

**TOWN OF DEDHAM
COMMONWEALTH OF MASSACHUSETTS**

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



Dedham Town Hall
26 Bryant Street
Dedham, MA 02026-4458
Phone 781-751-9242
Fax 781-751-9225

Jeremy Rosenberger
Town Planner
jrosenberger@dedham-ma.gov

**ZONING BOARD OF APPEALS
MINUTES**

Wednesday, June 19, 2019, 7:45 p.m., Lower Conference Room

Present: James F. McGrail, Chair
Gregory Jacobsen, Vice Chair
Scott M. Steeves
George Panagopoulos

Staff: Jennifer Doherty, Administrative Assistant

The meeting was called to order at 7:45 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.

The following two applications were heard together:

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:	<i>Town of Dedham Zoning Bylaw Section 4.1, Table 2 – Table of Dimensional Requirements</i>

- Representatives:**
- Edward J. Richardson, Esq., 339 Washington Street, Dedham, MA
 - Edward Musto, Principal, 94 Dedham Boulevard, LLC, 36 Blue Hill Drive, Westwood, MA

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 May 22, 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.

Attorney Richardson explained for history that there had been meetings with the neighbors to discuss the project, the original proposal was to build one home that was 3,000 sq. ft. and they could build that by right. They were asking for variances to build two homes instead. The neighbors were concerned because the homes in the area were roughly 1700 sq. ft. There were also concerns about the houses being too close to other people’s lots. Chairman McGrail asked how negotiations with the neighbors were going and had they come to an agreement. He asked who from the audience wished to speak.

Jeffrey Gallant of 100 Dedham Boulevard spoke and said he would rather have one house instead of the proposed two, he is also concerned with the drainage issues. Lynne Foley, 122 Garfield Road was also in favor of just one house, but she had a question as to which side it would be facing. Michelle McColgan of 74 Harding Terrace would like to see one house only built and she is concerned with the drainage. Rita Mae Cushman of 121 Garfield Road, would like to see just one house built there. George Cooper, 115 Garfield Road would like to see one house only built. At this point Chairman McGrail asked for a show of hands as to how many

people were in attendance for this hearing, and how many of them wished to have just one home built. Every person wanted just one house to be built. The following neighbors were also in attendance for this project: Enis Mattozzi, of 20 Emmett Ave, Janet Mattozzi of 20 Emmett Ave, Charlie Krueger of 11 Stafford Street, Diane Palombi of 99 Dedham Boulevard, Bruce Lovely of 17 Emmet Ave, Deirdre and George Zaferacopoulos of 171 Colburn Street were all in favor of one house being built instead of two.

Some discussion ensued as to how to proceed, if they should withdraw without prejudice, go back to speak with the neighbors, or proceed and be denied. It was decided to deny the applications.

Scott Steeves made a motion to deny a variance for 94 Dedham Boulevard, LLC for the lot at 94 Dedham Boulevard. The motion was seconded by Gregory Jacobsen, and all were in favor of denying the variance. 4-0 unanimous in favor of a denial.

Scott Steeves made a motion to deny a variance for a proposed lot at 108 and 122 Garfield Road. The motion was seconded by Gregory Jacobsen, and all were in favor of denying the variance. 4-0 unanimous in favor of a denial.

Mrs. Rita Mae Cushman wished to express that Mr. Musto had many meeting with the neighbors and he tried to do the best he could. She appreciated his efforts.

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:	<i>Town of Dedham Zoning Bylaw Section 3.1.6.B.5, Section 4.2.4, and Section 4.2.3.</i>
Representatives:	Representative Christopher H. Heep, Esquire

Chairman McGrail explained that the applicant was currently in discussions with the Town regarding this proposed tower, and therefore they would be postponing the hearing again until

the July 19, 2019 meeting. A motion was made by Greg Jacobsen to continue the hearing to the July 19, 2019 meeting, the motion was seconded by Scott Steeves, and all were in favor.

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
This was a continuance from the May 22, 2019 meeting. Attorney Keith Hampe announced that they wished to withdraw this application as they had submitted an amended application for an accessory dwelling unit with the Planning and Zoning office for the next meeting in July.

Chairman McGrail wished to make a statement regarding the proceedings at the last meeting in relation to this application. He has been upset at a comment that had previously been made and he wished to state that the comment did not sit well with him and he felt it was in bad taste.

A motion was made by Scott Steeves to withdraw without prejudice the application of 117 Cedar Street, and seconded by Gregory Jacobsen. All were in favor. 4-0 unanimously in favor of withdrawal without prejudice.

