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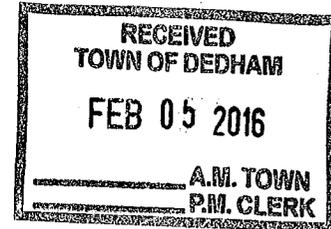


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TOWN OF DEDHAM
COMMONWEALTH OF MASSACHUSETTS
ZONING BOARD OF APPEALS



DECISION

APPLICANT: Justin J. Catalano
PROJECT ADDRESS: 378 High Street
CASE # VAR-12-15-2052
PROPERTY OWNER/ADDRESS: Justin J. Catalano, 378 High Street, Dedham, MA
MAP/LOT AND ZONING DISTRICT: 94/4, General Residence

DATE OF APPLICATION: December 21, 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 such Special Permits and/or variances required to construct an addition to a pre-existing nonconforming dwelling on a pre-existing nonconforming lot which will be three feet from the side property line instead of the required ten feet.

SECTION OF ZONING BYLAW: *Town of Dedham Zoning Bylaw Sections 3.3.5 4.1 Table 2, 9.2 9.3, and Table 2*

REPRESENTATIVE: Peter A. Zahka II, Esq., 12 School Street, Dedham, MA 02026
Justin J. and Maria Catalano, owners

DATE FILED WITH TOWN CLERK: February 5, 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.

At 7:15 p.m., the Chairman called for the hearing on the petition of Justin J. Catalano (hereinafter referred to as the "Applicant") of 378 High Street, Dedham, MA. Applicant seeks such special permits and/or variances as required to construct an addition to a pre-existing nonconforming dwelling on a pre-existing nonconforming lot which will be three (3) feet from the side property line instead of the required ten (10) feet. The property is located at 378 High Street, Dedham, MA, and is in the General Residence (GR) Zoning District. *Town of Dedham Zoning By-Law Sections 3.3.5, 4.1, 9.2, 9.3, and Table 2.*

Applicant was represented by Peter A. Zahka, II, Esq., 12 School Street, Dedham, MA. Also present was Applicant Justin J. Catalano (and his wife, Marie, and their child, Addison). Attorney Zahka had previously submitted a plot plan of the Subject Property, photographs of the existing structure, and architectural renderings and elevation drawings of the proposed addition. The minutes from the hearing are the primary source of evidence and are 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 94, Lot 4, contains approximately 7,345 square feet of land and has approximately 48 feet of frontage on High Street. 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 1920. The existing structure is approximately 6 feet from the front property line. The Subject Property is located in the General Residence (GR) Zoning District.

Pursuant to the Table 2 (Table of Dimensional Requirements) of the Dedham Zoning By-Law, single family dwellings in the GR Zoning District require a minimum lot area of 7,500 square feet, a minimum frontage of 50 feet, and a side yard setback of 10 feet. Section 10 of the Dedham Zoning By-Law defines as "nonconforming building, structure, or use" as "an existing legally established building, structure, lot or use which predates and does not conform to the current requirements of the district in which it is situated as regards to size, dimensions,

locations, or use of the building or land." Therefore, the Subject Property and the existing dwelling are pre-existing nonconforming with respect to lot area, frontage, and side yard setback.

The existing dwelling currently has only two-bedrooms. In order to accommodate a growing family, Applicant proposes to construct an approximate 9.7' x 19' addition to the existing single family dwelling. The addition will include a new (third) bedroom. The proposed addition will be approximately 3 feet from the side line. Accordingly, Applicant requests such special permits and/or variances as may be necessary or required for the construction of an addition to a pre-existing nonconforming structure on a pre-existing nonconforming lot which will have a side yard setback of approximately 3 feet.

