

TOWN OF DEDHAM
COMMONWEALTH OF MASSACHUSETTS
ZONING BOARD OF APPEALS

Members

James F. McGrail, Esq., Chair
J. Gregory Jacobsen, Vice Chair
Scott M. Steeves
E. Patrick Maguire, MLA, RLA, CLARB, LEED AP®
Jason L. Mammone, P.E.



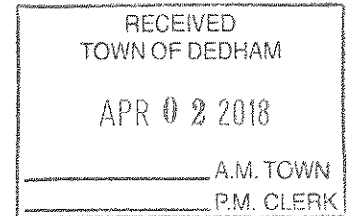
Dedham Town Hall
26 Bryant Street
Dedham, MA 02026-4458
Phone: 781-751-9242

Susan Webster
Administrative Assistant
swebster@dedham-ma.gov

Associate Members

Jared F. Nokes, J.D.
Jessica L. Porter

DECISION



Applicant/Owner	James Wood
Property Address	115 Harding Terrace, Dedham, MA
Zoning District	Single Residence B
Map and Lot	98/133
Representative	<ul style="list-style-type: none">James Wood, ownerTom Timko, Copper Beech Design, 66 Woodchester Drive, Weston, MA 02493
Legal Notice	To be allowed a four (4) foot front yard setback instead of the allowed 25 feet to demolish and reconstruct the existing front wall and roof of a single family dwelling.
Section of Zoning Bylaw	Town of Dedham Zoning Bylaw Section 4.1 Table of Dimensional Requirements
Date of Application	February 23, 2018
Date of Public Hearing	March 21, 2018
Date of Decision	March 21, 2018
Vote	5-0, unanimously approved
Voting Members	James F. McGrail, Esq., J. Gregory Jacobsen, Scott M. Steeves, Jason L. Mammone, P.E., Jared F. Nokes, J.D.
Date Filed With Town Clerk	April 2, 2018

The Zoning Board of Appeals ("ZBA") of the Town of Dedham, Massachusetts, held public hearings on Wednesday, , 2018, in the Town Office Building, 26 Bryant Street, Dedham, Massachusetts. Present were members of the ZBA, James F. McGrail, Esq., Chair, J. Gregory Jacobsen, Vice Chair, Scott M. Steeves, and Jason L. Mammone, P.E. In the absence of Member E. Patrick Maguire, MLA, RLA, CLARB, LEED AP®, Mr. McGrail appointed Associate Member Jared F. Nokes, J.D., to sit in his stead.

The hearings for this meeting of the ZBA were duly advertised in *The Dedham Times* on March 2, 2018, and March 9, 2018, in accordance with the requirements of Massachusetts General Law, Chapter 40A, Section 11, and the Town of Dedham Zoning Bylaw. In addition, notices of the hearings were sent to abutters within 300 feet of the property in question on March 6, 2018. Notification of each hearing was sent to the abutting towns of Boston, Needham, Canton, and Westwood. Copies of all plans referred to in this decision and a detailed record of the Zoning Board of Appeals proceedings are filed in the Town of Dedham Planning Department.

The Applicant was represented by Tom Timko, Copper Beech Design, 66 Woodchester Drive, Weston, MA 02493. The Applicant was also present for the hearing. The minutes from the hearing are the primary source of evidence and are incorporated herein by reference.

The property is located at 115 Harding Terrace, Dedham, Massachusetts, and is located in the Single Residence B zoning district. On February 23, 2018, the Applicant submitted an application, which included:

1. Zoning Board of Appeals application
2. Certified plot plan prepared by Michael P. Clancy, PLS, C & G Survey Company, 37 Jackson Road, Scituate, MA 02066, dated August 7, 2017
3. Supplemental Information including photographs of existing and proposed conditions, prepared by Copper Beech Design, 66 Woodchester Drive, Weston, MA 02493

The subject property is known and numbered as 115 Harding Terrace, Dedham, Massachusetts, and is shown on Dedham Assessor's Map 98, Lot 133. The certified plot plan indicates that the Subject Property contains 10,350 square feet of land and has 115 feet of frontage on Harding Terrace. According to the Town of Dedham Zoning Map, the Subject Property is located in the Single Residence B zoning district. Currently, the property is occupied by a single family dwelling. According to the records maintained by the Dedham Board of Assessors, the building was constructed in 1914.

The Town of Dedham Zoning Board of Appeals is authorized and empowered to grant requested relief under a number of provisions of the Town of Dedham Zoning Bylaw. Sections 3.3.2 and 3.3.3 provide that the ZBA may grant Special Permits to change, alter, extend, or reconstruct nonconforming uses and structures, respectively. Per said Sections 3.3.2 and 3.3.3, the ZBA "may award a Special Permit ... if it determines that [the proposed change, alteration, extension, or reconstruction] shall not be substantially more detrimental than the existing non-

conforming [use or structure] to the neighborhood.” Furthermore, with respect to nonconforming single and two-family residential structures, Section 3.3.5 of the Town of Dedham Zoning Bylaw provides, in pertinent part, that if “the nonconforming nature of such structure shall be increased by the proposed reconstruction, extension, alteration, or change, the Zoning Board of Appeals may, by Special Permit, allow such reconstruction, extension, alteration, or change where it determines the proposed modification will not be substantially more detrimental than the existing nonconforming structure to the neighborhood.”

The Town of Dedham Zoning Board of Appeals is the Special Permit Granting Authority for... 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 by this Bylaw, 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 the authority granted under Section 9.2.2 of the Town of Dedham Zoning Bylaw, the ZBA has the power “to hear and decide appeals or petitions for variances from the terms of this Bylaw, with respect to particular land or structures as set forth in 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 related 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 provisions of the ordinance or bylaw 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 bylaw.

The Applicant respectfully submits that the requirements and criteria for the issuance of the requested modification are satisfied.

The Applicant is seeking to be allowed a four (4) foot front yard setback instead of the allowed 25 feet to demolish and reconstruct the existing front wall and roof of a single family dwelling. Mr. Timko explained that the Applicant wants to demolish and reconstruct the existing front wall and roof of his single family dwelling. The front elevation is right on the street. They propose raising the one-and-a-half story front wall to equalize it and turn the dwelling into a center entrance colonial. They already have a building permit for an addition on the back of the house. There will be no change in the footprint since they are just going up. Mr. Wood spoke with his neighbors, who are in favor of the petition. There were no signatures submitted.

No one in the audience spoke in favor or against the petition.

Upon motion duly made by Scott M. Steeves and seconded by J. Gregory Jacobsen, the ZBA voted unanimously, 5-0, to allow a four (4) foot front yard setback instead of the allowed 25 feet to demolish and reconstruct the existing front wall and roof of a single family dwelling. In granting said Special Permit, the Zoning Board of Appeals finds that the proposed modification will not be substantially more detrimental than the existing nonconforming structure to the neighborhood. Furthermore, the Zoning Board of Appeals finds that, after consideration of the criteria in Section 9.3.2 of the Town of Dedham Zoning Bylaw, the adverse effects of the Applicant's proposal will not outweigh its beneficial impacts on the Town and the neighborhood.

The Applicant is advised that, in accordance with Massachusetts General Law 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 (20) 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 (20) 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.

Date: March 21, 2018

Attest by the Zoning Board of Appeals:

James F. McGrail, Esq.
James F. McGrail, Esq., Chair

J. Gregory Jacobsen
J. Gregory Jacobsen, Vice Chair

Scott M. Steeves
Scott M. Steeves

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

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

Attest by the Administrative Assistant:

Susan N. Webster
Susan N. Webster