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TOWN OF DEDHAM

COMMONWEALTH OF MASSACHUSETTS

ZONING BOARD OF APPEALS

DECISION

APPLICANT:	**Judith Gutman**
PROJECT ADDRESS:	**50 Fillmore Road, Dedham, MA**
CASE #	**VAR-05-14-1848**
PROPERTY OWNER/ADDRESS:	Judith Gutman, 50 Fillmore Road, Dedham, MA
MAP/LOT AND ZONING DISTRICT:	196/36, Single Residence B
DATE OF APPLICATION:	May 9, 2014
MEMBERS PRESENT AND VOTING:	James F. McGrail, Esq., J. Gregory Jacobsen, Scott M. Steeves, Jason L. Mammone, P.E.
PETITION:	To be allowed a side yard setback of four feet instead of the required ten feet to construct an addition and a deck
SECTION OF ZONING BYLAW:	*Town of Dedham Zoning Bylaw Section 4.1, Table of Dimensional Requirements*
REPRESENTATIVE:	Mollie Moran, AIA, 18 School Street, Dedham, MA
DATE FILED WITH TOWN CLERK:	**AUGUST 25, 2014**

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 at this hearing were members of the ZBA, James F. McGrail, Esq., Chairman, J. Gregory Jacobsen, Vice Chairman, Scott M. Steeves, Jason L. Mammone, P.E., and Jared F. Nokes, J.D. 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 7:38 p.m., the Chairman called for the hearing on the petition of Judith Gutman, 50 Fillmore Road, Dedham, MA. The Applicant seeks to be allowed a side yard setback of four feet instead of the required ten feet to construct an addition and a deck at 50 Fillmore Road, Dedham, MA. *Town of Dedham Zoning Bylaw Section 4.1, Table of Dimensional Requirements*

Member E. Patrick Maguire, LEED AP, recused himself from this hearing due to a professional relationship with Ms. Moran. The Chairman appointed Associate Member Jared F. Nokes, J.D. to sit in his stead.

The subject property is known and numbered as 50 Fillmore Road, Dedham, MA, and is shown on Dedham Assessors' Map 196, Lot 36. The certified plot plan indicates that the Subject Property contains 1.4 acres of land and has over 190 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 single family dwelling. According to the records maintained by the Dedham Board of Assessors, the dwelling was constructed in 1988.

The Applicant wants to convert the lower floor of her home into a bedroom and add living space off that. The footprint of the house will remain the same. They have had a scoping session with the Conservation Commission because the lot is extremely wet and most of it is not buildable due to the wetlands. It was suggested to her to keep the addition as far to the left of the property as possible. Ms. Moran explained that the location of the existing house is affected by these wetlands and the geometry of the property lines, and there is no alternative location for construction of the addition. The new deck will be erected in the same location as the present one. There will be no construction on the upper level of the house. The living space will be below the level of the existing space and will not be visible.

Edward Raymond, 156 Carol Drive, wanted to see the elevation to determine what he will see from his property. He was told that any variance would only be granted consistent with what is written on the plan. Ms. Moran said the reason they are keeping this at a more schematic level is that the Applicant still has to go back to the Conservation Commission to see what is possible. She said that if they okay the plan, she would be willing to go over the drawings with Mr. Raymond. Mr. McGrail asked how close she is to providing something

conceptual. She said this would be easy to provide. She has not yet made another appointment with the Conservation Commission. Mr. McGrail said that this hearing will be continued to July 16, 2014. He wanted Mr. Raymond to be comfortable with the proposal. Ms. Moran will draw something up and show images of screening so he can see what is anticipated.

In a letter dated July 16, 2014, Ms. Moran requested a continuation of this hearing until August 20, 2014. The Board voted unanimously to allow this.

The Zoning Board of Appeals ("ZBA") of the Town of Dedham, Massachusetts, held public hearings on Wednesday, August 20, 2014, 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. 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 7:18 p.m., the Chairman called for the hearing on the petition of Judith Gutman, 50 Fillmore Road, Dedham, MA. The Applicant seeks to be allowed a side yard setback of four feet instead of the required ten feet to construct an addition and a deck at 50 Fillmore Road, Dedham, MA. *Town of Dedham Zoning Bylaw Section 4.1, Table of Dimensional Requirements*

Member E. Patrick Maguire, LEED AP, recused himself from this hearing due to a professional relationship with Ms. Moran. Mr. McGrail informed Ms. Moran that there would be four voting members for this petition, and she would need a unanimous vote for approval. She understood and chose to continue.

Ms. Moran met several times with the abutting neighbor, Edward Raymond of 156 Carol Drive, and he has no issue with the proposed addition and deck. He furnished an e-mail to this effect.

On a motion made by J. Gregory Jacobsen, and seconded by Scott M. Steeves, the Zoning Board of Appeals voted unanimously (5-0) to allow a side yard setback of four feet instead of the required ten feet to construct an addition and a deck at 50 Fillmore Road, Dedham, MA.

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: August 20, 2014

Attest, by the Zoning Board of Appeals:

James F. McGrail

James F. McGrail, Esq., Chairman

J. Gregory Jacobsen

J. Gregory Jacobsen, Vice Chairman

Scott M. Steeves

Scott M. Steeves

Jason L. Mammone

Jason L. Mammone, P.E.

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 Mollie Moran, AIA
- Plan of land prepared by Norwood Engineering Co., Inc., 1410 Route One, Norwood, MA 02062
- Renderings of addition and deck
- Photographs of existing conditions
- E-mail from Edward Raymond, 156 Carol Drive, Dedham, MA in support of the petition