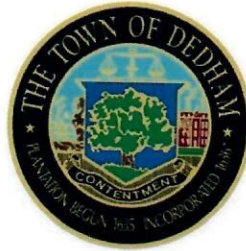


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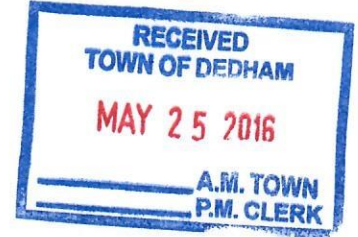
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**TOWN OF DEDHAM
ZONING BOARD OF APPEALS
DECISION**

Applicant:	ROMA San-Marino, LLC, 15 Felix Street, Dedham, MA
Property Address:	26 Gould Street, Dedham, MA
Case #:	VAR-03-16-2075
Property Owner:	ROMA San-Marino, LLC, 15 Felix Street, Dedham, MA
Map/Lot, Zoning District:	96/126, Single Residence B
Application Date:	March 21, 2016
Present and Voting:	J. Gregory Jacobsen, Scott M. Steeves, E. Patrick Maguire, LEED AP, Jason L. Mammone, P.E., Jessica L. Porter
Representative:	Peter A. Zahka II, Esq., 3 School Street, Dedham, MA
Legal Notice:	Antonio Reda, Principal, ROMA San-Marino, LLC To be allowed such variances as required for a residential building lot with an area of 5,833 square feet instead of the required 12,500 square feet (as previously granted in ZBA decision #07-83)
Section of Zoning Bylaw:	<i>Town of Dedham Zoning Bylaw Sections 4.5, 9.2, and Table 2</i>
Date Filed with Town Clerk:	MAY 25, 2016

2016 MAY 25 AM 5:32

The Zoning Board of Appeals ("ZBA") of the Town of Dedham, Massachusetts, held public hearings on Wednesday, May 18, 2016, in the Town Office Building, 26 Bryant Street, Dedham, MA. Present were members of the ZBA, Acting Chairman J. Gregory Jacobsen, Scott M. Steeves, E. Patrick Maguire, and Jason L. Mammone, P.E. In the absence of James F. McGrail, Esq., the Acting 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 requirements of MGL Chapter 40A, Section 11.

At 7:00 pm., the Chairman called for the hearing on the petition of ROMA San-Marino, LLC (hereinafter referred to as the "Applicant").¹ Applicant seeks to be allowed such variances as required for a residential building lot with an area of 5,833 square feet instead of the required 12,500 square feet (as previously granted in ZBA Decision No. 07-83). The Subject Property is located at 26 Gould Street, Dedham, MA, in the Single Residence B (SRB) Zoning District. *Town of Dedham Zoning By-Law Sections 4.5, 9.2, and Table 2.*

Applicant was represented by Peter A. Zahka, II, Esq., 12 School Street, Dedham, MA. Also present on behalf of Applicant was Antonio Reda, member/manager of Applicant. With the Application, Attorney Zahka submitted a plot plan of the Subject Property as well as a portion of the Town of Dedham GIS Map. At the commencement of the hearing, Attorney Zahka submitted a "marked up" plot plan as well as drawings of the proposed dwelling to be constructed. The minutes from the hearing are the primary source of evidence and are incorporated herein by reference.² At the hearing Applicant was afforded an opportunity to make a full presentation.

The Subject Property is known as 26 Gould Street and is shown on Dedham Assessors Map 96, Lot 126. The Subject Property is located at the intersection of Gould Street and Waldo Street, contains approximately 5,833 square feet of land, and has approximately 118 feet of frontage on Gould Street (with additional frontage on Waldo Street). The Subject Property is located in the Single Residence B (SRB) Zoning District.

Applicant notes that he is not proposing to make any changes to the dimensions of the Subject Property, but is seeking approval of the identical lot area variance granted

¹ A public hearing on this matter was held by the ZBA on April 20, 2016. After the close of the hearing, the ZBA voted unanimously to grant the requested variance. Inasmuch as there was some uncertainty as to whether notice was properly sent to the abutters, Applicant has requested a new hearing on the matter. The new hearing has been duly advertised and notice has been properly sent to abutters.

