

TOWN OF DEDHAM
COMMONWEALTH OF MASSACHUSETTS

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

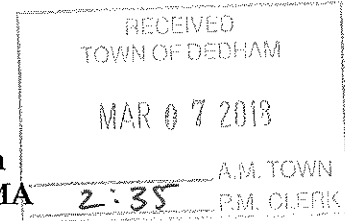


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Administrative Assistant
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Associate Members
Jessica L. Porter
Jared F. Nokes, J.D.

**ZONING BOARD OF APPEALS
DECISION**



Applicant: Peter G. and Meghan Hamilton
Property Address: 35 Highland Street, Dedham, MA
Property Owner: Peter G. and Meghan Hamilton
Property Owner Address: 35 Highland Street, Dedham, MA
Applicant Representative: Peter G. Hamilton

Legal Notice: The applicant seeks to be allowed such Special Permits and/or variances as required to construct a two-car garage that will be 4.9 feet from the property line instead of the required 10 feet, and a Special Permit for an accessory dwelling unit in a single family dwelling

Section of Zoning Bylaw/Sign Code *Town of Dedham Zoning Bylaw Section 4.1, Table of Dimensional Requirements, and Section 7.7 Special Residential Regulations*

Zoning District, Map and Lot: Single Residence B, Map 107, Lot 33
Date of Application: January 17, 2018
Date of Public Hearing: February 21, 2018
Date of Decision: February 21, 2018
Vote: 5-0, unanimously approved

Voting Members: James F. McGrail, Esq., J. Gregory Jacobsen, Scott M. Steeves, E. Patrick Maguire, MLA, RLA, CLARB, LEED AP®, Jared F. Nokes, J.D.

Date Filed with Town Clerk: March 7, 2018

The Zoning Board of Appeals (“ZBA”) of the Town of Dedham, Massachusetts held a public hearing on Wednesday, February 21, 2018, at 7:00 p.m. 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, and E. Patrick Maguire, MLA, RLA, CLARB, LEED AP®. In the absence of Member Jason L. Mammone, P.E., Mr. McGrail appointed Associate to sit in his stead.

The hearings were duly advertised for two consecutive weeks in the *Dedham Times* in accordance with the requirements of MGL Chapter 40A, Section 11 and the Town of Dedham Zoning Bylaw. Notices of the hearing were sent to abutters within 300 feet of the property in question on. Notification of the hearing was sent to the neighboring towns, 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 Dedham Planning Department.

The property is located at 35 Highland Street, Dedham, MA, and is located in the Single Residence B zoning district. The Applicant was represented by Mollie Moran, AIA, 64 Dwight Street, Dedham, MA. The minutes from the hearing are the primary source of evidence and are incorporated herein by reference.

The Applicant had submitted an application for such Special Permits and/or variances required to construct a two-car garage that will be 4.9 feet from the property line instead of the required 10 feet, and a Special Permit for an accessory dwelling unit in a single family dwelling. This included:

1. Zoning Board of Appeals application
2. Petition Statement from the Applicants
3. Signatures in support of the petition:

Nicole Hart	39 Highland Street, Dedham, MA
Ryan Hart	39 Highland Street, Dedham, MA
Mary Jane Devins	38 Highland Street, Dedham, MA
James F. Devins	38 Highland Street, Dedham, MA
4. Certified plot plan prepared by Peter G. Hoyt, Hoyt Land Surveying, 1287 Washington Street, Weymouth, MA 02189
5. Renderings of proposed addition prepared by Brandon R. Secl, Connecticut Valley Homes, 128 Boston Post Rd, East Lyme, CT 06333
6. Photographs of existing conditions

The subject property is known and numbered as 35 Highland Street, Dedham, MA, and is shown on Dedham Assessors' Map 107, Lot 33. The certified plot plan indicates that the subject Property contains 18,332 square feet of land and has 81.89 feet of frontage on Highland Street. According to the 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 dwelling was constructed in 1953.

Mr. and Mrs. Hamilton have a growing family with a new baby coming in July, and his elderly, widowed, mother-in-law will be coming to live with them for at least part of the year. They would like to construct a two-car garage with an in-law suite above it for his mother-in-law. The neighbors who are most directly impacted have seen the plot plan and the architectural plans and have signed a petition in favor of it.

Nicole Hart	39 Highland Street
Ryan Hart	39 Highland Street
Mary Jane Devins	38 Highland Street
James F. Devins	38 Highland Street

Mr. Hamilton explained specifically what would be done to the house using the renderings from his architect, most of which can be done as a matter of right, i.e., two-story master suite with a great room and kitchen below it, and a proposed deck. As you face the house and look toward the left, they want to create a two-car garage with an in-law suite above. This impacts the property line, and is why they are requesting a 4.9 foot variance. The driveway will be the same width. Mr. Hamilton is aware of the special rules for an accessory dwelling unit, particularly that it must be approved every three years; if it is not, the permit lapses. He is also aware that it is not transferable when the property is sold.

