

**TOWN OF DEDHAM**  
COMMONWEALTH OF MASSACHUSETTS

**ZONING BOARD OF APPEALS**



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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.

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Associate Members

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

**MEETING MINUTES**

**Wednesday, April 18, 2018, 7:00 p.m., Lower Conference Room**

**Present:** James F. McGrail, Esq., Chair  
J. Gregory Jacobsen, Vice Chair  
Scott M. Steeves  
Jason L. Mammone, P.E.  
Jared F. Nokes, J.D.  
Jessica L. Porter (Horse Thieves Tavern only)

**Staff:** Susan Webster, Administrative Assistant

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Mr. McGrail called the meeting to order at 7:00 p.m. The plans, documents, studies, etc., referred to are incorporated as part of the public record, and are on file in the Planning and Zoning office. In addition, the legal notice for each hearing was read into the record. In the absence of Member E. Patrick Maguire, MLA, RLA, CLARB, LEED AP®, Mr. McGrail appointed Associate Member Jared F. Nokes to sit in his stead.

**Applicant** Heloisa Fitzgerald  
**Property Address** 195 Highland Street, Dedham, MA  
**Property Owner/Address** Heloisa and Paul Fitzgerald, 141 Highland Street, Dedham, MA  
**Zoning District** Single Residence A, Historic District  
**Map and Lot** 121/37  
**Application Date** March 20, 2018  
**Representative**

- Heloisa Fitzgerald, owner
- Stanton A. Lyman, AIA, 67 Stoney Lea Road, Dedham, MA, Chair, Historic Districts Commission

**Legal Notice** The applicant seeks to be allowed a Special Permit for the height of her mansard roof to be 33.6 feet instead of the allowed 30 feet.

**Section of Zoning Bylaw** *Town of Dedham Zoning Bylaw Section 4.2.1*

**Present and Voting**

James F. McGrail, Esq., J. Gregory Jacobsen, Scott M. Steeves, , Jason L. Mammone, P.E., Jared F. Nokes, J.D.

Ms. Fitzgerald said the house has not been built yet. She had a design created and went to the Town of Dedham Historic Districts Commission for approval. The design changed, so she decided to do the façade only. She said she could not put a peaked roof on the house because it would be too high. She put a hip roof on one side and tried to flatten it out, but it did not look good. She said it is taking too long to do this, and she will probably sell the land and move into a move-in ready house. The house may or may not be built and, if not, the new owner would have her plans. She thought it would be better to sell the land with an approved plan. She had originally wanted to build the house so that she could be near her daughter, who is going to Noble and Greenough School.

Mr. Lyman said the Historic Districts Commission has been reviewing this project for a year. The proposed house is moderately contemporary in design, which is not appropriate for the Historic District. The land is at the top of Federal Hill in the Historic District. The location is peculiar and has a mound of granite. It is approximately 300-350 feet from the street, and is not visible from the public way. After discussion, the Historic Districts Commission agreed that the house, although it is contemporary, was sufficiently far enough away and above the street level that it would not be visible from the street.

Since that time, Ms. Fitzgerald has changed her mind about a flat roof, and the design has been changed to a hip, gabled roof. The Building Department reviewed the design and determined that it is a mansard roof. The Zoning Bylaw states that if a mansard roof is put on a building, the height of the building can only be 30 feet:

**4.2 HEIGHT OF BUILDINGS AND STRUCTURES**

**4.2.1 Buildings Permitted in Residential Districts**

Dwellings shall not exceed the height of 38 feet to the high point of a hip, gable, or gambrel roof, or 30 feet to the high point on a flat or mansard roof, measured from the average finished grade of the lot between the frontage street and the rear building line.

In this case, the roof is 32 feet, which exceeds the allowed height. Ms. Fitzgerald is here now to request a Special Permit to be allowed to keep the mansard roof.

Mr. McGrail said the floor plans, foundation, and elevations are fine, but it is difficult to determine just what the house will look like. Mr. Lyman pointed out the elevation on A4 of the plans. He asked Ms. Fitzgerald if she plans to stay in Dedham, and she said she did not know. She presented a petition signed by three neighbors:

Christopher Larsen, 11 Sandy Valley Road  
Melissa Murphy, 81 Highland Street  
Scott Murphy, 81 Highland Street

Mr. Lyman said that the house will have minimal impact to anyone. This house will not be visible, and will in no way have an impact on the neighbors or the character of the district. The owner had a change of heart with regard to the flat roof, and changed the design to a more traditional hip, gabled roof. The nature of the gabled roof was changed, and became more

refined. The final design turned into what the Building Department determined was a mansard roof. Ms. Fitzgerald is therefore before the Board for a Special Permit for the height of the roof. Mr. Lyman explained the architecture of the house, which is rather complex in plan and layout, and they had to have a portion of the roof flat in order to create the kind of house they wanted.

