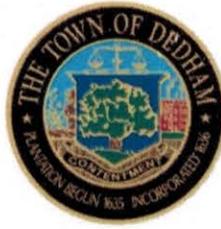


**ZONING BOARD MEMBERS**  
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SCOTT M. STEEVES  
E. PATRICK MAGUIRE, LEED AP  
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**TOWN OF DEDHAM  
COMMONWEALTH OF MASSACHUSETTS**

**ZONING BOARD OF APPEALS  
DECISION**



<b>APPLICANT:</b>	<b>Peter and Maria Panagakis</b>
<b>PROJECT ADDRESS:</b>	<b>74 Hillsdale Road, Dedham, MA</b>
<b>CASE #</b>	<b>VAR-05-14-1843</b>
<b>PROPERTY OWNER/ADDRESS:</b>	Peter and Maria Panagakis, 74 Hillsdale Road, Dedham, MA
<b>MAP/LOT AND ZONING DISTRICT:</b>	169/71, Single Residence B
<b>DATE OF APPLICATION:</b>	May 14, 2014
<b>MEMBERS PRESENT AND VOTING:</b>	James F. McGrail, Esq., J. Gregory Jacobsen, Scott M. Steeves, E. Patrick Maguire, LEED AP, Jason L. Mammone, P.E.
<b>PETITION:</b>	To be allowed a Special Permit to construct retaining wall as indicated: <ol style="list-style-type: none"><li>1. A six foot fence on top of a three foot retaining wall</li><li>2. A five foot retaining wall with a six foot fence on top</li><li>3. A ten foot retaining wall with a six foot fence on top</li><li>4. An eight foot retaining wall with a six foot fence on top</li><li>5. A six foot retaining wall with a three foot fence on top</li></ol>
<b>SECTION OF ZONING BYLAW:</b>	Section 6.5.2, Earth Removal and Retaining Walls
<b>REPRESENTATIVE:</b>	Stephen P. Rahavy, Esq., 18 Norfolk Street, Dedham, MA
<b>DATE FILED WITH TOWN CLERK:</b>	<b>JULY 25, 2014</b>

The Zoning Board of Appeals ("ZBA") of the Town of Dedham, Massachusetts held public hearings on Wednesday, June 18, 2014, commencing at 7:00 p.m. in the Town Office Building, 26 Bryant Street, Dedham, MA. Present were members of the ZBA, Chairman James F. McGrail, Esq., J. Gregory Jacobsen, Scott M. Steeves, E. Patrick Maguire, LEED AP, and Jason L. Mammone, P.E. 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 Peter and Maria Panagakis (hereinafter referred to as "Applicants"), 74 Hillsdale Road, Dedham, MA. The Applicants are seeking a special permit to construct retaining walls as indicated:

1. A six foot fence on top of a three foot retaining wall
2. A five foot retaining wall with a six foot fence on top
3. A ten foot retaining wall with a six foot fence on top
4. An eight foot retaining wall with a six foot fence on top
5. A six foot retaining wall with a three foot fence on top

*Town of Dedham Zoning By-Law Section 6.5.2, Earth Removal and Retaining Walls*

The Applicant was represented by Stephen P. Rahavy, Esq., 18 Norfolk Street, Dedham, MA. The minutes from the hearing are the primary source of evidence and are incorporated herein by reference. The plans, documents, studies, etc. referred to are incorporated as part of the public record and are on file in the Planning and Zoning office.

The subject property is known and numbered as 74 Hillsdale Road, Dedham, MA, and is shown on Dedham Assessors' Map 169, Lot 71. The certified plot plan indicates that the Subject Property contains .16 acres of land and has 50 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 building was constructed in 1967.

The site is located on Hillsdale Road, which area is, by definition, subject to challenging topography. The applicant plans to remove the existing stone retaining walls, expand the rear patio areas, fill in, landscape, and develop a rear yard for their young children to have a safe

play area. The retaining walls will be an aesthetic enhancement and the fences on top of the walls will provide safety and security.

