**TOWN OF DEDHAM**

**COMMONWEALTH OF MASSACHUSETTS**

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**James F. McGrail, Chair**

**J. Gregory Jacobsen, Vice Chair**

**Scott M. Steeves**

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

**Jared F. Nokes, Associate Member**

**George Panagopoulos, Associate Member**



**ZONING BOARD OF APPEALS**

**MINUTES**

**Wednesday, May 22, 2019, 7 p.m., Lower Conference Room**

Present: James F. McGrail, Chair

Gregory Jacobsen, Vice Chair

Scott M. Steeves

Jason L. Mammone, P.E.

Jared F. Nokes

George Panagopoulos

Staff: Jeremy Rosenberger, Town Planner

The meeting was called to order at 7 p.m. The plans, documents, studies, etc., referred to are incorporated as part of the public records and are on file in the Planning and Zoning office. The hearings were advertised in *The Dedham Times* as required, and notices to abutters within 300 feet of each property were sent.

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| **Applicant:** | Hub Development, LLC, and Hub Development, LLC, 20 Milton Street, Dedham |
| **Project Address:** | 230 Sprague Street, Dedham, MA |
| **Representative(s):** | * Kevin F. Hampe, Esq., 411 Washington Street, Dedham, MA * Antonio Ferrara, Hub Development, LLC, located at 20 Milton Street, Dedham, MA |
| **Zoning District:** | Single Residence B (SRB) |
| **Legal Notice:** | The Applicant, Hub Development, LLC, of 20 Milton Street, Dedham, seeks to be allowed a special permit in accordance with section 3.3.7 of the Dedham Zoning By-Laws, to voluntarily demolish the existing nonconforming structure on Lot 340 and to construct a new single family dwelling to be located on the lot in an area other than on the original footprint of the existing structure and to be allowed to exceed the volume and area of the nonconforming structure. The Applicant also seeks to be allowed variance to build a single family swelling on the adjacent LOT 339 which has a lot area of 10,734 square feet instead of 12,500 square feet and having a frontage of 50.07 feet instead of the 95 feet in a Single Residence B Zone (SRB). |
| **Section of Zoning Bylaw:** | *Town of Dedham Bylaw Section 3.3.7, Section 4.0 and Section 9.2.1 of the Town of Dedham Zoning By-Laws and MGLA CH. 40A Sec.10 and MGLA CH.40A Sec.9.* |

This hearing was a continuance from the original March 20th meeting, and again continued from the April 24th meeting at the request of the applicant. Attorney Kevin Hampe was representing and the applicant Antonio Ferrara of HUB Development was in attendance. Attorney Hampe gave a brief description of the project for the benefit of everyone present. At the hearing of March 20, 2019 immediate abutters to the project had expressed concerns. As a result of these concerns, the applicant had meetings with Stephen Gigliotti, owner of 222 Sprague Street and Paul Nugent, of 149 Turner Street. Mr. Nugent had been concerned about the location of the house and contact with his rear yard, the fence location, landscaping, and the visual impact of the new house as it related to his house. To allay some of Mr. Nugent’s concerns, Mr. Ferrara has agreed to install a new fence, landscape the area, and reduce the height of the structure that abuts Mr. Nugent by three (3) feet. In addition, Mr. Ferrara has also agreed to work with Mr. Nugent on the type of landscaping he would prefer in the area that abuts his house. Mr. Gigliotti’s concerns were mainly centered on water run off to his structure. The applicant would have to appear before the Conservation Commission and go through the stormwater process with them. He agreed that at that time, when he is heard by the Conservation Commission, he will also address the water issue for Mr. Gigliotti’s property.

Mr. McGrail asked if anyone on the board had questions for the applicant. Mr. Panagopoulos asked what the hardship was for the applicant. Attorney Hampe responded that if not for a four inch overhang onto the neighboring property, the applicant would have had two buildable lots and the right to build on them. Mr. McGrail then asked if there were any members of the public that wished to speak to the project. Mr. Stephen Gigliotti from 222 Sprague Street brought photos of his property that had been taken after a light rain had occurred. The photos showed the water issue occurring. Mr. Gigliotti would like it in writing that the applicant would be assisting him as to his water issues. Mr. McGrail explained that they could make it a condition of the applicant to assist with his water issues. Mr. Gigliotti approved of this solution. Mr. McGrail asked if anyone else wished to speak to the project. Mr. Nugent of 149 Turner Street indicated that he had spoken with the applicant and he did feel confident of the agreement they had reached.

