

ZONING BOARD MEMBERS
JAMES F. McGRAIL, CHAIRMAN
J. GREGORY JACOBSEN, VICE CHAIRMAN
SCOTT M. STEEVES
E. PATRICK MAGUIRE, LEED AP
JASON L. MAMMONE, P.E.

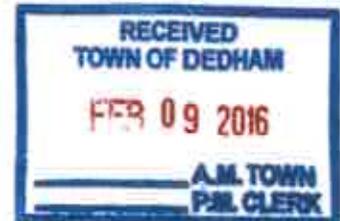
ASSOCIATE MEMBERS
JESSICA L. PORTER
JARED F. NOKES, J.D.



DEDHAM TOWN HALL
26 BRYANT STREET
DEDHAM, MA 02026-4458
PHONE 781-751-9242
FAX 781-751-9225

SUSAN WEBSTER
ADMINISTRATIVE ASSISTANT
swebster@dedham-ma.gov

**TOWN OF DEDHAM
COMMONWEALTH OF MASSACHUSETTS
ZONING BOARD OF APPEALS**



DECISION

APPLICANT: John and Roberta Shaw
PROJECT ADDRESS: 159 Meadowbrook Road, Dedham, MA
CASE # VAR-12-15-2053
PROPERTY OWNER/ADDRESS: Nancy F. Bern
MAP/LOT AND ZONING DISTRICT: 159 Meadowbrook Road, Dedham, MA

DATE OF APPLICATION: December 22, 2015
MEMBERS PRESENT AND VOTING: James F. McGrail, Esq., J. Gregory Jacobsen, Scott M. Steeves, E. Patrick Maguire, LEED AP, Jason L. Mammone, P.E.

PETITION: To be allowed a Special Permit to a special permit for the alteration, conversion, and use of a single family dwelling as a two-family dwelling. *Town of Dedham Zoning Bylaw Section 7.2.1, 9.2, 9.3, and Table 1 A.2*

SECTION OF ZONING BYLAW: Town of Dedham Zoning Bylaw
REPRESENTATIVE: Peter A. Zahka II, Esq., 12 School Street, Dedham, MA

DATE FILED WITH TOWN CLERK: FEBRUARY 9, 2016

The Zoning Board of Appeals ("ZBA") of the Town of Dedham, Massachusetts held public hearings on January 20, 2016, 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, 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.

1 | Town of Dedham Zoning Board of Appeals Decision, January 20, 2016
John and Roberta Shaw, 159 Meadowbrook Road, Dedham, MA

At 7:20 p.m., the Chairman called for the hearing on the petition of John Shaw and Roberta Shaw (hereinafter referred to collectively as the "Applicant") of 6 Donovan Drive, Bedford, MA. Applicant seeks a special permit for the alteration, conversion, and use of a single family dwelling as a two-family dwelling. The property is located at 159 Meadowbrook Road, Dedham, MA, and is in the Single Residence A (SRA) Zoning District. *Town of Dedham Zoning By-Law Sections 7.2.1, 9.2, 9.3, and Table 2.*

Applicant was represented by Peter A. Zahka, II, Esq., 12 School Street, Dedham, MA. Also present were Applicants John Shaw and Roberta Shaw. Attorney Zahka had previously submitted plot plans (existing and proposed conditions) of the Subject Property, photographs of the existing structure, and architectural renderings, floor plans and elevation drawings. At the commencement of the hearing, Applicant submitted updated plans and drawings (which included the proposed garage). The transcript from the hearing is the primary source of evidence and is incorporated herein by reference. At the hearing Applicant was afforded an opportunity to make a full presentation.

The Subject Property, shown on Dedham Assessors Map 89, Lot 6, contains approximately 4 acres of land and has approximately 600 feet of frontage on Meadowbrook Road. The Subject Property is occupied by a single family dwelling. According to the records maintained by the Dedham Board of Assessors, the dwelling was constructed circa 1930, has a living area of approximately 3,982 square feet, and contains five (5) bedrooms. The Subject Property is located in the Single Residence A (SRA) Zoning District.

The Subject Property actually consists of three (3) separate lots shown on various plans recorded or filed with the Norfolk Registry of Deeds and/or the Land Registration Office for Norfolk County. The existing dwelling is located on one such lot having a land area of approximately 2.46 acres. The Dedham Board of Assessors combines the three lots for assessing purposes.

Applicant desires to convert the existing single family dwelling into a two-family dwelling and to construct a garage on the Subject Property. Following such conversion, it is Applicant's

intent to create and establish a two-unit condominium. Applicant intends to own and reside in one of the condominium units and to eventually sell the second unit. Use Category A.2. of Table 1 (Use Regulation Table) of the Dedham Zoning By-Law authorizes and empowers the ZBA to grant special permits in the SRA for the "alteration and use of an existing single family house as a dwelling for not more than two-families." Such conversion is subject to the following conditions set forth in Section 7.2.1 of the Dedham Zoning By-Law:

1. The house must be located on a lot which has an area at least 50 percent greater than required for the construction of a single family home in the district; and
2. No exterior enlargement is made which together with any changes made during the preceding five years increases the cubic content of the house by 20 percent or more; and
3. No exterior changes are made which, in the opinion of the ZBA alters the single family character of the dwelling.

