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**TOWN OF DEDHAM**  
**COMMONWEALTH OF MASSACHUSETTS**  
**ZONING BOARD OF APPEALS**  
**DECISION**



<b>APPLICANT:</b>	Michael E. and Christine M. Hernon
<b>PROJECT ADDRESS:</b>	301 Pine Street, Dedham, MA
<b>CASE #</b>	<b>VAR-03-14-1822</b>
<b>PROPERTY OWNER/ADDRESS:</b>	Michael E. and Christine M. Hernon, 301 Pine Street, Dedham, MA
<b>MAP/LOT AND ZONING DISTRICT:</b>	23/21, Single Residence B
<b>DATE OF APPLICATION:</b>	
<b>MEMBERS PRESENT AND VOTING:</b>	J. Gregory Jacobsen, Scott M. Steeves, E. Patrick Maguire, LEED AP, Jason L. Mammone, P.E., Jessica L. Porter
<b>PETITION:</b>	To be allowed such variances as required to construct a single family house on a lot that has 73.57 feet of frontage instead of the required 95 feet and a minimum front yard lot width of 71.65 feet instead of the required 95 feet
<b>SECTION OF ZONING BYLAW:</b>	<i>Section 4.1, Table of Dimensional Requirements and MGLA Ch. 40A §10</i>
<b>REPRESENTATIVE:</b>	Kevin F. Hampe, Esq., 411 Washington Street, Dedham, MA
<b>DATE FILED WITH TOWN CLERK:</b>	<b>JULY 14, 2014</b>

The Zoning Board of Appeals ("ZBA") of the Town of Dedham, Massachusetts, held public hearings on Wednesday, May 21, 2014, in the Town Office Building, 26 Bryant Street, Dedham, MA. Present were members of the ZBA, J. Gregory Jacobsen, Vice Chairman, Scott M. Steeves, E. Patrick Maguire, LEED AP, and Jason L. Mammone, P.E. In the absence of Chairman James F. McGrail, the Acting Chair appointed Associate Member Jessica L. Porter

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Michael E. and Christine M. Hernon, 301 Pine Street, Dedham, MA

to sit in his stead. The hearings were duly advertised for this meeting of the ZBA in accordance with the requirements of MGL Chapter 40A, Section 11. The hearings were duly advertised for this meeting of the ZBA in accordance with the requirements of MGL Chapter 40A, Section 11. Legal ads were placed for two consecutive weeks in *The Dedham Times*. In addition, abutters within 300 feet of the property in question received notification of the hearings.

At 7:05 p.m., the Chairman called for the hearing on the petition of Michael E. and Christine M. Herson, 301 Pine Street, Dedham, MA. The Applicants seek to be allowed such variances as required to construct a single family house on a lot that has 73.57 feet of frontage instead of the required 95 feet and a minimum front yard lot width of 71.65 feet instead of the required 95 feet. *Town of Dedham Zoning Bylaw Section 4.1, Table of Dimensional Requirements and MGLA Chapter 40A, §10*

The subject property is known and numbered as 301 Pine Street, Dedham, MA and is shown on Dedham Assessors' Map 23, Lot 21. The certified plot plan indicates that the Subject Property contains 33,067 square feet of land and has 147.15 feet of frontage. According to the Dedham Zoning Map, the Subject Property is located in the Single Residence B zoning district. Currently, the property is occupied by a two-family dwelling. According to the records maintained by the Dedham Board of Assessors, the dwelling was constructed in 1900.

The Applicant proposes to construct a new single family, two story dwelling on his land. He plans to live in this dwelling. Mr. Hampe stated that Mr. and Mrs. Herson bought the property in 2010. He gave a brief history of the land. In 1965, a prior owner petitioned the Zoning Board of Appeals to subdivide his 26,000 square foot lot. The appeal was granted and the Board allowed the lot to be considered buildable. The decision was recorded at the Registry of Deeds, but the owner failed to go to the Planning Board to have a plan approved that would have allowed him to build on the lot. A 1974 plan was recorded that stated "See Board of Appeals decision recorded Book 4291 Page 116." The decision of the Board of Appeals indicated that the lot in question was granted as a buildable lot. However, because the owner did not record the plan, there has been some question as to whether the frontage variance would be valid. The Town has also passed a zoning dimensional requirement with

regard to front yard lot width in an effort to attempt to eliminate "pork chop" lots and unusually shaped lots. In doing so, many of the old lots were already laid out on plans; this is one of them.

