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TOWN OF DEDHAM
COMMONWEALTH OF MASSACHUSETTS

ZONING BOARD OF APPEALS

TOWN OF DEDHAM
CLERKS OFFICE

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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.

Associate Members

Jared F. Nokes, J.D.

DECISION

Applicant/Owner	Timothy C. Chan and Laura M. Bradbury
Property Address	75 Ice House Lane, formerly 28 Mac's Place
Zoning District	Single Residence B
Map and Lot	138/55
Representative	Peter A. Zahka II, Esq., 12 School Street, Dedham, MA Timothy C. Chan and Laura M. Bradbury, Applicants
Legal Notice	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 four (4) feet in height.
Section of Zoning Bylaw	<i>Town of Dedham Zoning Bylaw Section 4.1, 6.5.2, 9.2, 9.3, and Table 2</i>
Date of Application	April 20, 2018
Date of Public Hearing	May 16, 2018
Date of Decision	May 16, 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®, Jason L. Mammone, P.E.
Date Filed With Town Clerk	May 23, 2018

The Zoning Board of Appeals ("ZBA") of the Town of Dedham, Massachusetts held public hearings on Wednesday, May 16, 2018, in the Town Office Building, Bryant Street, Dedham,

MA. Present were members of the ZBA, Chairman James F. McGrail, Esq., J. Gregory Jacobsen, Scott M. Steeves, E. Patrick Maguire, MLA, RLA, CLARB, LEED AP®, and Jason L. Mammone, P.E. The hearings were duly advertised for this meeting of the ZBA in accordance with the requirements of MGL Chapter 40A, Section 11.

At 7:10 p.m., the Chairman called for the hearing on the appeal of Timothy C. Chan and Laura M. Bradbury (hereinafter referred to collectively as the “Applicant”) 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 instead of the required 15 feet, and for retaining walls in excess of four (4) feet in height. The property is located at 75 Ice House Lane (f/k/a 28 Mac’s Place) in the Single Residence B (SRB) Zoning District. *Town of Dedham Zoning By-Law Sections 4.1; 6.5.2; 9.2; 9.3; and Table 2.*

The Applicant was represented by Peter A. Zahka, II, Esq., 12 School Street, Dedham, MA. Also present on behalf of Applicant were Timothy C. Chan and Laura M. Bradbury. Attorney Zahka had previously submitted a certified plot plan showing the location of a proposed residential dwelling. The minutes from the hearing are the primary source of evidence and are incorporated herein by reference.

On April 20, 2018, the Applicant submitted an application, which included:

1. Zoning Board of Appeals application
2. Certified plot plan prepared by Henderson Consulting Services, P.O. Box 626, Lexington, MA 02420 and R.E. Cameron & Associates, Inc., 681 Washington Street, Norwood, MA 02062
3. Signatures in support of the petition as follows:

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

The Applicant is the owner of the real estate known and numbered as 75 Ice House Lane f/k/a as 28 Mac's Place¹ and shown on the Dedham Board of Assessors' Map 138, Lot 55 (hereinafter referred to as the "Subject Property"). The Subject Property contains approximately 12,500 square feet of land with 100 feet of frontage on Ice House Lane. The Subject Property is currently a vacant lot. According to the Zoning Map for the Town of Dedham, the Subject Property is located in the Single Residence B (SRB) Zoning District.

The Applicant desires to construct a single-family dwelling on the Subject Property. As noted above, the Subject Property contains 12,500 square feet of land and has 100 feet of frontage. Therefore, the Subject Property satisfies the lot area and frontage requirements set forth in Table 2 (Table of Dimensional Requirements) of the Dedham Zoning By-Law for building lots in the SRB Zoning District.

Due to adjacent (off-site) wetlands, almost all of the Subject Property is located within the 100-foot wetlands buffer. In addition, a significant portion of the lot is within the Undisturbed Buffer Area (UBA). The Applicant appeared before the Dedham Conservation Commission on several occasions to discuss construction of the proposed dwelling in the UBA. However, the Conservation Commission will not allow the same in the UBA. Therefore, to accommodate a dwelling on the Subject Property, the Applicant has been forced to reduce the size of the house and to relocate the same on the lot. Specifically, as currently proposed the dwelling will have a front yard setback of approximately 15.1 feet and a side yard setback of approximately 8.4 feet. Per Table 2 (Table of Dimensional Requirements) of the Dedham Zoning By-Law, building lots in the SRB Zoning District are required to have a minimum front yard setback of 25 feet as well as a minimum side yard setback of 15 feet. The Applicant has requested variances from these front and side yard setback requirements.

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 on G.L. c. 40A, § 10."

¹ The Subject Property has historically been known and numbered as 28 Mac's Place. Since Applicant proposes to construct a dwelling fronting on Ice House Lane, the Town assigned the Subject Property the new address of 75 Ice House Lane.

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 provision 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.

In addition, the Applicant will need to construct a retaining wall in excess of four (4) feet in height. Under Section 6.5.2 of the Dedham Zoning By-Law, a special permit is required for a retaining wall in excess of four (4) feet in height. Section 9.3.2 of the Dedham Zoning By-Law provides that when acting upon requests for special permits, the ZBA must determine that the "adverse effects of the proposed use will not outweigh its beneficial impacts" after consideration of the six (6) enumerated factors set forth in said Section.

The Applicant submits that the requirements for issuance of requested variances and special permits have been satisfied. As noted above, due to the adjacent (off-site) wetlands and the location of the UBA it is impossible for the Applicant to construct a dwelling on the Subject Property which will satisfy the front and side yard requirements. Accordingly, the Applicant will suffer a severe financial hardship because the Subject Property will be rendered essentially non-buildable without the requested relief. The proposed retaining wall is required due to the topography of the land and to minimize regrading within the UBA. Applicant noted that the retaining walls will not exceed five (5) feet in height.

No one appeared at the hearing in opposition to the application or the requested relief. In addition, the Applicant submitted a petition signed by seven (7) abutters indicating their support for the requested relief, as noted previously.

Upon motion duly made by Scott M. Steeves and seconded by J. Gregory Jacobsen, the ZBA voted unanimously (5-0) to grant and approve such variances as required to construct 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 to grant and approve a special permit for retaining walls of not more than five (5) feet in height.

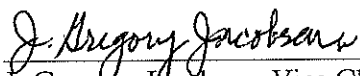
In granting said variances, the ZBA finds that the Applicant has satisfied the requirements Section 10 of Chapter 40A of the General Laws of Massachusetts, to wit: a literal enforcement of the Dedham Zoning By-Law requirements would cause a substantial financial hardship to Applicant, and that the relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Dedham Zoning By-Law. In granting said special permit, the ZBA finds that, after consideration of the criteria in Section 9.3.2 of the Dedham Zoning By-Law, the adverse effects of Applicant's proposal will not outweigh its beneficial impacts on the Town and neighborhood.

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.

Date: March 16, 2018

Attest by the Zoning Board of Appeals:


James F. McGrail, Esq., Chair


J. Gregory Jacobsen, Vice Chair


Scott M. Steeves

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

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

Attest by the Administrative Assistant:

Susan N. Webster
Susan N. Webster