Section 3.3.5 of the Dedham Zoning By-Laws authorizes and empowers the ZBA to grant special permits for the reconstruction, extension, alteration or change to a single or two family residential structure which increases the nonconforming nature of such structure "where it determines the proposed modification will not be substantially more detrimental than the existing nonconforming structure to the neighborhood." Section 4.3.2 of the Dedham Zoning By-Law authorizes the ZBA to issue special permits to vary side and rear yard requirements in the case of irregular, narrow, or shallow lot or a lot unusual in shape. In addition, 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 affects 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 it satisfies these requirements and criteria. The existing lot and dwelling are pre-existing nonconforming. The current side yard setback is 6 feet. From an architectural and logical perspective there is only one possible location for the addition. The proposed addition will allow for an additional bedroom for Applicant's growing family and will not otherwise intensify the use of the Subject Property. There will be no changes in traffic flow or parking nor will there be any impact on the environment. Furthermore the proposed addition will not be out of character for the neighborhood. As stated below, all impacted abutters have executed a petition supporting Applicant's request for relief.

In addition, Section 9.2.2.2 of the Dedham, Zoning By-Law provides that the ZBA has the power "to hear and decide appeals, or petitions for variances from the term of this By-Law, with respect to particular land or structures, as set forth in G.L. c.40A, §10." Section 10 of Chapter 40A of the General Law of Massachusetts provides 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 provisions of the ordinance or by-law would involve substantial hardship, financial or otherwise, to the petitioner or applicant, 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.

Applicant respectfully submits that it satisfies the requirements for the issuance of a variance. Compliance with the current setback requirement or maintaining the existing 6 foot setback would render the proposed addition too small for its intended purpose. Due to the location of the existing dwelling on the lot, Applicant will be unable to construct the proposed addition and will suffer financial hardship if the requested relief is not granted. Applicant submits that the nonconformity will not be substantially more detrimental than the existing nonconforming structure to the neighborhood. As stated below, all impacted abutters have executed a petition supporting Applicant's request for relief.

No one appeared in opposition to the requested relief. Applicant submitted a petition signed by fourteen (14) abutters indicating their support for the requested relief. It is noted that the petition is signed by the abutter closest to the proposed addition.

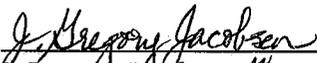
Upon motion duly made by J. Gregory Jacobsen and seconded by Jason L. Mammone, P.E., the ZBA voted unanimously (5-0) to grant and approve such special permits required to construct an addition to the pre-existing nonconforming dwelling on a pre-existing nonconforming lot which will be three (3) feet from the side property line at 378 High Street, Dedham, MA in the General Residence (GR) Zoning District. Said approval is conditional upon Applicant submitting to the Dedham Building Department such certified plot plans as may be requested to verify the side setback conforms to this decision. In granting of said special

permits, 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.¹

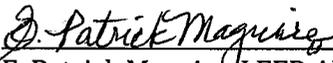
Applicant is advised that, in accordance with MGL Chapter 40A, Section 11, no special permit shall take effect until a copy of this decision bearing the certification of the Dedham Town Clerk that twenty days have elapsed after the decision has been filed with the Dedham Town Clerk and no appeal has 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.

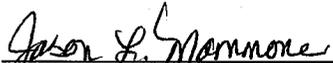
Dated: January 20, 2016


James F. McGrail, Esq.


J. Gregory Jacobsen


Scott M. Steeves


E. Patrick Maguire, LEED AP


Jason L. Mammone, P.E.

Attest, by the Administrative Assistant:


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.

¹ The ZBA recognizes that the Applicant has requested and that the ZBA is authorized to issue a variance to the side yard requirement. The ZBA finds that in this case Applicant's desired relief is adequately addressed by issuance of a special permit.

Materials Submitted:

- ZBA application
- Petition statement signed by neighbors
- Certified plot plan dated August 31, 1983, prepared by Pilling Engineering Co., Inc.
- Photographs of existing conditions
- Elevations for proposed addition, prepared by Alan E. Taylor Associates, P.O. Box 610422, Newton Highlands, MA 02461-0422