

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



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DECISION

APPLICANT:	Saade Barbar, 45 Mechanic Street, Canton, MA
PROJECT ADDRESS:	229 Curve Street
PROPERTY OWNER:	Elias G. and May Elias Mikhael
CASE #:	VAR-08-11-1423
MAP/LOT:	77/39
ZONING DISTRICT:	Single Residence B
DATE OF APPLICATION:	August 26, 2011
DATE OF HEARING:	September 21, 2011 and April 25, 2012
MEMBERS PRESENT AND VOTING:	James F. McGrail, Esq., J. Gregory Jacobsen, E. Patrick Maguire, LEED AP, Jason L. Mammone, P.E., JH Rumpp, AICP
APPLICANT REPRESENTATIVE:	Saade Barbar
PETITION:	Variance for a ten (10) foot front yard setback and eight (8) foot side yard setback to extend existing overhang to build farmer's porch
SECTION OF ZONING BY-LAW:	<i>Section 4.1, Table of Dimensional Requirements</i>
DATE OF FILING WITH TOWN CLERK:	MAY 3, 2012

The Zoning Board of Appeals ("ZBA") of the Town of Dedham, Massachusetts, held public hearings on Wednesday, September 21, 2011, in the Town Office Building, 26 Bryant Street, Dedham, MA. Present were members of the ZBA, James F. McGrail, Esq., Chairman, J. Gregory Jacobsen, Vice Chairman, Scott M. Steeves, and Jason L. Mammone, P.E. In the absence of Member E. Patrick Maguire, LEED AP, the chairman appointed Associate Member Jessica L. Porter to sit in his place. The hearings were duly advertised for this meeting of the ZBA in accordance with the requirements of MGL Chapter 40A, Section 11.

At 10:08 p.m., the Chairman called for the hearing on the appeal of Saade Barbar, 45 Mechanic Street, Canton, MA, to be allowed a side yard setback of eight (8) feet and a front yard setback of ten (10) feet in order to extend an existing overhang over new front stairs at 229 Curve Street, Dedham, MA. The property is owned by Elias G. and May Elias Mikhael.

The one-and-a-half page minutes from the hearing are the primary source of evidence and are incorporated herein by reference.

The following materials were submitted to the Board:

- ZBA application
- Certified plot plan prepared by Michael P. Antonino, 31 Ledgebrook Avenue, Stoughton, MA
- Letter of authorization from owner
- Photographs of existing conditions
- Drainage plans as prepared by Sami Kassis, P.E., 28 Old Town Road, Walpole, MA
- Architectural renderings of proposed porch

The subject property is known and numbered as 229 Curve Street and is shown on Dedham Assessors' Map 77, Lot 39. The certified plot plan indicates that the Subject Property contains 5,100 square feet of land and has between 10.1 and 10.5 feet of frontage (the lot is at an angle). According to the Dedham Zoning Map, the Subject Property is located in the Single Residence B (SRB) zoning district. Currently, the property is occupied by a single family dwelling. According to the records maintained by the Dedham Board of Assessors, the dwelling was constructed in 1938.

The Applicant proposes to extend an existing overhang above the main entry of the dwelling to build a farmer's porch over new stairs. The stairs had been relocated due to poor and unsafe conditions. In order to construct said overhang, the Applicant requests a front yard setback of ten (10) feet and a side yard setback of eight (8) feet.

Ann Doyle of 231 Curve Street appeared before the Board to oppose the application. She stated that the owner has cemented nearly his entire back yard, and water drainage goes directly into her yard, and this erodes the soil. She presented pictures of the owner's yard and her yard as evidence of this. She did not object to the existing overhang. The Chairman requested that the Applicant meet with Ms. Doyle to discuss this, and that he see the Conservation Commission to determine if drainage is according to their standards. His petition was to be tabled until that was done.

Mr. Barbar worked with the Conservation Commission to obtain an appropriate stormwater permit. After multiple meetings, the Conservation Commission approved a stormwater management permit for the property on February 17, 2012.

The Zoning Board of Appeals ("ZBA") of the Town of Dedham, Massachusetts, held public hearings on Wednesday, April 25, 2012, in the Town Office Building, 26 Bryant Street, Dedham, MA. Present were members of the ZBA, James F. McGrail, Esq., Chairman, J. Gregory Jacobsen, Vice Chairman, E. Patrick Maguire, LEED AP, and Jason L. Mammone, P.E. In the absence of Member Scott M. Steeves, LEED AP, the chairman appointed Associate Member JH Rumpp, AICP to sit in his place. The hearings were duly advertised for this meeting of the ZBA in accordance with the requirements of MGL Chapter 40A, Section 11.

Mr. Barbar returned to the Zoning Board of Appeals with the approved Conservation Commission stormwater management permit per direction of the Board. No one appeared before the Board to oppose or support the petition.

On a motion made by Mr. Rumpp and seconded by Mr. Mammone, the Zoning Board of Appeals voted unanimously (5-0) to approve a front yard setback of ten (10) feet and a side yard setback of eight (8) feet. The Board was of the opinion that the Applicant meets the requirements of MGL Chapter 40A, Section 10, specifically that the Applicant would incur a hardship if the variance was not granted. There is no detriment to the public good or derogation in the intent of purpose of the bylaw. In granting of said special permits, the ZBA finds that, after consideration of the criteria Dedham Zoning By-Law, the adverse effects of the Applicant's proposal will not outweigh its beneficial impacts on the Town and neighborhood and will not be substantially more detrimental to the neighborhood.

The Applicant is advised that, in accordance with MGL Chapter 40A, Section 11, a copy of this decision bearing the certification of the Dedham Town Clerk that twenty (20) days have elapsed after the decision has been filed with the Dedham Town Clerk and no appeal has been filed or that has been filed within such time shall be recorded in the Norfolk County Registry of Deeds or the Land Registration Office of Norfolk County. Applicant is further advised that no waivers/variance will be issued by the Building Department until evidence is presented that this decision has been recorded in the Norfolk County Registry of Deeds. The Applicant should furnish the Zoning Board of Appeals with a receipt from the Registry of Deeds indicating that the decision has been filed.

Dated: May 2, 2012

James F. McGrail, Esq.

J. Gregory Jacobsen

E. Patrick Maguire, LEED AP

Jason L. Mammone, P.E.

JH Rumpp, AICP