A member of the audience asked what an accessory dwelling was and it was explained to them.

Applicant: Convenient MD, LLC
Project Address: 983 Providence Highway
Zoning District: RDO
Legal Notice: The Zoning Board of Appeals for the Town of Dedham, Massachusetts, will hold a public hearing in the Town Hall

Office Building, Lower Conference Room 26 Bryant Street, Dedham, MA at 7:00 p.m., Wednesday, June 19, 2019 on the hearing of Convenient MD, LLC of 111 NH Avenue, Portsmouth, NH 03801. The Applicant is requesting such waivers from the provisions of the Dedham Sign Code as required for total sign area on the lot of approximately 752 Square feet, two (2) free-standing signs with a total sign area of approximately 150 Square feet, and wall signs with a height of 32 feet which will be above the lowest point of the roof and which are in excess of 5% of the wall area.

Section of Zoning Bylaw:

Town of Dedham Sign Code Sections 237-19, 237-29, 237-30, Table 1, and Table 2.

Representatives:

Peter A. Zahka, Esq.

At 7:20 p.m. the Chairman called for the hearing on the application of ConvenientMD, LLC, to be allowed such waivers from the provisions of the Dedham Sign Code as required for total sign area on the lot of 752 square feet, two (2) free-standing signs with a total sign area of 150 sq. ft., and wall signs with a height of 32 ft., which will be above the lowest point of the roof and which are in excess of 5% of the wall area. The property is located at 983 Providence Highway, Dedham, Massachusetts, in the Research, Development, and Office (RDO) Zoning District. *Town of Dedham Sign Code Sections 237-19, 237-29, 237-30, Table 1, and Table 2.*

The Applicant was represented by Peter A. Zahka, II, Esq., 12 School Street, Dedham, MA. Also present on behalf of the Applicant was Max Puyanic, CEO of ConvenientMD, LLC. With the Application, Attorney Zahka submitted a certified plot plan and drawings of the proposed building elevations and proposed signs. At the outset of the hearing, Applicant presented a revised “sign package” (discussed further below). The transcript from the hearing is the primary source of evidence and is incorporated herein by reference.

The Subject Property, shown on Dedham Assessors Map 148, Lot 70, contains 57,499 square feet of land and has frontage on Providence Highway and Elm Street totaling in excess of 400 feet. The Subject Property is owned by Avery Oak Realty, LLC, and is leased by Applicant. Located on the Subject Property is a single-story building with approximately 11,268 gross square feet of floor area (previously occupied by Walgreens). Also located at the Subject Property are two (2) free-standing signs: (a) an approximate 50 square foot free-standing sign for Holiday Inn (a business located on an adjacent property) and (b) an approximate 100 square foot free-standing sign

formerly used by Walgreens. According to the Dedham Zoning Map, the Subject Property is located in the Research, Development & Office (RDO) Zoning District.

The Dedham Sign Code (Chapter 237 of the Revised By-Laws of the Town of Dedham) sets forth the dimensional and other requirements for signs in the various zoning districts in the Town of Dedham. At the outset it should be noted that Footnote 2 to Table 1 and Footnote 10 to Table 2 of the Sign Code provides that lots in the RDO Zoning District with street frontage on Providence Highway are subject to the more liberal signage regulations for the Highway Business (HB) Zoning District. Section 237-19 of the Dedham Sign Code provides in pertinent part that “lots fronting on two or more streets are allowed the permitted sign area for each street frontage.” However, Footnote 2 to Table 1 also states that only frontage on a major highway may be used in computing the amount of signage allowed under HB regulations.

Applicant states that the above noted provisions of the Dedham Sign Code are conflicting, ambiguous and subject to various interpretations. For example, it is unclear as to whether the signs on the Subject Property are regulated pursuant to the Sign Code provisions for the HB Zoning District or partially by the provisions for the HB Zoning District and partially by the provisions for the RDO Zoning District. Applicant submits it should be regulated solely by the Sign Code provisions applicable to the HB Zoning District. (Applicant reports that it has consulted with the Dedham Building Commissioner who was in agreement that the above provisions are unclear and susceptible to different interpretations.)

