

**TOWN OF DEDHAM**  
**ZONING BOARD OF APPEALS**  
**26 BRYANT STREET, DEDHAM, MASSACHUSETTS 02026**



**ZONING BOARD MEMBERS**

JAMES F. MCGRAIL, ESQ., *CHAIRMAN*  
J. GREGORY JACOBSEN, *VICE CHAIRMAN*  
SCOTT M. STEEVES  
E. PATRICK MAGUIRE, LEED AP  
JASON L. MAMMONE, P.E.

**ZONING BOARD ASSOCIATES**

JH RUMPP, AICP  
JESSICA L. PORTER

**STAFF**

SUSAN WEBSTER, ADMINISTRATIVE ASSISTANT  
[swebster@dedham-ma.gov](mailto:swebster@dedham-ma.gov)

PHONE 781-751-9242 • FAX 781-751-9225 •

**DECISION**

**Applicant:** David Raftery  
**Project Address:** 321-325 Washington Street  
**Property Owner:** David Raftery  
**Case #:** VAR-05-12-1526  
**Map/Lot:** 92/51-52  
**Zoning District:** Central Business and Single Residence B

**Date of Application:** May 16, 2012  
**Date of Hearing:** June 13, 2012  
**Members Present and Voting:** James F. McGrail, Esq., J. Gregory Jacobsen, E. Patrick Maguire, LEED AP, Jason L. Mammone, P.E., Jessica L. Porter

**Applicant Representative:** Peter A. Zahka II, Esq.  
David Raftery

**Petition:** Special Permit to extend by ten (10) feet a building, parking, and other uses allowed in the Central Business (CB) zoning district into a Single Residence B (SRB) zoning district for a lot divided by the zoning district boundary at 321-325 Washington Street.

**Section of Zoning By-Law:** *Sections 2.1.4, 9.2, and 9.3.*

**Materials Submitted:**

- ZBA application
- Study plan for proposed development of 321-325 Washington Street, Dedham, MA, prepared by Norwood Engineering Co., Inc., 1410 Route One, Norwood, MA 02062
- Town of Dedham GIS map

**Date of Filing with Town Clerk:** June 26, 2012

The Zoning Board of Appeals (“ZBA”) of the Town of Dedham, Massachusetts held public hearings on Wednesday, June 13, 2012, in the Town Office Building, Bryant Street, Dedham, MA. Present were members of the ZBA, James McGrail, Esq., Chairman, J. Gregory Jacobsen, E. Patrick Maguire, LEED AP, and Jason L. Mammone, P.E. In the absence of member Scott M. Steeves, the Chairman appointed associate member Jessica Porter to sit for this hearing. The hearings at this meeting of the ZBA were duly advertised in accordance with the requirements of MGL Chapter 40A, Section 11.

At 7:15 p.m., the Chairman called for the hearing on the appeal of David Raftery, 408 Whiting Avenue, Dedham, MA. The Applicant seeks a special permit to extend by ten (10) feet a building, parking, and other uses allowed in the Central Business (CB) zoning district into a Single Residence B (SRB) zoning district for a lot divided by the zoning boundary at 321-325 Washington Street. *Town of Dedham Zoning By-Law, Sections 2.1.4, 9.2, and 9.3.*

Applicant was represented by Peter A. Zahka, II, Esq., of 12 School Street, Dedham, MA. Applicant was also present. The two-page minutes from the hearing are the primary source of evidence and are incorporated herein by reference.

The Subject Property is shown on Dedham Assessors’ Map 92, Lots 51 and 52. The Subject Property contains approximately 26,758 square feet of land and has approximately 111 feet of frontage on Washington Street. According to the Zoning Map for the Town of Dedham, the front portion of the Subject Property (for a depth of approximately 100 feet from Washington Street) is located the Central Business (CB) Zoning District. The remaining (rear) portion is located in the Single Residence B (SRB) Zoning District.

Applicant proposes to demolish the existing structures and to construct a new four (4)-story mixed-use building (hereinafter referred to as the “Project”). The first floor of the proposed building will contain retail and/or office and/or other commercial uses. The second, third, and fourth floors will contain approximately nine (9) dwelling units each for a total of approximately twenty-seven (27) dwelling units. As proposed, two (2) of the dwelling units will be two (2)-bedroom apartments and the remaining twenty-five (25) will be one-bedroom apartments. There will be approximately forty (40) parking spaces serving the building.

As indicated above, the Subject Property is a so-called “split zone.” Except for a ten (10) foot extension into the residential district (requested in this Application), the entire building and all parking for the commercial uses will be located in the CB Zoning District. As such, the Project is allowed as of right. In addition, the Project is designed to otherwise satisfy all dimensional requirements of the Dedham Zoning By-Law.

Applicant desires to extend the building, parking spaces for the commercial uses, and other uses allowed in the CB Zoning District ten (10) feet into the SRB Zoning District. The Zoning Board of Appeals is authorized and empowered under Section 2.1.4 of the Dedham Zoning By-Law to grant special permits to allow such extension into a residential district. Applicant submits that the special permit will not increase the overall size of the building, but will allow Applicant to construct a better designed building with better placement on the lot. Applicant notes that as extended, the proposed building will still be over 117 feet away from the rear lot line. Applicant further indicates that the Project will be subject to site plan review and approval by the Planning Board. During that process, Applicant will be required to submit detailed landscape and lighting plans.

In 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 Section 9.3 of the Dedham Zoning By-Law. Based upon its presentation to the ZBA, Applicant submits that it satisfies these requirements and criteria. Since the Project is otherwise allowed as of right and the special permit will allow for better building placement and site development, Applicant avers that the adverse effects will not outweigh the beneficial impacts.

Uranie Lacroix of 9 Star Lane appeared before the ZBA and expressed concern with additional commercial uses in the area. In response, it was explained that the commercial use was allowed as a right and was not a matter before the ZBA. Applicant noted prior to the hearing that he mailed a personal letter to each direct abutter, and had spoken to several who did not object to the issuance of the special permit.

Upon motion duly made by Jason L. Mammone, P.E., and seconded by J. Gregory Jacobsen, the ZBA voted unanimously (5-0) to grant the requested special permit to extend by ten (10) feet a building, parking, and other uses allowed in the Central Business (CB) zoning district into a Single Residence B (SRB) zoning district for a lot divided by the zoning boundary at 321-325 Washington Street. 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 the 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: June 26, 2012

\_\_\_\_\_  
James F. McGrail, Esq., Chairman

\_\_\_\_\_  
J. Gregory Jacobsen

\_\_\_\_\_  
E. Patrick Maguire, LEED AP

\_\_\_\_\_  
Jason L. Mammone, P.E.

\_\_\_\_\_  
Jessica L. Porter