A motion was made to approve the applicant’s request with the inclusion of the following conditions:

1. 222 Sprague Street’s stormwater runoff issue will be resolved
2. In relation to 149 Turner Street, the house that will be built closest to this property will reduced in height by three (3) feet, a new fence will be erected and landscaping and shrubs will be installed to the abutters satisfaction.

The motion was approved by Mr. Scott Steeves, and seconded by Mr. Gregory Jacobsen. All were in favor (5-0) and the motion passed unanimously.

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| **Applicant:** | 94 Dedham Boulevard, LLC |
| **Project Address:** | 94 Dedham Boulevard, Dedham, MA |
| **Zoning District:** | Single Residence B |
| **Legal Notice:** | The applicant, 94 Dedham Boulevard, LLC, 36 Blue Hill Drive, Westwood, MA, seeks to be allowed a variance for a proposed lot at 94 Dedham Boulevard having 60.01 feet of frontage instead of the required 95 feet, lot area of 7,363 square feet instead of the required 12,500 square feet, lot width of 60.01 feet instead of the required 95 feet, and side yard of 10 feet instead of the required 15 feet The property is located at 94 Dedham Boulevard, Dedham, MA, Map 98, Lot 4 and is in the Single Residence B zoning District. |
| **Section of Zoning Bylaw:** | *Town of Dedham Zoning Bylaw Section 4.1, Table 2 – Table of Dimensional Requirements* |
| **Representatives:** | * Edward J. Richardson, Esq., 339 Washington Street, Dedham, MA * Edward Musto, Principal, 94 Dedham Boulevard, LLC, 36 Blue Hill Drive, Westwood, MA |

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| **Applicant:** | 94 Dedham Boulevard, LLC |
| **Project Address:** | 108 and 122 Garfield Road, Dedham, MA |
| **Zoning District:** | Single Residence B |
| **Legal Notice:** | The applicant, 94 Dedham Boulevard, LLC, 36 Blue Hill Drive, Westwood, MA, seeks to be allowed a variance for a proposed lot between 108 and 122 Garfield Road having frontage of 60 feet rather than the required 95 feet, lot area of 7,363 square feet rather than the required 12,500 square feet, lot width of 60 feet rather than the required 95 feet, and side yard of 10 feet rather than the required 15 feet required in Single Residence B District. The property is located between 108 and 122 Garfield Road, Dedham, MA. |
| **Section of Zoning Bylaw:** | *Town of Dedham Zoning Bylaw Section 4.1, Table 2 – Table of Dimensional Requirements.* |

The application was a continuance from the previous meeting of April 24, 2019. Edward J. Richardson, Esquire was in attendance for the applicant. Chairman McGrail stated that as they had done previously, they would hear the two applications simultaneously.

Chairman McGrail gave a brief review of the past proceedings and that the applicant had been asked to speak with the neighbors to resolve issues of concern. Attorney Richardson noted that the applicant had met with some of the neighbors. Attorney Richardson also gave a brief overview of the history of the lot, and described what the applicant could rightfully do under the Dedham By-laws.

Chairman McGrail asked if anyone in the audience would like to speak to the project. Mrs. Rita Mae Cushman of Garfield Road was next to the proposed project. She stated that after the last meeting of the Zoning Board Mr. Musto did clean up the existing lot. She also stated that the applicant had indeed conducted a meeting with the neighbors. She further stated that Mr. Musto had told her years ago he would only build two houses on the existing lots and they would both be facing Dedham Boulevard, not Garfield Street, but she sees he must have changed his mind about this and he currently wants to build three houses. Mrs. Cushman said she feels the proposed houses would block hers and her neighbor’s views and she is opposed to the project.