Accordingly, the following dimensional requirements may be applicable to signs at the Subject Property (depending upon whether the HB or RDO Zoning District regulations are appropriate):

	HB Zoning District	RDO Zoning District
Maximum Total Sign Area	2 sf per foot of frontage (2 x 200' = 400 sf)	2 sf per foot of frontage (2 x 200' = 400 sf)
Maximum No. of Freestanding Signs	1	1
Maximum Area of Freestanding Signs	100 sf	40 sf
Maximum Height of Freestanding Signs	20 feet	12 feet
Maximum Area of Wall Signage	20% of wall area	5% of wall area

The Subject Property is allowed a total of 800 square feet of sign area (under both the regulations for the RDO and HB Zoning Districts) if based on the total frontage on Providence Highway and Elm Street. Due to the above described ambiguities in the Sign Code, however, Applicant has requested a waiver for a total sign area on the lot of 752 square feet. Also, as noted in the above chart, only one free-standing sign is allowed on a property with a maximum sign area of 100 square feet. There are currently two (2) existing free-standing signs on the Subject Property (one of which relates to the adjacent Holiday Inn and one previously utilized for Walgreens), and Applicant proposes to maintain the same (and utilize the former Walgreens' free-standing sign for its business). Therefore, Applicant has requested relief in order to maintain two (2) free-standing signs with a total area of 150 square feet.¹ In addition, as indicated in the above chart, wall signs in the HB District may have an area of 20% of the wall area, but wall signs in the RDO District may have an area of only 5% of the wall area. Again, due to the described ambiguous language in the Sign Code, Applicant has requested a waiver to allow all wall signs to be in excess of 5% of the wall area (i.e., for wall signs up to 20% of the wall area as allowed in the HB Zoning District).

Relative to the height of wall signs, Chapter 237-19 Section E (Computation of Sign Area and Height) of the Dedham Sign Code provides that, "No wall sign...shall extend higher than the lowest of (i) 25 feet above grade; or (ii) below the second-floor window frame; or (iii) the lowest point of the roof." The walls proposed by Applicant at the Subject Property extend to various elevations. A number of the wall signs will be 32 feet in height and above the lowest portion of (other parts of) the roof. Therefore, waivers have been requested from the height provisions under the Sign Code.

Relative to the relief requested from the provisions of the Dedham Sign Code, Applicant submits that it has satisfied the procedural and substantive criteria and requirements of said Sections 237-29 and 237-30 of the Dedham Sign Code. With respect to the procedural requirements, Applicant submitted appropriate documentation to the Design Review Advisory Board (DRAB). Prior to this ZBA hearing, Applicant appeared before DRAB to discuss the requested waivers. At that time, DRAB voted to approve and recommend Applicant's request for the waivers from the Dedham Sign Code. A copy of the DRAB letter of recommendation has been provided to the ZBA. It is noteworthy that DRAB further recommended that: (1) The 229.2 square foot wall sign facing

Ariadne Road (shown as sign no. 4 in the “sign package”) be “scaled down”, and (2) that the sign on the angled wall be re-worked. In response, Applicant has reduced the wall sign facing Ariadne Way to 174.2 square feet and has changed the sign on the angled wall to only include the words “Urgent Care”. The revised “sign package” submitted by Applicant at this hearing these revisions.

With respect to the substantive requirements, said Section 237-30 provides that the ZBA may grant waivers with a finding (a) that literal compliance... is not practical or is unfeasible or (b) that waivers are recommended by the DRAB. As indicated above, DRAB is recommending such waivers. In addition, since there are already two free-standing signs on the Subject Property (one which is for a business on an adjacent lot) literal compliance with the Sign Code is not practical and is unfeasible. Likewise, the previously described ambiguities in the Sign Code (with regards to a corner lot in the RDO Zoning District with frontage in the HB Zoning District) further make literal compliance unfeasible and not practical. The requested waivers may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Sign Code. Applicant’s business is providing medical relief and care to persons who may be travelling a distance and who are in distress. Appropriate signage to allow such persons to locate Applicant will be in the public good. Additionally, the total proposed sign area is appropriate for the site and consistent with previous businesses at the Subject Property. While not necessarily bound by prior decisions, the ZBA acknowledges that some similar waivers have previously been granted for the Subject Property.

No one appeared at the hearing in opposition of this Application.

Upon motion being duly made by Scott Steeves, and seconded by Gregory Jacobsen, the ZBA voted unanimously (4-0) to grant the requested waivers from the Town of Dedham Sign Code as required for total sign area on the lot of 752 square feet, two (2) free-standing signs with a total sign area of 150 sq. ft., and wall signs with a height of 32 ft., which will be above the lowest point of the roof and which are in excess of 5% of the wall area, in the Research, Development, and Office (RDO) Zoning District. In granting this relief, the ZBA finds (1) that Applicant has satisfied the procedural requirements set forth in the Dedham Sign Code, (2) that the relief is recommended by DRAB, (3) literal compliance with the Sign Code is not practical or is unfeasible (as

described above), and (4) that the waiver may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Sign Code.