² As noted in footnote 1, a public hearing was held on this same matter on April 20, 2016. The testimony and evidence presented at said public hearing (including the transcript from said hearing) are incorporated herein by reference.

in ZBA Decision No. 07-83. In 2007, the Subject Property was in common ownership with the abutting property at 19 Waldo Street. At that time, the Subject Property contained 6,309 square feet and was vacant, and 19 Waldo Street contained 8,138 square feet and was occupied by a single family dwelling. At that time, the Subject Property qualified as a "grandfathered" building lot in accordance with the provisions of Section 4.5.1 ("Special Lot Size Exceptions for Dwellings). In ZBA Decision No. 07-83, the ZBA granted lot area variances to allow the Subject Property to have an area of 5,833 square feet and 19 Waldo Street to have a lot area of 8,663 square feet. The then-owner sought the variances in order relocate the common property line between the two lots (to increase the side yard from the existing dwelling at 19 Waldo Street) while maintaining the Subject Property as a buildable lot. In 2008, the Dedham Planning Board approved an ANR Plan which depicted the relocated lot line. According to said plan, the Subject Property has an area of approximately 5,833 square feet and 19 Waldo Street has an area of approximately 8,663 square feet. Subsequently, the ANR Plan was recorded with the Norfolk County Registry of Deeds and 19 Waldo Street was sold to a third party.

In December 2015, Applicant purchased 26 Gould Street with the intention of constructing a single family residential dwelling upon the same. Prior to the purchase, Applicant submitted a building permit application to the Dedham Building Department and was advised that the building permit had issued. Subsequently, a question arose as to whether the variances granted in ZBA Decision No. 07-83 had been properly exercised.

Applicant submits the rationale and basis for the granting of the variances in ZBA Decision No. 07-83 continue to be applicable. Specifically, Applicant is not creating additional building lots but is attempting to maintain the status quo. Applicant notes that he has discussed the proposal with most of the abutters and neighbors in the area and is unaware of any opposition. In addition, Applicant submitted a petition support the application signed by six (6) of the abutters. No one appeared at the hearing in

opposition to the application. Based upon his discussions with the immediate abutters to the Subject Property, Applicant has agreed to remove the existing retaining wall located on the Subject Property and to erect any new retaining walls so that the same are a minimum of 3 feet from the common lot line with the abutting properties³.

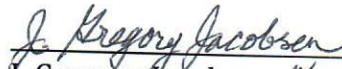
After further discussion, on a motion by Scott M. Steeves and seconded by Jessica L. Porter, the ZBA voted unanimously (5-0) to grant the requested variance. Said grant is conditional on Applicant removing the existing retaining wall on the Subject Property and on the condition that any new retaining walls be a minimum of 3 feet from the common lot line with abutting properties. In granting the variance, the ZBA finds that a literal enforcement of the Dedham Zoning By-Law area requirement would involve a substantial financial hardship to Applicant. Without the variance, Applicant may be unable to construct a single family dwelling at the Subject Property. The ZBA notes that the prior variance was granted to maintain the Subject Property as a building lot and did not create an additional building lot. In addition, at the time of the grant of the prior variance for the Subject Property, a petition was submitted signed by fourteen (14) residents in the neighborhood (including all direct abutters), which indicated that the signers had no objection to the grant of the requested relief. Furthermore, the ZBA notes that lot size/area of the Subject Property is consistent with lot size/area of the properties in the surrounding neighborhood. Therefore, the ZBA finds that the requested relief may be granted without substantial detriment to the public good and without nullifying the intent of the 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

³ While no one appeared at the May 18, 2016, hearing, the immediate abutters appeared at the April 20, 2016, hearing. These abutters had no objection to the grant of the requested relief but did confirm the agreement relative to the retaining walls. Applicant confirmed this agreement at the May 18, 2016, hearing.

with the Dedham Town Clerk and no appeal has been filed shall be recorded in the Norfolk County Registry of Deeds or the Land Registration Office of Norfolk County.

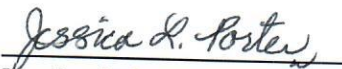
Dated: May 18, 2016


J. Gregory Jacobsen


Scott M. Steeves


E. Patrick Maguire, LEED AP


Jason L. Mammone, P.E.


Jessica L. Porter

Attest, by the Administrative Assistant:


Susan N. Webster

Materials Submitted:

- Zoning Board of Appeals application
- Statement of Hardship prepared by Peter A. Zahka II, Esq., 12 School Street, Dedham, MA
- Plan of Land prepared by Bennett Engineering, P.O. Box 297, Sagamore Beach, MA, dated 10/1/07
- Elevations for proposed single family dwelling
- Petition signed by abutters
- Town of Dedham GIS map of property