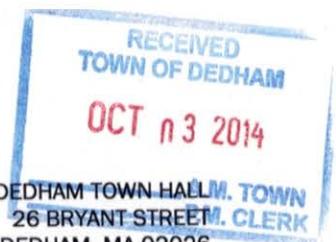


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**TOWN OF DEDHAM**  
**COMMONWEALTH OF MASSACHUSETTS**

**ZONING BOARD OF APPEALS**  
**DECISION**

<b>APPLICANT:</b>	Bret D. and Jennifer Jordan
<b>PROJECT ADDRESS:</b>	14 Franklin Square and 47 School Street, Dedham, MA
<b>CASE #</b>	<b>VAR-07-14-1866</b>
<b>PROPERTY OWNER/ADDRESS:</b>	Bret D. and Jennifer Jordan, 14 Franklin Square, Dedham, MA
<b>MAP/LOT AND ZONING DISTRICT:</b>	108/33 and 107/82, Single Residence B
<b>DATE OF APPLICATION:</b>	July 15, 2014
<b>MEMBERS PRESENT AND VOTING:</b>	James F. McGrail, Esq., J. Gregory Jacobsen, Scott M. Steeves, Jason L. Mammone, P.E., Jessica L. Porter
<b>PETITION:</b>	To be allowed such Special Permits and/or variances as necessary to reconfigure and divide two nonconforming lots occupied by nonconforming structures into two new occupied lots: one lot will have a lot area of 7,070 square feet (required 12,500 square feet), front yard of 11 feet (required 25 feet), lot frontage of 79 feet (required 95 feet), lot width of 77 feet for the required front yard (required 95 feet), and 50 feet for the balance of the lot (required 66.5 feet), side yards of 7 and 14 feet (required 15 feet), accessory buildings with side and rear yards of 0 feet (required 5 feet), and impervious surface in the Aquifer Protection Overlay District of 43%; and one lot with front yard of 0 feet (required 25 feet), lot width of 57 feet (required 66.5 feet) side yard of 0 feet (required 15 feet), and accessory buildings with side and rear yards of 2 feet (required 5 feet) at 47 School Street and 14 Franklin Square (SRB).
<b>SECTION OF ZONING BYLAW:</b>	Town of Dedham Zoning Bylaw Section 3.3 Nonconforming Uses and Structures, Section 4.1 Table of Dimensional Requirements, Section 4.6 Reduction of Occupied Lots, Section 8.27 Uses Permissible by Special Permit, Section 9.2.2 Board of Appeal, Powers,

REPRESENTATIVE:

and Section 9.3 Special Permits  
Peter A. Zahka II, Esq., 12 School Street, Dedham, MA  
Bret D. and Jennifer Jordan, 14 Franklin Square,  
Dedham, MA

DATE FILED WITH TOWN CLERK:

OCTOBER 3, 2014

The Zoning Board of Appeals ("ZBA") of the Town of Dedham, Massachusetts held public hearings on Wednesday, September 17, 2014 commencing at 7:00 p.m. in the Town Office Building, 26 Bryant Street, Dedham, MA. Present were Members of the Zoning Board of Appeals, 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 McGuire, LEED AP, the Chair appointed Associate Member Jessica L. Porter to sit in his place. These hearings and meeting of the ZBA were duly advertised in accordance with the requirements of MGL Chapter 40A, Section 11.

At 7:00 p.m., the Chairman called for the hearing on the appeal of Bret D. Jordan and Jennifer Jordan to be allowed such special permits and/or variances as necessary to reconfigure and divide two nonconforming lots occupied by nonconforming structures into two new occupied lots: one lot will have a lot area of 7,070 square feet (required 12,500 square feet), front yard of 11 feet (required 25 feet), lot frontage of 79 feet (required 95 feet), lot width of 77 feet for the required front yard (required 95 feet) and 50 feet for the balance of the lot (required 66.5 feet), side yards of 7 and 14 feet (required 15 feet), accessory buildings with side and rear yards of 0 feet (required 5 feet), and impervious surface in the Aquifer Protection Overlay District of 43%; and one lot with front yard of 0 feet (required 25 feet), lot width of 57 feet (required 66.5 feet), side yard of 0 feet (required 15 feet), and accessory buildings with side and rear yards of 2 feet (required 5 feet) at 47 School Street and 14 Franklin Square in the Single Residence B (SRB) Zoning District and the Aquifer Protection Overlay District. *Dedham Zoning By-Law Sections 3.3; 4.1; 4.6; 8.2.7; 9.2.2 & 9.3.*