Applicant submits that it satisfies the above stated conditions of said Section 7.2.1. The first condition requires that there be a lot with at least 50% greater lot area than otherwise required in the zoning district. Table 2 (Table of Dimensional Requirements) of the Dedham Zoning By-Law provides that building lots in the SRA Zoning District must have a minimum of 40,000 square feet of land. Therefore, to satisfy the first condition the lot area for the proposed two-family house must have at least 60,000 square feet of land. As noted above, the Subject Property contains almost 4 acres of land. Applicant committed that in the event of any further division or subdivision of this land the (two-family) house lot will be a minimum of 80,000 square feet (i.e., double that required for single family homes in the SRA Zoning District and 20,000 square feet more than required under said Section 7.2.1 for the conversion).

The second condition under said Section 7.2.1 provides that exterior enlargements (including those during the preceding 5 years) cannot increase the cubic content of the house by 20 percent or more. Applicant is unaware of any enlargements undertaken during the preceding 5 years. The primary exterior enlargement proposed to the existing house is the addition of a new entry. Applicant has submitted architectural renderings and drawings which indicate

that the total proposed cubic content enlargement to the *house* will be approximately 1.3%. (While it does not appear that a free standing garage should be included in the calculation, Applicant notes that the total proposed cubic content enlargement inclusive of the garage is 16.2%).

The third condition under said Section 7.2.1 mandates that the exterior changes not alter the single family character of the dwelling. As shown on the architectural renderings and drawings submitted by the Applicant, the proposed new entry has been designed to match the existing architecture of the house and the door is not visible from off the Subject Property.

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. Applicant submits that it satisfies said Section 9.3.2. The proposed conversion satisfies the social, economic, and community needs by providing an alternative and varied housing option in the SRA Zoning District. Since the conversion to a two-family is adding only a single dwelling unit it is not anticipated that there will be any significant changes in traffic flow or parking. Applicant is also proposing a free-standing garage to provide on-site parking for the two units. In light of the minimal changes to the footprint of the structure there is no anticipated impact on the environment. Furthermore, the conversion will probably require Applicant to abandoned the existing septic system and connect the dwelling to the Town sewer system. Finally, the proposed conversion as proposed and shown on the submitted drawings and plans will not be out of character for the neighborhood.

Applicant submitted a petition in support of the requested relief signed by the owners of the adjacent property at 119 Meadowbrook Road and by two homeowners on Deerpath Road. In addition, the owners of the adjacent property at 195 Meadowbrook Road submitted a letter to the ZBA supporting the Applicant's application. Kellie Jenkins, of 65 Deerpath Road, appeared at the hearing in opposition to petition. Ms. Jenkins stated that the proposed conversion to a two-family would dramatically increase the traffic on Meadowbrook Road, is out of character with the single family dwellings in the area, and would decrease her property value. Philip Desimone, of 70 Deerpath Road, appeared at the hearing and testified that he opposed

the conversion as a two-family but not if it were a two-unit condominium. David Moir, the owner of several lots on Meadowbrook Road, appeared at the hearing in support of the Applicant's request for relief. Mr. Moir indicated that he has been attempting to organize the property owners on Meadowbrook Road for purposes of undertaking major improvements to the road. He stated that while the current owner of the Subject Property has been impeding these efforts the Applicant has committed to contributing financially to such improvements.

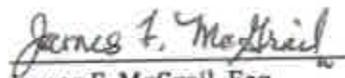
Upon motion duly made by Scott M. Steeves and seconded by Jason L. Mammone, P.E., the ZBA voted (4-1, with Member Jacobsen voting in the negative) to grant and approve a special permit for the alteration, conversion, and use of a single family dwelling as a two-family dwelling at 159 Meadowbrook Road, Dedham, MA, in the Single Residence A (SRA) Zoning District. Said approval is subject to the following conditions (both of which were offered and agreed to by the Applicant):

1. In the event of any future division or subdivision of the Subject Property, the lot occupied by the proposed two-family dwelling which is the subject of this decision shall have a minimum lot area of 80,000 square feet;
2. No later than 24-months after the conversion of the dwelling which is the subject of this decision from a single family to a two-family, Applicant shall convert said two-family dwelling to a condominium form of ownership.

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 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: January 20, 2016


James F. McGrail, Esq.

J. Gregory Jacobsen
J. Gregory Jacobsen

Scott M. Steeves
Scott M. Steeves

E. Patrick Maguire
E. Patrick Maguire, LEED AP

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

Attest, by the Administrative Assistant:

Susan N. Webster
Susan N. Webster

Copies of this decision are filed in the Dedham Town Clerk's office. 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/Zoning Department.

Materials Submitted:

- ZBA application
- Petition in support of proposal
- Assessors Database information on property
- Two letters in support of petition
- Elevations
- Certified plot plan dated December 18, 2015, prepared by Paul Lindholm, P.E., 80 Tarbox Street, Dedham, MA
- Schematic site plan