

SEP 15 2014

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

<b>APPLICANT:</b>	<b>Oxbow Partners, LLC, and Frank N. Gobbi</b>
<b>PROJECT ADDRESS:</b>	<b>19 Court Street, Dedham, MA</b>
<b>PROPERTY OWNER/ADDRESS:</b>	Frank N. Gobbi, P.O. Box 220, Westwood, MA 02090
<b>CASE #</b>	<b>VAR-07-14-1865</b>
<b>MAP/LOT AND ZONING DISTRICT:</b>	91/9, Single Residence B, Historic Preservation Overlay District
<b>DATE OF APPLICATION:</b>	July 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 such variances or Special Permits to allow conversion of a building or structure in the Historic Preservation Overlay District multi-family residential use on a lot with approximately 19,000 square feet of land
<b>SECTION OF ZONING BYLAW:</b>	<i>Town of Dedham Zoning Bylaw Section 8.4.3.2.2, Historic Preservation Overlay District, Applicability and Eligibility; Section 9.2.2, Board of Appeal Powers</i>
<b>REPRESENTATIVE:</b>	Peter A. Zahka II, Esq., 12 School Street, Dedham, MA Peter Smith, Oxbow Partners, LLC, 75 Arlington Street, Suite 500, Boston, MA 02116
<b>DATE FILED WITH TOWN CLERK:</b>	<b>SEPTEMBER 15, 2014</b>

The Zoning Board of Appeals ("ZBA") of the Town of Dedham, Massachusetts held public hearings on August 20, 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 Oxbow Partners, LLC and Frank N. Gobbi to be allowed such variances or special permits to allow conversion of a building or structure in the Historic Preservation Overlay District to multi-family residential use on a lot with approximately 19,000 square feet of land. The property is located at 19 Court Street in the Single Residence B (SRB) and Historic Preservation Overlay District (HPOD). *Dedham Zoning By-Law Sections 8.4.3.2.2.; 9.2.2.*

The Applicant was represented by Peter A. Zahka, II, Esq., 12 School Street, Dedham, MA. Also present on behalf of Applicant was Peter Smith, a principal of Oxbow Partners, LLC, 75 Arlington Street, Suite 500, Boston, MA 02116. At the commencement of the hearing, Attorney Zahka submitted copies the plan of the Subject Property filed with the Land Registration Office of Norfolk County, the Town of Dedham GIS Map, and various Dedham Assessors' Data Cards. The minutes from the hearing are the primary source of evidence and are incorporated herein by reference.

The Subject Property, known and numbered as 19 Court Street, is owned by Applicant Frank N. Gobbi. The Subject Property contains approximately 19,253 square feet of land and has approximately 121.4 feet of frontage on Court Street and approximately 176.4 feet of frontage on Bates Court. According to the Dedham Zoning Map, the Subject Property is located in the Single Residence B (SRB) Zoning District. The Subject Property is also located in the newly established Historic Preservation Overlay District (HPOD).

The existing building on the Subject Property, commonly referred to as the Norfolk Inn, was built in 1801, and is of architectural and historical significance. The Norfolk Inn has been vacant for many years and is in need of extensive repairs and renovations. The Applicant, Oxbow Partners, LLC, has signed a Purchase and Sales Agreement to acquire the same and proposes to renovate the existing structure into six (6) residential units under the recently adopted Historic Preservation Overlay District provisions of the Dedham Zoning By-Law.

In May 2014, the Dedham Annual Town Meeting approved and adopted Article 30 which amended the Dedham Zoning By-Law by adding a new Section 8.4 (Historic Preservation Overlay District). The purpose of Article 30 is to provide for the preservation and adaptive re-use of historic and architecturally significant buildings and structures in the Town of Dedham. It is noteworthy that said Article 30 was submitted on behalf of the Applicant specifically for the historic preservation and adaptive re-use of the Subject Property. In drafting Article 30, the Applicant relied upon the land area of the Subject Property as shown on the plan filed with the Land Registration Office of Norfolk County, the Town of Dedham GIS Map, and the Dedham Assessors Data Card (all of which indicated in excess of 20,000 square feet of land).