Mr. Nokes said that it is the nature of the roof's design that it is identified as flat. That requires the lower threshold of 30 feet. If the roof had been a hip roof throughout, it would not need a Special Permit. Mr. Lyman agreed. There was concern that if the roof's slopes are high enough, there would be a possibility that the top story could be developed for living purposes. There would be a problem if the roof was not steep enough for a person to stand up straight.

Mr. Mammone was concerned that the plans submitted are preliminary plans. They are unstamped and, without a stamp, he said he would not know if the elevations and grading are correct. Mr. McGrail asked the Applicant if she had stamped plans that she could bring to the Building Department tomorrow for what she wants to build. She did not. Mr. McGrail said that this is all conceptual at this point. *Ms. Fitzgerald's statement could not be heard.* Mr. McGrail said that the Board needs something concrete. Technically, the Board could vote on the petition presented this evening, but she could then submit a totally different plan to the Building Department. This is why the plans need to be stamped. Mr. Lyman said the architect is not local. The contractor is providing the design service and interpreting the plans. A local architect will probably stamp the plans. He does not know the relationship between them.

Mr. McGrail said he would like to take a look at the property and walk around. Ms. Fitzgerald was fine with that. He said that due to the heavy granite on the site, there will need to be blasting. He said that she can sell the land without any problem. He would like to continue the hearing until May 16, 2018. Accordingly, Mr. Steeves moved to continue the hearing to May 16, 2018, seconded by Mr. Jacobsen. The vote to continue was unanimous at 5-0.

<b>Applicant/Owner</b>	<b>Caroline and Brian Angel Burke</b>
<b>Property Address</b>	<b>15 Williams Avenue, Dedham, MA</b>
<b>Zoning District</b>	General Residence
<b>Map and Lot</b>	Map 143, Lot 82
<b>Application Date</b>	March 21, 2018
<b>Representative</b>	Brian Angel Burke
<b>Legal Notice</b>	The applicant seeks to be allowed a right side yard setback of 7'5" instead of the required 10 feet to construct a three-season porch.
<b>Section of Zoning Bylaw</b>	<i>Town of Dedham Zoning Bylaw Section 4.1 Table of Dimensional Requirements</i>
<b>Present and Voting</b>	James F. McGrail, Esq., J. Gregory Jacobsen, Scott M. Steeves, Jason L. Mammone, P.E., Jared F. Nokes, J.D.

The Applicant had previously been approved a front yard setback of 12'5" and a right side yard setback of 8'5" to construct a second floor with a deck to their single family dwelling on November 15, 2017. He and his wife have decided to construct a three-season porch and want to put it where the rear deck would have been. He is now seeking to be allowed a right side yard setback of 7'5" instead of the required 10 feet to construct a three-season porch. He has

provided updated elevations. No one on the Board had any questions. No one in the audience spoke in favor or against the petition.

Mr. Steeves moved to approve a right side yard setback of 7'5" instead of the required 10 feet to construct a three-season porch, seconded by Mr. Jacobsen. The vote to approve was unanimous at 5-0.

<b>Applicant</b>	<b>Horse Thieves Tavern</b>
<b>Property Address</b>	<b>574-585 High Street, Dedham, MA</b>
<b>Property Owner/Address</b>	Washington High, LLC, P.O. Box 1288, Dedham, MA 02027
<b>Zoning District</b>	Central Business
<b>Map and Lot</b>	92/65
<b>Application Date</b>	February 28, 2018
<b>Representative</b>	Mollie Moran, AIA, 64 Dwight Street, Dedham, MA

<b>Legal Notice</b>	The applicant seeks to be allowed a waiver from the Town of Dedham Sign Code for installation of a 126 square foot wall mural which, together with existing and proposed signage, will exceed the one square foot per linear foot that is allowed; and to be allowed a waiver from the Town of Dedham Sign Code for installation of window graphics with approximately 33% window coverage, exceeding the 25% allowed in the Town of Dedham Sign Code.
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<b>Section of Sign Code</b>	<i>Town of Dedham Sign Code Table 2, Signs and Dimensions</i>
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<b>Present and Voting</b>	J. Gregory Jacobsen, Scott M. Steeves, Jason L. Mammone, P.E., Jared F. Nokes, J.D., Jessica L. Porter
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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. In addition, Mr. McGrail recused himself from the final hearing (Horse Thieves Tavern, 574-585 High Street) due to a professional relationship with the Applicant. Associate Member Jessica L. Porter was appointed to sit in his stead for this hearing. Mr. Jacobsen assumed the chair.

