

TOWN OF DEDHAM  
COMMONWEALTH OF MASSACHUSETTS

ZONING BOARD OF APPEALS

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J. Gregory Jacobsen, Vice Chair  
Scott M. Steeves  
E. Patrick Maguire, MLA, RLA, CLARB, LEED AP®  
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Associate Members

Jared F. Nokes, J.D.

MEETING MINUTES

Wednesday, May 16, 2018, 7:00 p.m., Lower Conference Room

**Present:** 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.  
Jared F. Nokes, J.D.

**Staff:** Susan Webster, Administrative Assistant

2018 JUN 21 AM 9:56  
TOWN OF DEDHAM  
CLERKS OFFICE  
RECEIVED

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. Abutters within 300 feet of the subject property, as well as abutting towns of Westwood, Needham, Canton, and Boston, were notified of each hearing. The hearings for this meeting of the ZBA were duly advertised in *The Dedham Times* in accordance with the requirements of MGL Chapter 40A, Section 11.

Please note that the recording equipment was faulty, and testimony was very difficult to hear. These minutes are written based on the Administrative Assistant's notes, as well as what could be heard from the recording.

<b>Applicant/Owner</b>	<b>Michael and Cheryl Feeley</b>
<b>Property Address</b>	<b>59 and 65 Durham Road, Dedham, MA</b>
<b>Zoning District</b>	General Residence
<b>Map and Lot</b>	171/63, 171/65
<b>Application Date</b>	April 12, 2018
<b>Representative</b>	Peter A. Zahka II, Esq., 12 School Street, Dedham, MA Michael and Cheryl Feeley, owners

<b>Legal Notice</b>	The applicant seeks to be allowed such variances and/or Special Permits required to reconfigure two (2) existing building lots (one with an area of 13,388 square feet of land and 140
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feet of frontage, which is occupied by an existing single family dwelling with a front yard setback of 12.02 feet and a side yard setback of 10.7 feet, and one with an area of 6,666 square feet of land and 60 feet of frontage, which is vacant) into two (2) new building lots, one with an area of 14,634 square feet of land and 140 feet of frontage, which will be occupied by an existing single family dwelling with a front yard setback of 12.02 feet and a side yard setback of 10.1 feet, and one with an area of 5,420 square feet of land and frontage of 60 feet, which will have a single family dwelling constructed thereon with a side yard setback of 10 feet, and a rear yard setback of 20 feet in the General Residence zoning district and the Flood Plain Overlay District.

**Section of Zoning Bylaw**

*Town of Dedham Zoning Bylaw Sections 4.1, 4.5, 8.1, 9.2, 9.3, 10, and Table 2*

**Present and Voting**

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

Mr. McGrail read the legal notice into the record. Mr. Zahka said that the property contains two buildable lots, one with a house and one undersized grandfathered lot. They want to give up the latter in exchange for allowing a different portion of the lot to be a buildable lot. The property has ten individual smaller lots, Lots 244-253 on the plan recorded with the Norfolk County Registry of Deeds. The original dwelling was built in 1905 on Lots 247-249; the Applicant acquired these lots in 1984. Lots 244-246 were and continue to be vacant, but were grandfathered as buildable lots. The Applicant acquired Lots 250 and 251 in 1987 and Lots 252 and 253 in 1988. An addition to the single family dwelling is located on Lot 250. Lots 251-253 have always been vacant.

The property currently consists of two buildable lots:

1. Lots 247-253 containing 13,388 square feet of land with 140 feet of frontage on Durham Road. There is currently a single family dwelling with a front yard setback of 12.02 feet and a side yard setback of 1.7 feet.
2. Lots 244-246 containing 6,666 square feet of land with 60 feet of frontage on Durham Road. This lot is vacant.

The Applicant would like to reconfigure the two existing building lots into two new building lots, moving the buildable lot from one side of the property to the other. This would not require an Approval Not Required from the Planning Board. Mr. Zahka stated that the Applicants are also asking for a Special Permit for work to be done in the Flood Plain Overlay District, although he is not sure that it is needed.

