the date of recording. The existing lot occupied by the two-family dwelling and garage already has an impervious area in excess of 25%. Since this lot will increase slightly in area, the total impervious area will actually decrease slightly (albeit minimally). Inasmuch as there will be no additional construction on this lot it is submitted that there will be little if any contamination or depletion of the aquifer recharge. The Subject Property is surrounded by a street and other fully developed lots. The proposed new dwelling on the vacant lot to be reconfigured will have an impervious surface of less than 25% (and does not require a special permit for work in the APO District). In addition, the new dwelling will be submitted to Dedham Conservation Commission for review and approval of a Stormwater Management Permit. Likewise, Applicant proposes to maintain the existing use of the two-family dwelling (and is not establishing a new nonconforming use). The proposed will have no impact on the neighborhood character and social structure. The proposed buildable lot is of similar size when compared to abutting land and lots in that geographical location. There will be no impact on the natural environment.

The Applicant submits that it satisfies the requirements for issuance of a variances needed to maintain the existing zoning requirements. Simply stated without the variances Applicant will be unable to eliminate the garage encroachment or otherwise record a new plan of the

Subject Property. Basically, the variances will allow the recording of a new plan while maintaining the status quo. As stated above, with the exception of the lot areas of the reconfigured lots Applicant is not creating any new nonconformities. In light of the location of the existing structures, Applicant is unable to eliminate these nonconformities.

The Applicant submitted a petition signed by two (2) abutters indicating their support for the requested relief. It is noted that the petition is signed by the abutters closest to the proposed addition. In addition, Applicant noted that he talked with other abutters who (while not signing the petition) stated that they had no objection. At the hearing, several neighbors appeared and inquired about the large (beech) tree at the property and the proposed dwelling design. In response, stated that it was not his intent or desire to remove the tree and will use reasonable efforts to preserve the same. Additionally, the Applicant distributed drawings/elevations of the proposed dwelling and indicated that the architect has been directed to design a dwelling which was consistent with others in the surrounding area.

Upon motion duly made by Scott M. Steeves and seconded by J. Gregory Jacobsen, the ZBA voted unanimously, 5-0, to grant and approve such special permits and/or variances as required to reconfigure of two (2) existing nonconforming lots (one lot with an area of 8,893 square feet and a lot frontage and width of 68 feet and occupied by an existing two-family dwelling and free-standing garage, and one lot with an area of 6,000 square feet and a lot frontage and width of 50 feet) into two new building lots, one lot which will have a lot area of 9,003 square feet of land, lot frontage and width of 68 feet, an impervious area of 46%, and will continued to be occupied by an existing two-family dwelling with a front yard setback of 17.6 feet, a rear yard setback of 21 feet, and a side yard setback of 7.2 feet, and an existing free-standing garage which is 6.9 feet from said dwelling and with a rear yard setback of 2.1 feet, and one lot which will have a lot area of 5,890 square feet of land, lot frontage and width of 50 feet, and will have a single family dwelling constructed thereon with side yard setbacks of 11 feet and 11.1 feet, at 531 and 535 Washington Street.


In granting said special permit, the ZBA finds that the proposed modification will not be substantially more detrimental than the existing nonconforming structure to the neighborhood.

Furthermore, the ZBA finds that, after consideration of the criteria in Section 9.3.2 of the Dedham Zoning By-Law, the adverse effects of Applicant's proposal will not outweigh its beneficial impacts on the Town and neighborhood. In granting said variances, the ZBA finds that the Applicant has satisfied the requirements Section 10 of Chapter 40A of the General Laws of Massachusetts, to wit: a literal enforcement of the Dedham Zoning By-Law requirements would cause a substantial financial hardship to Applicant, and that the relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Dedham Zoning By-Law.

Applicant is advised that, in accordance with MGL Chapter 40A, Section 11, no variance shall take effect until a copy of this decision bearing the certification of the Dedham Town Clerk that twenty days have elapsed after the decision has been filed with the Dedham Town Clerk and no appeal has been filed and that no special permit shall take effect until a copy of this decision bearing the certification of the Dedham Town Clerk that twenty days have elapsed after the decision has been filed with the Dedham Town Clerk and no appeal has been filed or that an appeal has been filed within such time shall be recorded in the Norfolk County Registry of Deeds or the Land Registration Office of Norfolk County.

Dated: November 15, 2017

  
James F. McGrail, Esq.

  
J. Gregory Jacobsen

  
Scott M. Steeves

  
B. Patrick Maguire, LEED AP

  
Jessica L. Porter

Attest by the Administrative Assistant

  
Susan N. Webster