A conversation ensued between Chairman McGrail, the applicant, and the attorney as to what was legally allowable to be built on the lot, what the applicant had permission to build from the building department at this time, and what the applicant would like to build if he is given the requested relief. The Chairman asked again if there were any audience members who wished to speak to the project, and Ms. Diane Palombi from 99 Dedham Boulevard spoke briefly regarding the meeting the applicant had had with the neighbors. Chairman McGrail explained that clearly a spirit of cooperation had not been met between the applicant and the neighbors, some tension between the two parties still existed. Ms. Mileyka Cooper of 117 Garfield Road asked if the applicant had plans in the winter for the snow removal and where would the house entrance be located. The neighbors felt that they could benefit from meeting with Mr. Musto again and trying to come to an agreement. The Chairman agreed to postpone the hearing until the end of the meeting so the neighbors could have a chance to discuss the matter for a short time.

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| **Applicant:** | Town of Needham Select Board |
| **Project Address:** | West Street, Dedham, MA Parcel 101-01 |
| **Zoning District:** | Single Residence A (SRA) |
| **Legal Notice:** | The Applicant requests a Special Permit authorizing a governmental use pursuant to Section 3.1.6.B.5; a special permit authorizing a tower height in excess of 85’ pursuant to Section 4.2.4; and a variance of the 50’ height limit for antennas contained in Section 4.2.3. |
| **Section of Zoning Bylaw:** | *Town of Dedham Zoning Bylaw Section 3.1.6.B.5, Section 4.2.4, and Section 4.2.3.* |
| **Representatives:** | Representative Christopher H. Heep, Esquire |

The Applicant’s Representative had asked for a continuance to the next Zoning Board Meeting of June 19, 2019. A vote was taken and all were in favor, 5-0. The hearing would be continued until Wednesday, June 13, 2019.

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| **Applicant:** | Sister Margaret Moran, Trustees of the Daughters of St. Paul Religious Trust, |
| **Project Address:** | 885 Providence Highway |
| **Zoning District:** | Research, Development, and Office (RDO) |
| **Legal Notice:** | The Applicant requests to be allowed a waiver from the provisions of the Dedham Sign Code for replacement of a pre-existing nonconforming free-standing sign with a new free-standing sign with front yard and side yard setbacks of zero (0) feet. |
| **Section of Zoning Bylaw:** | *Town of Dedham Zoning Bylaw Section 237-29, 237-30, Table 1 and Table 2.* |
| **Representatives:** | Peter A. Zahka, Esquire |

Peter A. Zahka was the representative for the applicant. Jason Mammone asked why the new sign could not go in the same location. Attorney Zahka explained that the applicant wished to move the sign forward much closer to the street because the new building that had been erected just past the applicant’s (Starbucks and Chase Bank) was much closer to the road. Those buildings along with the telephone pole was making it very difficult for people to see their sign. They therefore wanted it moved so that people could see it more clearly. Mr. Mammone then asked what the required set back was for the location. Attorney Zahka replied in the RDO district it was 20 feet. Chairman McGrail asked if there was anyone in attendance to speak in favor or opposition to the proposal, and there was no one.

Mr. Gregory Jacobsen made a motion to approve the waiver, the motion was seconded by Scott Steeves and all were in favor. The waiver was unanimously granted, 5-0.

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| **Applicant:** | James and Ruth Loughran |
| **Project Address:** | 117 Cedar Street |
| **Zoning District:** | Single Residence B (SRB) |
| **Legal Notice:** | The Applicant requests a Special Permit to be allowed to convert a single-family residence at 117 Cedar Street that was formerly a child care facility to a two-family residence in accordance with Town of Dedham Zoning By-law 7.2 and a variance to allow the two family residence to exist on a lot having 13,766 square feet instead required 18,750 square feet in Single Residence B (SRB) Zone. |
| **Section of Zoning Bylaw:** | *Town of Dedham Zoning Bylaw Section 7.2.1 Conversion of single family to two family dwelling, Table 1, principal use regulations, M.G.L. Ch. 40A, 9 & 10, Section 9.3 Special Permits.* |
| **Representatives:** | Keith. Hampe, Esquire |