The Applicant is here for two variances:

1. Variance for frontage; 95 feet is required and the applicant has 73.57 feet.
2. Variance for front yard lot width; 95 feet is required and the applicant has 71.65 feet.

Mr. Mammone asked who provided the dimensions on the plan, stating that he prefers that a professional land surveyor do the plan. Mr. Hampe said that the Applicant can have a new plan drawn with the actual dimensions. Mr. Mammone would like the plans stamped by an engineer.

Edward Arruda, 18 Eaton Road, was opposed to the petition. He asked what the height of the house would be, and Mr. Hampe said it would comply with the zoning requirements. Mr. Arruda was also concerned that the Applicant may flip the house and sell it. He complained about what he sees from his backyard (i.e., dump trucks, bobcats, etc.). He also said that if the house is too tall, he would lose sunlight, and his children will not be able to use their pool. He asked that a site visit be performed. Denise Beckvold, 291 Pine Street, was also opposed, saying she prefers the open space. She was concerned about damage to her house during construction and wanted it to be covered. She noted that she, too, has a buildable lot, but will not build on it. Paul Sabino, 17 Eaton Road, was opposed, saying that the lot is too small and the house would be jammed into it. He said the Applicant was asking for too much.

Mr. Maguire made a motion to continue this hearing until June 18, 2014, so that a certified plot plan can be obtained to make sure of the calculations. The motion was seconded by Mr. Steeves. The vote was unanimous at 5-0. This hearing ended at 7:16 p.m.

The Zoning Board of Appeals ("ZBA") of the Town of Dedham, Massachusetts, held public hearings on Wednesday, June 18, 2014, in the Town Office Building, 26 Bryant Street, Dedham, MA. Present were members of the ZBA, J. Gregory Jacobsen, Vice Chairman, Scott M. Steeves, E. Patrick Maguire, LEED AP, and Jason L. Mammone, P.E. In the absence of

Chairman James F. McGrail, the Acting Chair appointed Associate Member Jessica L. Porter to sit in his stead.

A certified plot plan was obtained as requested by the Board. Mr. Hampe reviewed the history of the property as stated at the last hearing. He said that the Applicant is now asking for less relief (.02 of a foot) for the front yard setback; this does not require the petition to be re-published. The only difference now is that the Applicants only need a variance of the difference between 95 feet and 71.67 feet (23.33 feet). The Applicants will be building this house for their own residence; the house next door, which they own, will remain a two-family house. They are not building the house for development or sale.

Mr. Mammone made a motion to approve such variances as may be required to construct a single family house at 301 Pine Street on a lot that has 73.57 feet of frontage instead of the required 95 feet, and a minimum front yard lot of 71.67 feet instead of the required 95 feet. The motion was seconded by Mr. Steeves. The vote was unanimous at 5-0.

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/variances 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: June 18, 2014

Attest, by the Zoning Board of Appeals:

J. Gregory Jacobsen  
J. Gregory Jacobsen, Vice Chairman

Scott M. Steeves  
Scott M. Steeves

E. Patrick Maguire  
E. Patrick Maguire, LEED AP

Jason L. Mammone  
Jason L. Mammone, P.E.

Jessica L. Porter  
Jessica L. Porter

Attest, by the Administrative Assistant:

Susan N. Webster  
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
- Petition statement prepared by Kevin F. Hampe, Esq.
- Quitclaim Deed dated October 29, 2010
- Plan of Land dated August 21, 1974, prepared by Pilling Engineering Co., Inc., 26 Norfolk Street, Dedham, MA
- Application to Zoning Board of Appeals dated May 25, 1965
- Decision of the Zoning Board of Appeals date unknown (c. 1965)
- Plan of Land dated April 29, 1965, prepared by Pilling Engineering Co., Inc., 26 Norfolk Street, Dedham, MA
- Town of Dedham Notice of Variance dated August 16, 1965
- Rendering of proposed house
- Elevations of interior of proposed house