The Applicant was represented by Peter A. Zahka, II, Esq., 12 School Street, Dedham, MA. Also present were Applicants Bret Jordan and Jennifer Jordan (hereinafter referred to as the "Applicants"), 14 Franklin Square, Dedham, MA. The minutes from the hearing are the primary source of evidence and are incorporated herein by reference.

The Applicants purchased the real estate known and numbered as 14 Franklin Square in 2002. This parcel, shown on Dedham Assessors' Map 108, Lot 33, contains approximately 18,321 square feet of land and has approximately 244.97 feet of frontage on Franklin Square. The parcel is occupied by a residential dwelling utilized by the Applicants as their principal residence. Recently, the Applicants purchased the real estate known and numbered as 47 School Street, Dedham, MA. This parcel, shown on Dedham Assessors' Map 108, Lot 82, contains approximately 10,001 square feet of land and has approximately 79 feet of frontage on School Street. This parcel is occupied by a residential dwelling which Applicants utilize as rental property. The rear of 47 School Street abuts the rear/side of 14 Franklin Square. Both parcels and buildings are pre-existing nonconforming in a number of respects as shown on the plan submitted with the application (and described further below). According to the Zoning Map for the Town of Dedham, both parcels are located in the Single Residence B (SRB) Zoning District. In addition, a portion of each parcel is located in the Aquifer Protection Overlay District (APOD).

The Applicants propose to divide and reconfigure the two parcels into two new parcels. Specifically, the Applicants desire to take approximately 2,931 square feet of land from 47 School Street and combine it with 14 Franklin Square. After such division and re-configuration, 47 School Street will have a land area of approximately 7,070 square feet and 14 Franklin Square will have a land area of approximately 21,252 square feet. The Applicants are not creating any additional building lots or proposing any new buildings or structures. The Applicants desire to reconfigure the two lots in order to expand the backyard of their principal residence. The Applicants note that, after the division and reconfiguration, the lot at 47 School Street will be in character with most of the other lots on School Street in terms of size and lot coverage.

As indicated above, both parcels and buildings are currently pre-existing nonconforming in a number of respects. The parcel, building, and accessory buildings at 47 School Street are currently nonconforming with respect to lot area, frontage, front yard, lot width, side yards, and amount of impervious surface in the APOD. The parcel, building, and accessory buildings at 14 Franklin Square are currently nonconforming with respect to front yard, lot width, side yards, and rear yards. All of these nonconformities will remain after the proposed division and reconfiguration. In addition, after the proposed division and reconfiguration there will be an increase in nonconformity of the lot area and impervious surface in the APOD for the parcel at 47 School Street.

The Applicants submitted a petition signed by all direct abutters to the parcels indicating that they had no objection to the granting of relief by the ZBA. No one appeared in opposition to the petition.

Section 3.3 of the Dedham Zoning By-Law authorizes and empowers the Zoning Board of Appeals (hereinafter "ZBA") to grant special permits to extend or enlarge non-conforming uses and non-conforming structures. In acting upon requests for special permits, the ZBA is guided by Section 9.3.2 of the Dedham Zoning By-Law which provides that:

Special permits shall be granted by the Special Permit Granting Authority, unless otherwise specified herein, only upon its written determination that the adverse effects of the proposed use will not outweigh its beneficial impacts to the town or the neighborhood, in view of the particular characteristics of the site, and of the proposal in relation to that site. In addition to any specific factors that may be set forth in this By-Law, the determination shall include consideration of each of the following:

1. Social, economic, or community needs which are served by the proposal;
2. Traffic flow and safety, including parking and loading;
3. Adequacy of utilities and other public services;
4. Neighborhood character and social structures;
5. Impacts on the natural environment;
6. Potential fiscal impact, including impact on town services, tax base, and employment.