Keith Hampe was representing the applicant. Attorney Hampe explained the applicant’s wishes to convert the former childcare facility in their house into a small apartment, and gave a brief history of the building. Mr. Loughran wished to address the Board and gave a history of the former childcare facility that they ran, their residences, and occupations in the town. Attorney Hampe explained that the applicant did not wish to extend or enlarge the existing facility should it be approved as an apartment, they only wanted it to be legally converted to a one bedroom apartment for extra income so that the applicants could remain in their home. He pointed out that there were currently 26 other two or more family dwellings in that neighborhood, even though they were in 19 of those dwellings were also in SRB, as was the applicant. Mr. McGrail asked if there were any questions from the board, there were none. He then asked if there were anyone from the audience who wished to speak on the project. Laurie Gallagher of 18 Lincoln Street asked if there was a minimum size that an apartment could be, and the Chairman replied no, there is no minimum. She then asked who would be living in the proposed apartment and the reply was that it is undecided at present. She further asked if the owner would be remaining in their residence in the main house, the reply was absolutely, yes. She said that in the past there had been a complaint that snow removal on the sidewalks in front of their property had been a continuing issue and she was concerned who would be maintaining the property. Attorney Hampe responded that should the application be granted then it would become a landlord obligation to ensure the snow was removed. Chairman McGrail asked if there were anyone else who wished to speak to the proposal. Richard Holton, 11 Lincoln Street, was in opposition of a two family being granted. Joseph Rich of 110 Cedar Street has known the applicants his whole life, he was in support of the proposal. Leslie Pouliot, 22 Lincoln Street was in opposition of a two family being granted in the neighborhood. Marc Stonier, 12 Lincoln Street was also in opposition to the proposal. Nikki Ducey, of 105 Cedar Street, was in opposition to the proposal.

Jason Mammone asked if perhaps a family member might be willing to move in and help with expenses and therefore it could be converted into an in-law apartment which would revert back to a single family residence. Attorney Hampe responded that they had looked into that possibility; however since it was non-transferable use, the property would revert back to a childcare facility and therefore the owners could only sell the property to a licensed childcare provider. This was the basis for the applicant seeking to transfer the use to an apartment. Further discussion ensued amongst the neighbors, the Board, and the representing attorney regarding the possible uses of the property.

The Applicant’s attorney requested a continuance to the June 19, 2019 meeting in an effort to address concerns with the neighbors. A motion was made by Greg Jacobsen to continue the application to the next meeting, the motion was seconded by Scott Steeves, and all were in favor, 5-0.

**94 Dedham Boulevard, Dedham, MA and 108 and 122 Garfield Road, Dedham, MA**

The Board revisited the above applications as referenced previously in the meeting. An issue regarding water drainage problems was brought up. Mr. Mammone stated that a current project with the MWRA on Dedham Boulevard may have resolved some of the drainage issues, however it would not be significantly noticed until the construction was fully complete. However, some of the issues could not be resolved because of the bedrock inherent in the area, which did not drain rainwater as well as soil. He recommended paying attention to the Conservation Commission process of the application in order to address any drainage issues. The Applicant and Neighbors requested a continuance to the next Zoning Board Meeting. The Applicant agreed to waive constructive approval and a motion was made by Greg Jacobsen to continue to the June 19, 2019 meeting, the motion was seconded by Scott Steeves and all were in favor, 5-0. Town Planner Jeremy Rosenberger said they will provide a form for both parties to sign waiving constructive approval of the application.

**District Improvement Finance Initiative (DIF)**

Chairman McGrail mentioned that at the last meeting the Zoning Board had heard the presentation of John Sisson regarding the DIF, and had agreed to support it. The measure had been approved at Town Meeting. Mention was made that George Panagopoulos spoke very eloquently at Town Meeting as a Town Meeting member as also as a member of the ZBA.

**Town Planner**

Jeremy Rosenberger was introduced as the new Town Planner. He briefly spoke as to his employment history. The ZBA welcomed him.

**Minutes**

Greg Jacobsen made a motion to approve the minutes from the April 24, 2019 meeting. Scott Steeves seconded the motion, and all were in favor, 5-0.

A motion was made by Greg Jacobsen to adjourn the meeting at 8:45 pm, and the motion was seconded by Scott Steeves. All were in favor, 5-0.