

James F. McGrail, Chairman
J. Gregory Jacobsen, Vice Chairman
Scott M. Steeves
E. Patrick Maguire, MLA, RLA, CLARB, LEED AP®
Jason L. Mammone, P.E.

Associate Members
Jessica L. Porter
Jared F. Nokes, J.D.



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

Susan Webster
Administrative Assistant
webster@dedham-ma.gov

TOWN OF DEDHAM ZONING BOARD OF APPEALS MINUTES

Wednesday, March 1, 2017, 7:00 p.m., Lower Conference Room

Present and Voting: J. Gregory Jacobsen, Vice Chairman
Scott M. Steeves
E. Patrick Maguire, MLA, RLA, CLARB, LEED AP®
Jason L. Mammone, P.E.
Jessica L. Porter
Susan Webster, Administrative Assistant

Mr. McGrail was not present for this meeting. Mr. Jacobsen assumed the chair and called the meeting to order at 7:00 p.m. Associate Member Jessica L. Porter was chosen to sit in place of Mr. McGrail. 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. In addition, the legal notice for each hearing was read into the record.

Applicant: DRX UC Dedham, P.C., d/b/a Doctors Express
Property Address: 370 Providence Highway, Dedham, MA
Case #: VAR-01-17-2180
Property Owner: OCW Retail – Dedham II, LLC, c/o The Wilder Companies
800 Boylston Street, Suite 1300, Boston, MA 02199
Zoning District and Map/Lot: Central Business, 93/2
Application Date: January 4, 2017
Present and Voting: J. Gregory Jacobsen, Scott M. Steeves, E. Patrick Maguire, MLA, RLA, CLARB, LEED AP® Jason L. Mammone, P.E., Jessica L. Porter
Representative: Joe DiRuzza, Signarama, 184 Broadway, Suite 11, Saugus, MA 01906
Legal Notice: To be allowed a waiver from the Town of Dedham Sign Code for internal illumination and sign height for wall signs that are higher than the lowest roofline on some portions of the building. Sign area will be reduced on Providence Highway from 78 square feet to 58 square feet and from 30 square feet to 19 square feet on the side of the building. Total sign area is 4.3% of wall area on Providence Highway and 3.2% of wall area on the side of the building.
Section of Sign Code: Town of Dedham Sign Code Sections 237-18C and 237-19E
Time: 7:00 to 7:09 p.m.

Doctors Express is re-branding the signs by removing the caduceus and replacing it with crossed Band-Aids and changing the signs to read "Urgent Care." They will be internally lit with LED. The size will be decreased. It is a little more modern and streamlined. The hours for illumination will be Monday through Friday, 8 a.m. to 8 p.m., and Saturday and Sunday 8:00 a.m. to 5 p.m. The sign will be on a timer set to go off one-half hour after the close of business. The new wall signs will be in the same locations as the old ones, which were approved on 12/9/13:

Upon motion being duly made by Mr. Steeves and seconded by Mr. Jacobsen, the ZBA further voted unanimously to grant the requested waivers and relief from the provisions of the Dedham Sign Code to allow internally illuminated wall signs, for wall signs that are above the roof line of other portions of the building, and for a wall sign that is 6% of the wall area for the property located at 370 Providence Highway.

---Zoning Board of Appeals Decision VAR-12-12-1609

Mr. Steeves moved to approve a waiver from the Town of Dedham Sign Code for internal illumination and sign height for wall signs that are higher than the lowest roofline on some portions of the building. Sign area will be reduced on Providence Highway from 78 square feet to 58 square feet and from 30 square feet to 19 square feet on the side of the building. Total sign area is 4.3% of wall area on Providence Highway and 3.2% of wall area on the side of the building. Ms. Porter seconded the motion. The vote was unanimous at 5-0.

Applicant:	Fabiana Oliveira
Property Address:	31 Colonial Drive, Dedham, MA
Case #:	VAR-01-17-2181
Property Owner:	Fabiana and Roberto Afonso Oliveira
Zoning District and Map/Lot	Single Residence B, 79/165A
Application Date:	January 13, 2017
Present and Voting:	J. Gregory Jacobsen, Scott M. Steeves, E. Patrick Maguire, MLA, RLA, CLARB, LEED AP® Jason L. Mammone, P.E., Jessica L. Porter
Representative:	Keith P. Hampe, Esq., 411 Washington Street, Dedham, MA
Legal Notice:	Appeal of Building Commissioner's determination that the real estate known and numbered as 31 Colonial Drive, Dedham, MA, is a two-family dwelling and for a determination that said dwelling is a single family dwelling.
Section of Zoning Bylaw:	<i>Town of Dedham Zoning Bylaw Section 9.2.2 (3), Table 1</i>
Time:	7:10 – 7:19 p.m.