1. One lot consisting of Lots 244-250, containing 14,634 square feet of land with 140 feet of frontage on Durham Road. This will be occupied by the existing single family dwelling. Front yard setback will be 12.02 feet and side yard setback will be 10.01 feet. There is a small intermittent stream shown on the Town of Dedham GIS maps that runs through the corner of the property. According to his engineers, it would not affect building on the lot.

1. One lot consisting of Lots 251-253, containing 5,420 square feet of land with 60 feet of frontage on Durham Road. A new single family dwelling will be constructed on this lot with side yard setbacks of 10 feet and a rear yard setback of 20 feet. There is a retaining wall on the property.

Russell Roberts, 64 Durham Road, spoke, but could not be heard because he was too far from the microphones. Mr. Zahka presented a petition in support of the request that was signed by five abutters:

Rachid Azar	62 Hooper Road
Dorothy Victoria	50 Hooper Road
Carol Donovan	60 Durham Road
James Grealish	82 Durham Road
Stephen Verrocchi	74 Durham Road

Mr. McGrail summarized the petition as follows: The Applicants are seeking a variance for configuration of the lot, and a Special Permit for work to be done in the Flood Plain Overlay District.

Mr. Steeves moved to approve such variances and/or Special Permits required to reconfigure two (2) existing building lots (one with an area of 13,388 square feet of land and 140 feet of frontage, which is occupied by an existing single family dwelling with a front yard setback of 12.02 feet and a side yard setback of 10.7 feet, and one with an area of 6,666 square feet of land and 60 feet of frontage, which is vacant) into two (2) new building lots, one with an area of 14,634 square feet of land and 140 feet of frontage, which will be occupied by an existing single family dwelling with a front yard setback of 12.02 feet and a side yard setback of 10.1 feet, and one with an area of 5,420 square feet of land and frontage of 60 feet, which will have a single family dwelling constructed thereon with a side yard setback of 10 feet, and a rear yard setback of 20 feet in the General Residence zoning district and the Flood Plain Overlay District. Mr. Jacobsen seconded the motion. The vote to approve was unanimous at 5-0.

<b>Applicant</b>	<b>Audy Auto Center, LLC</b>
<b>Property Address</b>	<b>229-235 Bridge Street, Dedham, MA</b>
<b>Property Owner/Address</b>	Audy Auto Center, LLC, 24 Ames Street, Dedham, MA
<b>Zoning District</b>	Local Business
<b>Map and Lot</b>	39/126 and 39/27
<b>Application Date</b>	April 17, 2018
<b>Representative</b>	Peter A. Zahka II, Esq., 12 School Street, Dedham, MA Jack and Nicholas Audy, owners
<b>Legal Notice</b>	The applicant seeks to be allowed a Special Permit to extend parking spaces ten (10) feet into the General Residence zoning district from the Local Business zoning district.
<b>Section of Zoning Bylaw</b>	<i>Town of Dedham Zoning Bylaw Sections 2.1.4.3, 3.3, 9.2, and 9.3</i>
<b>Present and Voting</b>	James F. McGrail, Esq., J. Gregory Jacobsen, Scott M. Steeves, E. Patrick Maguire, MLA, RLA, CLARB, LEED AP®, Jason L. Mammone, P.E.

Mr. Zahka stated that the property contains 21,000 square feet of land. It has frontage on three sides: Kiely Road, Hillcrest Avenue, and Bridge Street. It is currently occupied by an automobile repair business with three bays and a multi-family residential property. Most of the property is located in the Local Business zoning district, but a portion of the property across the back is in the General Residence zoning district. The Town of Dedham Planning Board approved the parking plan for the site in 2012. There are seven parking spaces that encroach into the General Residence zoning district; this is historical, having been grandfathered some time ago. Mr. Audy wishes to straighten out those spaces, which would create a ten foot encroachment into the General Residence zoning district. There will be no change to the building or activity of the site, and the circulation in and out of the garage will be improved. He also wishes to install a six foot white vinyl fence across the back property line on his property. There is an existing older fence across part of the property line that will be removed, as will two diseased and weak trees. The new fence would provide better buffering to the rear of the property. An abutting shed owned by Cynthia D'Antona of 15 Hillcrest Road already encroaches on Mr. Audy's property, so the fence will be done so that she will not have to relocate the shed.

