

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



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DECISION

APPLICANT:	Vincent C. Marino
PROJECT ADDRESS:	107 Bridge Street
PROPERTY OWNER:	Sportsman's Realty Trust, Vincent C. Marino, Trustee
CASE #:	VAR-04-12-1508
MAP/LOT:	24/79
ZONING DISTRICT:	Local Business
DATE OF APPLICATION:	March 30, 2012
DATE OF HEARING:	April 25, 2012
MEMBERS PRESENT AND VOTING:	James F. McGrail, Esq., J. Gregory Jacobsen, E. Patrick Maguire, LEED AP, Jason L. Mammone, P.E., J.H. Rumpp, AICP
APPLICANT REPRESENTATIVE:	Anthony J. Ross, Esq.
PETITION:	Special Permit for extension of restaurant use, variance for minimum lot area of 6,351 square feet instead of required 12,500 square feet, variance for front yard setback of 11 feet instead of required 20 feet, variance for maximum floor area ratio of .76 instead of required 0.4 feet
SECTION OF ZONING BY-LAW:	<i>Sections 3.1 and 4.1</i>
DATE OF FILING WITH TOWN CLERK:	MAY 14, 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, the Chairman appointed Associate Member J.H. 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.

At 7:55 p.m., the Chairman called for the hearing on the petition of Vincent C. Marino, 4161 Washington Street, Roslindale, MA. The Applicant seeks to be allowed a Special Permit for extension of restaurant use, a variance for minimum lot area of 6,351 square feet instead of required 12,500 square feet, a variance for front yard setback of 11 feet instead of required 20 feet, and a variance for maximum floor area ratio of .76 instead of required 0.4 feet. *Town of Dedham Zoning By-Law Sections 3.1 and 4.1*

Mr. Marino was represented by Anthony J. Ross, Esq., Ross and Toner PC, 4394 Washington Street, Roslindale, MA. The following materials were submitted to the Board:

- Zoning Board of Appeals application, request for abutters list, and authorization form for publication in *The Dedham Times*
- Architectural renderings of building prepared by Edward H. Yeomans, 43 Gaslight Lane, North Easton, MA
- Photographs of the building
- Building permit plan prepared by Norwood Engineering Co., Inc., 1410 Route One, Norwood, MA
- Letter of recommendation from Design Review Advisory Board dated April 6, 2012

The two page minutes from the hearing are the primary source of evidence and are incorporated herein by reference.

The subject property is known and numbered as 107 Bridge Street, Dedham, MA and is shown on Dedham Assessors' Map 24, Lot 79. The building permit plan indicates that the Subject Property contains 6,352 square feet of land and has eleven (11) feet of frontage. According to the Dedham Zoning Map, the Subject Property is located in the Local Business zoning district. Currently, the property is occupied by a restaurant. According to the records maintained by the Dedham Board of Assessors, the dwelling was constructed in 1920.

The Applicant appeared before the Zoning Board of Appeals on April 20, 2011, at which time he received approval for a Special Permit for restaurant expansion, and variances for minimum lot area of 6,351 square feet, minimum front yard setback of eleven (11) feet, and maximum floor area of 0.741. The Applicant has now made a determination that he wants to make the addition, which was originally 488 square feet and measured 16' x 28.5', accommodate a larger waiting area by an additional 80 square feet to reconfigure the bathrooms by adding a new bathroom. He would take the existing bathrooms and configure them into one larger bathroom that is handicapped accessible. Accordingly, he is seeking a Special Permit for extension of restaurant use (already approved), a variance for minimum lot area of 6,351 square feet instead of required 12,500 square feet, a variance for front yard setback of 11 feet instead of required 20 feet (already approved), and a variance for maximum floor area ratio of .76 instead of required 0.4 feet. He illustrated with photographs of the building. The addition is tucked in the back of the building and is closer to the main building. He has met with the Design Review Advisory Board and received a letter of recommendation on April 6, 2012.

Carl Bonvini of 22 Breede Terrace appeared before the Board in support of the petition, but asked the Board to put in a condition that the back/kitchen door be kept closed at all times due to noise

and odors. The Board informed him that they could not make this a condition of approval, but would strongly suggest this.

On a motion made by E. Patrick Maguire and seconded by J. Gregory Jacobsen, the Zoning Board of Appeals voted unanimously (5-0) to grant the Special Permit for extension of restaurant use, a variance for minimum lot area of 6,351 square feet instead of required 12,500 square feet, a variance for front yard setback of 11 feet instead of required 20 feet (already approved), and a variance for maximum floor area ratio of .76 instead of required 0.4 feet. The Board strongly urged the Applicant to keep the kitchen/back door closed in deference to the neighbors, but this was not a condition of approval.

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. In granting said special permit, the ZBA, based upon the testimony before the ZBA and after consideration of the various factors set forth in the Dedham Zoning By-Law, finds that the proposal satisfies the criteria and standards for a special permit in Chapter 40A, Section 9, to wit: that the adverse effects of the proposed use will not outweigh its beneficial impacts to the town or 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 14, 2012

James F. McGrail, Esq.

J. Gregory Jacobsen

E. Patrick Maguire, LEED AP

Jason L. Mammone, P.E.

J.H. Rumpp, AICP