Mr. Hampe is before the Board for an appeal of Building Inspector Fred Johnson's determination that 31 Colonial Drive is a two-family dwelling, and for determination that the dwelling is a single family dwelling. Mr. Johnson, who was present at the hearing, had inspected the house as a result of a building permit having been filed to renovate the lower area of the dwelling, including renovation of an existing second kitchen. The previous owner had made alterations without permits, particularly conversion of the lower area into an apartment with a door at the bottom of the common stairway. The Oliveiras were advised to seek a determination from the Zoning Board of Appeals that the dwelling is a single family dwelling.

Ms. Oliveira and her family bought the home in 2014. She said the dwelling has always been a single family dwelling during their ownership. In Mr. Johnson's letter, the Building Department in most instances considers installation of a second kitchen to be the deciding factor in the creation of a dwelling unit. In addition, the Zoning Bylaw requires independent living quarters that are physically separated from other dwelling units. The Applicant has removed the door at the bottom of the common stairs, and has no intention of replacing it. Her brother-in-law will be living in that part of the house, but not as an apartment. Mr. Hampe explained that under a design test, the dwelling was constructed as a single family raised ranch in the Single Residence B zoning district. There are single utility meters. The lower level kitchen is no longer closed off from the rest of the house now that the door at the bottom of the stairs has been removed. The home uses the same entrances and exits.

Mr. Johnson said the property was created as an illegal apartment previously. As long as there is free flow and one living space, it is fine to document this as a single family dwelling. If the door is taken out, that would satisfy him. There are plenty of instances like this, and the Building Department does not have a problem with a second kitchen unless the area is closed off to make a two family.

Mr. Steeves moved that the Zoning Board of Appeals determines that 31 Colonial Drive is a single family dwelling with removal of the door so that there is free flow between upper and lower floors, and a second kitchen be allowed. Ms. Porter seconded the motion. The vote was unanimous at 5-0.

Applicant:	Dedham Wings, LLC
Property Address:	850 Providence Highway, Dedham, MA
Case #:	VAR-01-17-2182
Property Owner:	850 Providence
Zoning District and Map/Lot	Highway Business, Map 149, Lot 1
Application Date:	January 18, 2017
Present and Voting:	J. Gregory Jacobsen, Scott M. Steeves, E. Patrick Maguire, MLA, RLA, CLARB, LEED AP® Jason L. Mammone, P.E., Jessica L. Porter
Representative:	Colin Parker, VP of Operations, 2189 Silas Deane Highway, Rocky Hill, CT 06067
Legal Notice:	To be allowed a waiver from the Town of Dedham Sign Code for a sign that will be higher than the existing roof line.
Section of Sign Code:	<i>Town of Dedham Sign Code Section 237-19E</i>
Time:	7:20 to 8:11 p.m.

The sign in question is on the front of the building. The Design Review Advisory Board approved everything except this sign. The sign facing Route 1 does not conform to the Sign Code because the roof line is the lowest point, which would then become the highest point allowable for the sign. The previous tenants, Bugaboo Creek and Summer Shack, had signs like this one. Mr. Parker was involved with signage for the Shrewsbury restaurant in 2015, which was consistent with their bylaw. This was the first time he had seen this bylaw. Dedham allows a large amount of square footage, but they did not take advantage of it all. The previous tenant had come before the ZBA as well. Mr. Maguire said this part of the Sign Code needs more direction.

Mr. Maguire said the pylon sign has been the same for quite some time. The location is in an obvious place for a sign. He wondered if a compromise could be reached because no matter what business is there, this is the appropriate place for a sign, but it would not comply with the ZBL. The Board sees similar petitions throughout the year, and he thinks the Sign Code should be modified for this condition. Mr. Parker said that if they had squared off the building, the sign could be moved to the left and not require relief. The roofline would be much higher and would satisfy the Sign Code, but this would cost about \$60,000, and they are trying to avoid spending that much. The sign could be moved over to the left without ZBA approval, but it would require removal of the awning and a smaller sign. He noted that the owl would not be on the wall sign. There is a monument/directional sign at 75 McNeil Way, and the existing two-sided pylon sign.

The Hooters sign on the pylon is the same size as the Summer Shack sign. Mr. Maguire suggested reducing the square footage of the pylon sign, or make it a more attractive, appropriate sign. He called it a monstrosity and “frankly horrible,” and wondered if it could be made better. In addition, Legacy Place has a pylon sign very close to this one. Mr. Parker said the tenants do not have much control over the sign. The pylon pre-dated the Legacy Place sign, which is of similar size, but had to be moved because Legacy Place’s sign was right in front of it; this cost \$100,000. He said the pylon sign is integral to his business, and at the rent they are paying (almost \$300,000 a year), they expect to be able to use it. Mr. Steeves agreed with Mr. Maguire about working on the existing pylon sign.