Mr. Zahka noted that the Zoning Bylaw states that activities otherwise prohibited in the General Residence zoning district, including parking, can go into the residential area for no more than 10 feet with a Special Permit from the ZBA. He stated that this petition meets the requirements for the Special Permit. The area will be cleaned up and circulation will be improved. Mr. McGrail noted that the property has improved since Mr. Audy purchased it, and it has been significantly updated. He said that this will continue to improve it. Mr. Maguire asked if the trees would be replaced. Mr. Zahka said that Mr. Audy will be going to the Planning Board because they are being removed and this alters the site plan. Replacement will be discussed at that time.

Mr. Steeves moved to approve a Special Permit to extend parking spaces ten (10) feet into the General Residence zoning district from the Local Business zoning district. Mr. Jacobsen seconded the motion. The vote to approve was unanimous at 5-0.

<b>Applicant</b>	<b>Timothy C. Chan and Laura M. Bradbury</b>
<b>Property Address</b>	<b>75 Ice House Lane, f/k/a 28 Mac's Place, Dedham, MA</b>
<b>Property Owner/Address</b>	Timothy C. Chan and Laura M. Bradbury, 74 Ice House Lane, Dedham, MA
<b>Zoning District</b>	Single Residence B
<b>Map and Lot</b>	138/55
<b>Application Date</b>	April 20, 2018
<b>Representative</b>	<ul style="list-style-type: none"> <li>• Peter A. Zahka II, Esq., 12 School Street, Dedham, MA</li> <li>• Scott Henderson, P.E., Henderson Consulting Services, P.O. Box 626, Lexington, MA 02420</li> <li>• Timothy C. Chan and Laura M. Bradbury, owners</li> </ul>
<b>Legal Notice</b>	The applicants seek to be allowed such variances and/or Special Permits required for construction of a single family dwelling with a front yard setback of 15.1 feet instead of the required 25 feet, and a side yard setback of 8.4 feet instead of the required 15 feet, and for retaining walls in excess of five (5) feet in height.

**Section of Zoning Bylaw** *Town of Dedham Zoning Bylaw Section 4.1, 6.5.2, 9.2, 9.3, and Table 2*

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

Mr. Zahka explained that the Applicants are proposing construction of a single family dwelling at 75 Ice House Lane (formerly known as 28 Mac's Place); the Town of Dedham GIS Department has changed the address per their application because the front of the house will face Ice House Lane. The lot is currently vacant, has 12,500 square feet of land, and 100 feet of frontage on Ice House Lane. It is in the Single Residence B zoning district, and meets the minimum requirements for a building lot under the Town of Dedham Zoning Bylaw. There are wetlands off the property, and they have submitted an application to the Conservation Commission. The 100 foot buffer is noted on the plans, and basically encompasses nearly the entire lot. The 100 foot buffer zone is not a no-build zone; it is an area that is regulated to help protect the wetlands. The Town of Dedham has adopted a formula to determine the undisturbed buffer area (UBA), which is shown on the plans as well. According to the Conservation Commission, this area must be left undisturbed. They Applicants have gone to the Conservation Commission more than once in an attempt to obtain a variance/waiver so that the house can be situated on the land. They have shrunk the house, changed the footage, and changed the side yard measurements in this endeavor. The front yard will be 15.1 feet instead of the required 25 feet and the side yard 8.4 instead of the required 15 feet. They also require a retaining wall that will be five feet high, and will require a Special Permit for this.

Mr. McGrail noted that the Applicants have obtained signatures in support of their petition:

Krista Bradbury	74 Ice House Lane
Jerrold Bradbury	74 Ice House Lane
Laura Chan	74 Ice House Lane
Timothy Chan	74 Ice House Lane
James DaSilva	211 Central Avenue
Brian Lynch	191 Central Avenue
Lynn Vena	14 Mac's Place

Mr. Mammone asked if there is a stamped plan. Mr. Zahka presented this to the Board.