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

The Dedham Zoning Board of Appeals (ZBA) is authorized and empowered to grant requested relief under a number of provisions of the Dedham Zoning By-Law. Sections 3.3.2 and 3.3.3 of the Dedham Zoning By-Law 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 nonconforming [use or structure] to the neighborhood.” Furthermore, with respect to nonconforming single and two family residential structures, Section 3.3.5 of the Dedham Zoning By-Law provides, in pertinent part, that if “the nonconforming

nature of such structure shall be increased by the proposed reconstruction, extension, alteration or change, the 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 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 the authority granted under 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 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 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 provisions 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 requirements and criteria for the issuance of the requested modification of the Comprehensive Permit are satisfied.

Upon motion duly made by E. Patrick Maguire, MLA, RLA, CLARB, LEED AP® and seconded by Scott M. Steeves, the ZBA voted unanimously (5-0) to approve such Special Permits and/or variances as required to construct a two-car garage that will be 4.9 feet from the property line instead of the required 10 feet, and a Special Permit for an accessory dwelling unit in a single family dwelling. Mr. Steeves seconded the motion. The vote to approve was unanimous at 5-0.

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 the Applicant's proposal will not outweigh its beneficial impacts on the Town and neighborhood.

The 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: February 21, 2018

Attest by the Zoning Board of Appeals


James F. McGrail, Esq.


J. Gregory Jacobsen


Scott M. Steeves

E. Patrick Maguire

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

Jared F. Nokes

Jared F. Nokes, J.D.

Attest by the Administrative Assistant

Susan N. Webster

Susan N. Webster

N/F TOWN OF DEDHAM

81.20'

NOTE:
ALL ROOF LEADERS
ARE TO DRAIN TO
PROPOSED DRYWELL

128.4'

LOCUS INFORMATION
CURRENT OWNER:
PETER G. AND
MEGHAN A. CLEARY

OWNERS REFERENCE:
LCC 182700

PLAN REFERENCE:
LCP 21292C SEPT. 26, 1950

ASSESSORS REFERENCE:
MAP 107 LOT 33

LOT AREA:
18,333 S.F.

ZONE:
SINGLE RESIDENCE B
AQUIFER PROTECTION OVERLAY

CARPORT

N/F
HART

PROPOSED DRYWELL
2' DIA, 2' DEPTH,
2' DOUBLE WASHED
STONE SURROUND.

N/F
LINELL

PROPOSED
ADDITION

PROPOSED
PORCH

PROPOSED
PATIO

PROPOSED
DECK

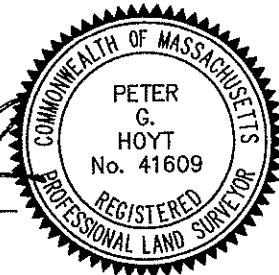
DIMENSIONAL REQUIREMENTS	
ZONING DISTRICT: SRB	
SCHEDULE OF DISTRICT REGULATIONS	
TABLE 1	REQUIRED
AREA	12,500 S.F.
MIN. FRONTAGE	95 FEET
MIN. LOT WIDTH	95 FEET
MIN. FRONT YARD DEPTH	25 FEET
MIN. SIDE YARD DEPTH	10 FEET
MIN. REAR YARD DEPTH	20 FEET
MAX. LOT COVERAGE	30%
MAX. FLOOR AREA RATIO	0.5

EX. LOT COVERAGE - 6%
PR. LOT COVERAGE - 11%

I CERTIFY:

1. THIS PLAN IS THE RESULT OF AN ACTUAL
ON THE GROUND SURVEY.

Peter G. Hoyt
PETER G. HOYT P.L.S.



EXISTING
DWELLING
NO. 35

PROPOSED
ADDITION
PROPOSED
DRIVEWAY
EXPANSION

STEPS
LANDING
WALK

227.41'

224.26'

6.0'

12.0'

28.0'

6.0'

4.0'

26.0'

13.1'

4.9'

13.9'

21.0'

32.0'

11.7'

20.0'

11.7'

6.0'

12.0'

28.0'

6.0'

4.0'

26.0'

13.1'

4.9'

13.9'

21.0'

32.0'

11.7'

20.0'

11.7'

6.0'

12.0'

28.0'

6.0'

4.0'

26.0'

13.1'

4.9'

13.9'

21.0'

32.0'

11.7'

20.0'

11.7'

6.0'

12.0'

28.0'

6.0'

4.0'

26.0'

13.1'

4.9'

13.9'

21.0'

32.0'

11.7'

20.0'

11.7'

6.0'

12.0'

28.0'

6.0'

4.0'

26.0'

13.1'

4.9'

13.9'

21.0'

32.0'

11.7'

20.0'

11.7'

HIGHLAND STREET



GRAPHIC SCALE SCALE: 1"=30'

PLAN OF LAND
35 HIGHLAND STREET
DEDHAM, MA

SCALE 1" = 30' DATE: 1-12-18

HOYT LAND SURVEYING
1287 WASHINGTON STREET
WEYMOUTH MA. 02189
781-682-9192