Mr. Maguire suggested that Mr. Parker speak with the landlord about doing something with the pylon sign to improve it. Considering what the rent is for a year, some accommodations on the sign would be well worth the landlord’s trouble. He also asked that the landlord come to the next meeting; Ms. Webster will write him a letter. Mr. Parker said the pylon sign serves a far greater purpose to them than the building sign, but the building sign has an important purpose as well. The reason there is such mystique and concern among residents, which he felt is unfounded, is because of the name. They want to do everything they can to take full advantage of what they are allowed to do.

Ms. Porter agreed with Mr. Maguire and Mr. Steeves about the size of the pylon. She said it would be hard to set a precedent in approving this, particularly because the Applicant does not need the sign facing Providence Highway as a directional aid. Even if the Board granted the wall sign, it would start at more than five feet above the roofline. She wondered if the sign could be at the bottom of the roofline or moved over. She said she received at least eleven e-mails from people against the petition. She did not know if it was the name, the concept, or something else that sparked this. A lot of the Town was very vocal in opposition to the restaurant, and it has not been a successful location for restaurants to date. She said she would prefer that the building be used in a different, better way. She said that granting variances and keeping “huge, ugly signs” when it is not necessarily the best use of the space is hard. Mr. Parker said that the State court determined that it is an existing use; however, he is not here to talk about the use. The Board had already granted it previously. He hoped that it would do so again and not because of the name.

Mr. Maguire is not offended by Hooters at all. He hoped that they will be successful because the Town would benefit. However, he is offended by the pylon sign. In the past, there was an attempt to combine the Legacy Place sign and this pylon sign, but it was unsuccessful. There have been a number of signs along Route 1 that have gradually changed for the better. Mr. Steeves agreed and said there is a much better way than this pylon sign. Mr. Mammone asked Mr. Parker whether the sign would be put somewhere else if the Board did not grant the waiver and efforts to work

with the landlord were in vain. He said that by right, it can be put somewhere else, and asked if Hooters would put up a new one instead. Mr. Parker said they would not do that out of spite. One of the signs will go up, regardless of the decision. Hooters is very amenable to working this out.

Michael Cocchi, 188 Walnut Street, agreed that this is not the forum to discuss whether Hooters should come to Dedham, although he noted that a petition signed by over 500 residents was submitted in opposition to Hooters. Despite this and the Board of Selectmen's efforts, Hooters pursued the matter with the State, which overturned the issue. To hear about these signs and to hear Hooters asking for a waiver to increase or add to what is already a fairly unattractive situation on Route 1 is particularly troubling to him. From a purely aesthetic standpoint, he asked the Board not to grant the petition, noting that the Board is under no obligation to grant a waiver to a company that really has not heard the message that the Town tried to prevent it coming to town. It is not the right fit for Dedham for a lot of reasons, but asked the Board to consider denying the waiver.

Mr. Maguire asked if he had written a letter in opposition, and Mr. Cocchi said he had not since he was coming to the meeting. Mr. Maguire thanked him for coming, and said he wished that the people who wrote letters actually came to the meeting. He said that if it was so important to people, they should follow the postings for the ZBA. Signage issues come up all the time. If people are concerned about this because it is Hooters, he thought it shallow to write a letter if they were not concerned when it was Summer Shack or Doctors Express. If they want to be involved, they should be involved; do not write the letter and not show up to the meeting, or come just for things that provoke outrage. People should come just for things that do not get them outraged, but for issues about which they are concerned. Mr. Cocchi said he would imagine that a lot of people may not have come because of other issues. He blamed the website for not being clear about when things are happening. Ms. Webster explained how to use the website. He said it has gotten better, but it had not be entirely transparent for a long time. He said he feels strongly about the entire aesthetics of that area, but admitted that he has a particular issue with the brand. He began to explain the sexism and prejudicial aspects, but Mr. Jacobsen stopped him, saying that this is not the point, and only signs are being discussed. Mr. Maguire said that was exactly his point: it is shallow to come in opposition to this if people are not willing to come and be opposed to similar things. Mr. Jacobsen said that Hooters, as a matter of right, can still put up the sign if it is reduced.

Allison Staton, 30 Woodleigh Road, had sent a letter to the Board in opposition of the waiver. She finds Hooters offensive as a woman and as the mother of a 12-year-old girl. She asked what kind of message is the Town sending that this kind of sign is what she will see, and what it says about the Town that allows a business that takes advantage of women's bodies to make a profit. She respectfully asked that the Board not grant the waiver.