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

Mr. Steeves moved to allow such variances and/or Special Permits required for construction of a single family dwelling at 75 Ice House Lane (formerly 28 Mac's Place) with a front yard setback of 15.1 feet instead of the required 25 feet, and a side yard setback of 8.4 feet instead of the required 15 feet, and for retaining walls in excess of five (5) feet in height. Mr. Jacobsen seconded the motion. The vote to approve was unanimous at 5-0.

<b>Applicant</b>	<b>Heloisa Fitzgerald</b>
<b>Property Address</b>	<b>195 Highland Street, Dedham, MA</b>
<b>Legal Notice</b>	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, E. Patrick Maguire, MLA, RLA, CLARB, LEED AP®, Jason L. Mammone, P.E.

The Applicant had come before the Board seeking a Special Permit on April 18, 2018, for the height of a mansard roof on a single family dwelling that she was going to build. The Board was not sure if she intended to go forward with the project since she was not completely sure whether she was going to sell the property instead. Mrs. Fitzgerald was not present at this meeting, so the Board decided to continue the hearing until they knew if she was going to proceed. Accordingly, Mr. Steeves moved to continue the hearing until June 20, 2018, seconded by Mr. Jacobsen. The vote to continue the hearing was unanimous at 5-0.

Mrs. Webster contacted Mrs. Fitzgerald on May 17, 2018, to inform her of the continuation. She asked the status of the petition, and Mrs. Fitzgerald said she was going to withdraw her application without prejudice. Mrs. Webster informed the Board of this decision.

<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

**Legal Notice**                              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.

**Section of Sign Code**                      *Town of Dedham Sign Code Table 2, Signs and Dimensions*

**Present and Voting**                      J. Gregory Jacobsen, Scott M. Steeves, E. Patrick Maguire, MLA, RLA, CLARB, LEED AP®, Jason L. Mammone, P.E., Jared F. Nokes, J.D.

*Please note that the recording equipment was faulty, and testimony was very difficult to hear. These minutes are written based on the Administrative Assistant's notes, as well as what could be heard from the recording.*

Mr. McGrail recused himself from this hearing due to a professional relationship with the Applicant. Associate Member Jared F. Nokes, J.D., was appointed to sit in his stead for this hearing. Mr. Jacobsen assumed the chair. Mr. Nokes had been present for the previous hearings on March 21, 2018, and April 18, 2018.

This is a continuation from the hearing on March 21, 2018, and April 18, 2018. Ms. Moran spoke with Building Commissioner Kenneth Cimeno regarding the proposed window graphics. These are the reverse image, in that the writing is clear glass and the background is translucent frosting. Mr. Cimeno determined that the size of the window sign would be the smallest rectangle that can incorporate all the graphics. The translucent portion of the window graphics beyond the rectangle would not be part of the area of the sign. Ms. Moran withdrew her application for 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. The material used is translucent, not opaque, and the coverings would be used just for privacy, not to shield the sun.

Mr. Cimeno said that the mural is considered a sign because the same graphic is used on the Applicant's website and Facebook page, and communicates association with the business. Ms. Moran said she is asking for an additional 83 square feet for the mural. She said that there is 70 linear feet of frontage on the property. *Due to faulty recording equipment, the rest of this hearing could not be understood.*

Mr. Steeves moved to allow a waiver from the Town of Dedham Sign Code for installation of a 126 square foot wall mural which, with other signage, will exceed the allowed 1 square foot per linear foot at 153 feet. Mr. Nokes seconded the motion. The vote to approve was unanimous at 5-0.

#### **Discussion re: Member on Dedham Square Guidelines**

Mr. McGrail said there needs to be a Zoning Board of Appeals member on the committee for the Dedham Square Guidelines. Jessica Porter, who was one of the associate members, is no longer on the Zoning Board of Appeals. He asked the members if anyone would like to serve on this committee. No one wanted to do so. Mr. McGrail said that Ms. Porter said that the committee is almost at the end of its process, and asked the Board if she could continue as their representative. The Board agreed to allow this. Mr. McGrail will inform Planning Board chair John Bethoney of this decision.

#### **Review of Minutes**

Mr. Steeves moved to approve the minutes of Aril 18, 2018, seconded by Mr. Jacobsen. 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. The meeting ended at 7:45 p.m.

Respectfully submitted,



Susan Webster  
Administrative Assistant

/snw