The Applicants' enhancements to the residential property require no other ZBA relief other than a special permit, as requested for the retaining walls in excess of four (4) feet. In fact, the applicant actually overstated the relief requested. The specific locations of the retaining walls are depicted on the site plan prepared by Patrick Roseingrave, Professional Land Surveyor.

In acting upon requests for Special Permits, the ZBA is guided by Section 9.3 of the Dedham Zoning By-Law, which provides that:

Special Permits shall be granted...only upon [the] 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 the 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 service;
4. Neighborhood characteristics and social structure;
5. Impacts on the natural environment; and potential fiscal impact including impact on town services, tax base and employment.

Then ZBA finds that the issuance of the Special Permit for the two retaining walls is consistent with and satisfies the aforementioned requirements.

The ZBA finds that issuing said Special Permit would be in furtherance of the public good and within the clear intent of the Zoning By-Law.

One neighbor spoke in opposition to the relief requested by the Applicant.

On a motion duly made by James F. McGrail, Esq., and seconded by Scott M. Steeves, the ZBA voted unanimously (5-0) to grant the Special Permits requested by the Applicant, as revised, as follows:

**Retaining Wall Number 2**

Height: 5'6" Feet-Linear 19 Feet

**Retaining Wall Number 3**

Height: 5 Feet-Linear 39.6 Feet

**Retaining Wall Number 4**

(Was Existing, Replacing)

Height: 5 Feet-Linear 28 Feet

The Zoning Board of Appeals, in voting for the Special Permits, felt that the site will be improved and that this relief will have no adverse effect on the surrounding neighborhood. Thereafter, the hearing was continued to July 16, 2014.

At 7:20 p.m. on July 16, 2014, at a duly posted meeting of the Zoning Board of Appeals in accordance with the provisions of G.L.c. 30A, §20 as amended, the chairman called for the continuation of the application of Peter and Maria Panagakis to be allowed a special permit for the remaining retaining wall on the west side of their property line that was not voted upon on June 18, 2014.

The Applicants submitted an engineering plan and narrative dated July 10, 2014, with respect to the remaining retaining wall.

No one spoke in opposition to the remaining relief requested by the Applicant.

On motion duly made by Scott M. Steeves and seconded by J. Gregory Jacobsen, the ZBA voted unanimously (5-0) to grant the Special Permit requested by the Applicant, as follows:

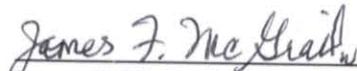
**Retaining Wall Number 1**

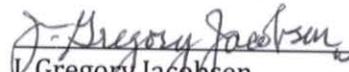
Height: 8 Feet-Linear 16 Feet

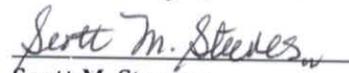
Height: 6 Feet - Linear 6 Feet

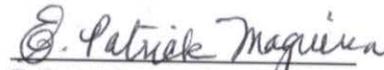
The Applicant is advised that, in accordance with MGL Chapter 40A, Section 11, no special permit shall take effect until a copy of this decision bearing the certification of the Dedham Town Clerk that twenty days have elapsed after the decision has been filed with the Dedham Town Clerk and no appeal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

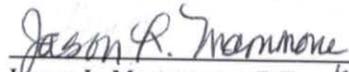
Dated: July 16, 2014

  
James F. McGrail, Esq., Chairman

  
J. Gregory Jacobsen

  
Scott M. Steeves

  
E. Patrick Maguire, LEED AP

  
Jason L. Mammone, P.E.

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
- Site Photos - Existing Conditions
- Proposed and Existing Retaining Wall Plan revised June 9, 2014 by Patrick Roseingrave, Professional Land Surveyor
- Mortgage Inspection Plan dated January 11, 2005 by Neil J. Kelly, Professional Land Surveyor
- Neighborhood Petition supporting the Applicants
- Pavestone Retaining Wall Product Detail; Pavestone, Paving Stone Product detail
- Gatehouse Emblem White Flat-Top Privacy Vinyl Fence Panel Detail
- Assessors Property Record Card

- Locus Deed dated January 31, 2005 and recorded with the Norfolk County Registry of Deeds in Book 22040, Page 571
- Front Elevation – 74 Hillsdale Road