Roberta Lawlor, 145 Walnut Street, agreed with what had been said. She said the height requirement is there for a reason. If the sign is starting at five feet above, she would think there has to be a really compelling reason for the waiver. They signed the lease and made an agreement to pay rent, and she suspected that they looked into the requirements for signage when they entered into the agreement. She said there is an existing "somewhat ugly" sign, and asked if they could do it in another place, perhaps at the roofline or below. She said that if it has to cost more money, they should have gone into the agreement with eyes wide open. She has not heard anything compelling in them coming in at this stage and wanting a height waiver. She asked the Board not to grant the waiver.

Clarissa Robyn, 278 Whiting Avenue, agreed with everything that had been said. She did not hear a compelling enough reason to grant the waiver. She understood that it was granted for Summer Shack, and agreed that the ZBL needed to be researched and changed. However, she was part of the group, over 500 residents, who were in opposition to this establishment. She does not want these types of establishments coming in to Town and influencing her son in the wrong way. She acknowledged that it is over and done with, and understood that it was going to open. She did not think that the Applicant should be given extra exceptions for the wall sign because they are in it to make money. She said they should have looked into the signage before signing the lease. She said that most of the Town is not for Hooters being here, and she said that no exception should be made for a bigger and higher sign to attract more people.

Mr. Maguire said that this hearing has nothing to do with the pylon sign, and they do not need approval to do that. His point is that if they are going to do the wall sign, they should also try to fix the pylon. Mr. Parker clarified his statement that Hooters is in this to make money. He said this is obvious. He was trying to be honest with Mr. Maguire about advocating reduction of the size of the wall sign. With intense competition in the market, they are trying to work within their margin. It is an expensive property. They did not think it would take this long to open the restaurant, and there were a lot of things to work through to get to the State level, who decided about the use. As a result, several months of rent were added to the project in which they could not do anything. He wondered if there would be ten or eleven letters in opposition if it was a different restaurant, and believed it comes down to the name. They are actually looking for a reduction in the height of the wall sign compared to Summer Shack. Ms. Porter said it looks like larger square footage, and Mr. Parker said it might be; their designer did not do an analysis on the Summer Shack sign. Ms. Porter then asked if the owl could be taken off the sign, and Mr. Parker said he supposed it could, but it would require the franchise to look at the branding components to the sign package.

Mr. Parker summarized by saying that Hooters is before the ZBA for a waiver for the wall sign because it is above the roofline. He noted that Doctors Express, the first hearing of the evening, also had this issue and was approved. Mr. Maguire, without saying he would be okay with the sign, said that if it was not internally illuminated orange, if it was a nonilluminated sign that was down-lit, it would be a big improvement.

After very lengthy discussion, Mr. Steeves moved to continue the hearing to March 15, 2017, and to request that the landlord be present for this. Ms. Porter seconded the motion. The vote was unanimous at 5-0. Ms. Porter will not be available for that meeting, so Ms. Webster will send the minutes and the application to Chairman McGrail so he will be up to speed on it.

Applicant:	Andrew Spognardi and Mary Davis
Property Address:	42 Manning Road, Dedham, MA
Case #:	VAR-12-16-2172
Property Owner:	Andrew E. Spognardi, Jr. et ux and Kevin C. Davis et ux
Zoning District and Map/Lot	Single Residence B, 147/51
Application Date:	December 8, 2016
Present and Voting:	J. Gregory Jacobsen, Scott M. Steeves, E. Patrick Maguire, MLA, RLA, CLARB, LEED AP® Jason L. Mammone, P.E., Jessica L. Porter
Representative:	None

Legal Notice:

To be allowed a Special Permit for an existing accessory dwelling unit that has lapsed.

Section of Zoning Bylaw:

Town of Dedham Zoning Bylaw Section 7.7 Special Residential Regulations, Section 9.3.5 Special Permits Conditions

Mr. Jacobsen opened the hearing. This Applicant did not come to the meeting. Ms. Webster will be in touch with them to reschedule their petition. Mr. Mammone moved to continue this hearing until March 15, 2017, seconded by Ms. Porter, and voted unanimously 5-0. This is the second time the Applicant did not come in.

Review of Minutes: Mr. Steeves moved to approve the minutes from January 18, 2017, seconded by Mr. Mammone. The vote was unanimous, 5-0.

Appointment to the Dedham Square Master Plan Study: Mr. Steeves moved to appoint Jessica L. Porter to the Dedham Square Master Plan Study, seconded by Mr. Mammone, and voted unanimously.

Mr. Mammone moved to adjourn, seconded by Mr. Steeves, and voted unanimously. The meeting ended at 8:15 p.m.

Respectfully submitted,

Susan Webster
Administrative Assistant