Section 8.4.3 of the Dedham Zoning By-Law (and of Article 30) provides that a conversion of an existing historic building or structure for multi-family residential use may be allowed by special permits if the original building or structure was constructed prior to 1900, the lot contains a minimum of 20,000 square feet, was established by a plan or deed recorded prior to the adoption of Section 8.4 of the Dedham Zoning By-Laws, and the building contains a minimum of 12,000 gross square feet of floor area. The Applicant submits that it complies with all of the requirements of the Zoning By-Law except for the lot area. As stated above, the plan filed with the Land Registration Office as well as all Town records indicate a land area for the Subject Property in excess of 20,000 square feet. Based upon these consistent public records, the Applicant reasonably assumed a land area in excess of 20,000 square feet. However, a recent survey of the Subject Property undertaken by the Applicant indicates a land area of 19,253 square feet. The Applicant has been unable to reconcile this recent plan with the plans and records previously relied upon.

Accordingly, the Applicant has requested relief from the Dedham Zoning By-Law requirement to allow the proposal to continue, but on a lot with an area of 19,253 square feet (instead of the required 20,000 square feet). Without this relief, the Applicant will be unable to proceed with the project. This is the only relief being sought by the Applicant from the ZBA. Under the newly enacted Section 8.4 of the Dedham Zoning By-Law, the project and proposal will still require a special permit and site plan approval from the Dedham Planning Board.

Section 9.2.2 of the Dedham Zoning By-Law empowers and authorizes the ZBA "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.

Several abutters appeared at the hearing in support of the applicant. Andrea Gilmore of 66 Church Street, Dedham, MA, was present on behalf of the First Church of Dedham. She noted that the Church abuts the Subject Property on two sides, and is in support of the application and the project. Charles Russell of 27 Court Street indicated that he is the closet residential abutter and supports the application and the project.

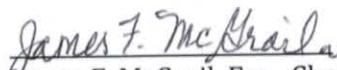
Upon motion being duly made by Scott M. Steeves and seconded by J. Gregory Jacobsen, the ZBA voted unanimously (5-0) to grant a variance to allow construction of a building or structure in the Historic Preservation Overlay District to multi-family residential use on a lot with approximately 19,253 square feet of land (instead of the required 20,000 square feet) at 19 Court Street in the Single Residence B (SRB) and Historic Preservation Overlay District (HPOD). In granting said variance, the ZBA finds that the Applicant has satisfied the requirements of 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.

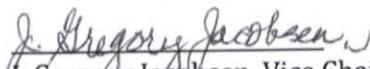
Applicant is advised that, in accordance with MGL Chapter 40A, Section 11, no variance shall take effect until a copy of this decision bearing the certification of the Dedham Town Clerk that twenty days have elapsed after the decision has been filed with the Dedham Town

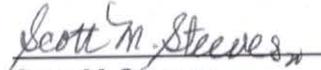
Clerk and no appeal has been filed shall be recorded in the Norfolk County Registry of Deeds or the Land Registration Office of Norfolk County.

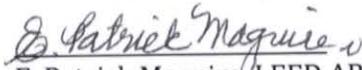
Dated: August 20, 2014

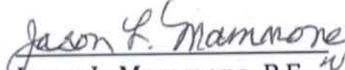
Attest, by the Zoning Board of Appeals:

  
James F. McGrail, Esq., Chairman

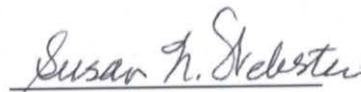
  
J. Gregory Jacobsen, Vice Chairman

  
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
- Existing conditions plan dated June 16, 2014, prepared by Precision Land Surveying, Inc., 32 Turnpike Road, Southborough, MA 01772
- Plan of Lane in Dedham dated May 28, 1906
- Photographs of existing conditions
- Town of Dedham Assessors Database
- Town of Dedham GIS map of property