Applicant: Marc-Danie Nazaire
Project Address: 170 Colburn Street, Dedham, MA
Zoning District: SRB
Legal Notice: The Zoning Board of Appeals for the Town of Dedham, Massachusetts, will hold a public hearing in the Town Hall Office Building, Lower Conference Room, 26 Bryant Street, Dedham, MA at 7:00 p.m., Wednesday, June 19, 2019 on the hearing of Applicant Marc-Danie Nazaire, 170 Colburn Street, Dedham, MA The applicant requests a Special Permit to be allowed to convert a single-family residence to a two-family in accordance with the Town of Dedham Zoning Bylaw 7.2 and a variance to allow the two-family residence to exist on a lot having 8,000 square feet instead of the required 18,750 square feet.

Section of Zoning Bylaw: *Town of Dedham Bylaws: Section 7.2.1, Conversion of Single Family to a Two Family Dwelling, Table 1, Principle Use Regulations, and Section 9.3, Special Permits.*

Representatives: Keith P. Hampe

Attorney Keith P. Hampe was in attendance along with the applicant Marc-Danie Nazaire. Attorney Hampe gave some background information on the property. He explained that it used to be a variety store and therefore had two egress and ingress. Since the Applicant bought the property in 2017 she has not operated it as a variety store. She wishes to convert the old variety store to an apartment, and keep the original house as a rental as well. Attorney Hampe felt that if the property no longer had a commercial use that it would reduce traffic to the site. They would not allow more than two people to occupy the apartment if converted, and the house portion had four bedrooms. As the client is looking to renovate the property, they also felt this would increase the desirability of the property as it was currently in disrepair. Chairman McGrail asked if anyone on the Board had a question, and Gregory Jacobsen asked about the number of bedrooms in both units again, and then asked about the number of cars that could be parked there. Mr. George Panagopoulos stated that two residents had asked him to convey their messages to the Board as they had been unable to stay for the entire meeting. Resident Stephen Heaslip of 82 Whitehall Street and Jason Brogan of 5 Ware Street had asked Mr. Panagopoulos to state they were in opposition of the variety store

being converted to an apartment, they wished there was too much density in their neighborhood and they did not want to set a precedence.

The Chairman asked if there were any members of the public who wished to speak. Charlie Kruger of 11 Stafford Street spoke. He began by addressing Attorney Hampe's statement concerning the East Dedham Revitalization Committee. He was in disagreement with Attorney Hampe. He felt the previous convenient store would not be suitable to an apartment, and he was concerned about parking for the property as well. He was against the property being converted to a two family. Attorney Hampe clarified his statement concerning the East Dedham Revitalization Committee.

Deirdre Zeferacopoulos of 171 Colburn Street spoke in opposition of the property being converted to a two family. She is very concerned about parking at the property, she stated there are too many cars parking there already. She stated that the applicant had been there for three years and had not improved the property. In addition she stated there was a pool in the back yard that was neglected and she was very concerned about children getting in there accidentally. She said that East Dedham had worked very hard to gain respect and improve their neighborhood, and she wanted people who were going to invest in their neighborhood, she did not feel the applicant had done so.

Mrs. Enis Mattozzi of 20 Emmet Avenue spoke in opposition to the property being converted to a two family. She felt there was a large parking and traffic issue there and that the area should be a single family zone.

Bruce Lovely, 17 Emmet Avenue, was in opposition to the property being converted to a two family. He was concerned about the parking.

Walter LeBlanc, 181 Colburn was against the proposal.

Attorney Hampe asked to continue the hearing until the next date. Mr. McGrail stated that they are not prepared to support the application, and he understood that Attorney Hampe wished for time to speak to his client. He continued by explaining that the East Dedham community had spent a lot of time to improve their community, and no other area had worked harder to make their neighborhood a better place.

Gregory Jacobsen made a motion to continue the hearing until the July 17, 2019 meeting, and Jim McGrail seconded the motion. All were in favor, 4-0. The hearing will be continued to the July 17, 2019 meeting.

Gregory Jacobsen made a motion to approve the minutes of May 22, 2019. The motion was seconded by Scott Steeves, and all were in favor, 4-0.

Chairman McGrail briefly explained the new Town Planner, Jeremy Rosenberger was putting into place some more formal processes. He had asked the Board to sign a paper that shows an extension of a hearing. It is a formality that protects the Board.

Gregory Jacobsen made a motion to adjourn the meeting, the motion was seconded by Scott Steeves, and all were in favor. 4-0. The meeting was adjourned at 8:45 p.m.