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 terms 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 Laws 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 appellant, 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.

The Applicants submit that the requirements and criteria for the issuance of the requested special permits and variances have been satisfied. The Applicant submits that the beneficial impacts of the Applicant's proposal outweigh any adverse effects and that the granting of the special permit will be in harmony with the Zoning By-Laws. Furthermore, the Applicants state that a literal enforcement of the provisions of the Dedham Zoning By-Law would involve substantial financial hardship to the Applicants since the Applicant would be required to demolish the dwelling at 47 School Street in order to add land to their principal residence at 14 Franklin Square.

Upon motion duly made by Jessica L. Porter and seconded by J. Gregory Jacobsen, the ZBA unanimously voted (5-0) to grant the requested special permits and variances necessary to reconfigure and divide two nonconforming lots occupied by nonconforming structures into two new occupied lots: one lot (47 School Street) with a lot area of 7,070 square feet, front yard of 11 feet, lot frontage of 79 feet, lot width of 77 feet for the required front yard and 50 feet for the balance of the lot, side yards of 7 and 14 feet, accessory buildings with side and rear yards of 0 feet, and impervious surface in the Aquifer Protection Overlay District of 43%; and one lot (14 Franklin Square) with a front yard of 0 feet, lot width of 57 feet, side yard of 0 feet, and accessory buildings with side and rear yards of 2 feet. Said special permits and variances are granted on the condition that without the prior approval of the ZBA no new permanent structure may be built on the approximate 2,931 square feet of land being removed from 47 School Street and added to 14 Franklin Square.

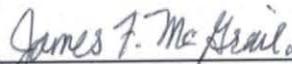
In granting of said special permits, the ZBA finds that, after consideration of the criteria in Section 9.3.2 of the Dedham Zoning By-Law, the adverse effects of the Applicant's proposal will not outweigh its beneficial impacts on the Town and neighborhood. In granting said variances, the ZBA finds that the Applicant has satisfied the requirements Section 10 of Chapter 40A of the General Laws of Massachusetts, to wit: a literal enforcement of the Dedham Zoning By-Law requirements would cause a substantial financial hardship to Applicant, and that the relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Dedham Zoning By-Law.

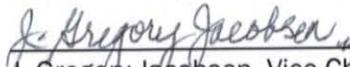
Applicant is advised that, in accordance with MGL Chapter 40A, Section 11, no variance shall take effect until a copy of this decision bearing the certification of the Dedham Town Clerk that twenty days have elapsed after the decision has been filed with the Dedham Town Clerk and no appeal has been filed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

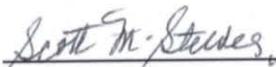
or that an appeal has been filed within such time shall be recorded in the Norfolk County Registry of Deeds or the Land Registration Office of Norfolk County.

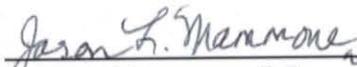
Dated: September 17, 2014

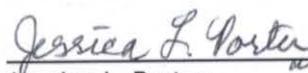
Attest, by the Zoning Board of Appeals

  
James F. McGrail, Esq., Chairman

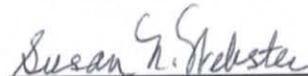
  
J. Gregory Jacobsen, Vice Chairman

  
Scott M. Steeves

  
Jason L. Mammone, P.E.

  
Jessica L. Porter

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 Department.

**Materials Submitted:**

- ZBA Application
- Addendum to ZBA application, prepared by Peter A. Zahka II, Esq.
- Plan of Land, prepared by McKenzie Engineering Group, Inc., 150 Longwater Drive, Suite 101, Norwell, MA
- Signed letter in support of petition