This is a continuation from the hearing on March 21, 2018. Ms. Moran returned with more information on two signs as requested by the Board. *Please note that the recording equipment was not functioning properly and some parts of conversation could not be heard.*

The first is the applied lettering on the windows. She spoke with Building Commissioner Kenneth Cimeno multiple times, and he was supposed to get a letter to Administrative Assistant Susan Webster. Mrs. Webster did provide Ms. Moran with the minutes from the DRAB meeting. This referenced the fact that they were aware that Mr. Cimeno does not consider this kind of lettering as signage. She mentioned Oscar's, which is another restaurant in Dedham Square that came before the Zoning Board of Appeals for frosting on the windows. The Board ruled that it was not signage. *Ms. Moran was difficult to hear because she spoke very softly.* Mr. Cimeno was supposed to speak with Assistant Building Inspector Fred Johnson about this. *Ms. Porter spoke, but could not be heard.* Ms. Moran said that the owner of Horse Thieves Tavern may not put words on the frosting. The purpose of the frosting is to put up a barrier at about five feet so that passersby cannot look into the restaurant. She said the restaurant is not a fast food

place. It is a higher level of dining, and there are seats around the windows. They do not want a fishbowl effect. Ms. Moran said that if the Board approves the signage as presented and for some reason there is a challenge to it, or if the Board does not approve it, they would withdraw the petition.

Ms. Porter said that in terms of the window frosting, the Dedham Square design guidelines are in process. Ms. Moran said that people can still see the lighting and the activity from the street, but people walking by would not see in. *Again, she was very difficult to hear.* Ms. Porter said the guidelines say that activity should be shown. Ms. Moran said she cannot tell when they are open because of it. Mr. Steeves said he did not like the frosted glass at Oscar's. He preferred it to be more open. Ms. Porter said people should see the vibrancy and activity. Ms. Moran said that the frosting on the Horse Thieves Tavern would be less; the opacity is the same as Oscar's, but there is two feet of granite at the base and two-and-a-half feet of frosting above that plus the transom windows.

Mr. Steeves asked about the mural, and Ms. Moran said that is a separate issue. Mr. Mammone asked what the Board is being asked to approve. Ms. Moran said she is seeking approval for the signage as shown, which would include a six inch band of letters. If it was the entire window, a waiver would be required. By Mr. Cimeno's interpretation, it does not require a waiver. She will obtain Mr. Cimeno's interpretation for the Board at the next meeting. If he gives an interpretation that a waiver is needed, she will need to return or change her proposal.

Ms. Moran described the mural. *Again, she was very difficult to hear.* She said that the definition of a sign is to convey information to the public. She said there is no commercial message on the mural. Paul Corey of the Design Review Advisory Board said it is a sign, and she wants to clarify this. The mural will be painted like a lithograph. She said that DRAB approved the mural. The menu board is not included in this. She has not discussed the mural or the need for a waiver with Mr. Cimeno, but said that DRAB considered it a sign. She said she would not push that with him.

Mr. McGrail, speaking as a citizen, said that the mural in Oakdale has been there for a while. At some point after the fact, the Building Department told them they needed to come before the Zoning Board of Appeals because it was considered a sign. He wondered if it was because there were words on it. He compared the Horse Thieves mural with the Oakdale Square mural. Originally, no one asked about approval of the latter. *Mr. McGrail was difficult to hear because he was a distance away from the microphones.* Ms. Moran said she did not want to come back for this. *Mr. McGrail's comment could not be heard.* He spoke about doing it as a matter of right. He said that Oakdale Square seems to be the guide for murals. He said there are no words on the Horse Thieves mural. Ms. Moran said the wording in the Sign Code is so vague, and a better definition should be written. *Again, Mr. McGrail could not be heard.* He asked Ms. Moran if she went to the Building Department for a determination on whether the mural is a sign. She did, and Mr. Cimeno deemed it a sign. Mr. McGrail noted that there is a mural at the Mother Brook Arts and Community Center, and asked if the ZBA had approved it (it did not). *He again could not be heard properly.* He said he did not think it is prudent for the ZBA to set a precedent on the mural. *He could not be heard properly. Extensive discussion took place in this regard, much of which could not be understood because of people talking at once or talking out of the reach of the microphones.*

Mr. Jacobsen will discuss this with Mr. Cimeno to get a sense of what he thinks. If he makes a determination that the mural is a sign, not art, the Board needs this in writing. The only

question DRAB had about the mural was about the artist and whether he would paint the mural as presented. They were reassured that he would. Mr. Mammone said that if the mural is considered a sign and it requires a waiver, the Board would need to know the amount of relief for the square footage that is required. Ms. Moran said that they have 70 feet of frontage, and Mr. Mammone asked her to submit the exact amount.

Mr. Steeves moved to table this petition until May 16, 2018, seconded by Ms. Porter. The vote to approve was unanimous at 5-0.

**Review of Minutes:** Mr. Jacobsen moved to approve the minutes of March 21, 2018, seconded by Mr. Steeves. The vote to approve was unanimous at 5-0.

Mr. Steeves moved to adjourn, seconded by Mr. Jacobsen. The vote to adjourn was unanimous at 5-0.

Respectfully submitted,



Susan Webster  
Administrative Assistant