

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  
[swebster@dedham-ma.gov](mailto:swebster@dedham-ma.gov)

## TOWN OF DEDHAM ZONING BOARD OF APPEALS MINUTES

Wednesday, July 19, 2017, 7:00 p.m., Lower Conference Room



**Present and Voting:** James F. McGrail, Esq., Chairman  
J. Gregory Jacobsen, Vice Chairman  
Scott M. Steeves  
E. Patrick Maguire, MLA, RLA, CLARB, LEED AP®  
Jared F. Nokes, J.D.

**Staff:** Susan Webster, Administrative Assistant

Mr. McGrail called the meeting to order at 7:00 p.m. 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. Member Jason L. Mammone, P.E., was not present for this meeting. Chairman McGrail appointed Associate Member Jared F. Nokes, J.D., to sit in his stead.

<b>Applicant:</b>	<b>Richard Howdy</b>
<b>Property Address:</b>	<b>397 Whiting Avenue, Dedham, MA</b>
<b>Case #:</b>	<b>VAR-06-17-2242</b>
<b>Property Owner:</b>	Richard Howdy, 35 Heritage Hill, Dedham, MA
<b>Zoning District and Map/Lot</b>	General Residence, Map[ 128, Lot 81
<b>Application Date:</b>	June 16, 2017
<b>Present and Voting:</b>	James F. McGrail, Esq., J. Gregory Jacobsen, Scott M. Steeves, E. Patrick Maguire, MLA, RLA, CLARB, LEED AP®, Jared F. Nokes, J.D.
<b>Representative:</b>	Paul Lindholm, P.E., 80 Tarbox Street, Dedham, MA Richard Howdy, Owner
<b>Legal Notice:</b>	To be allowed 68 feet of frontage instead of the required 90 feet, and lot area of 10,781 square feet instead of the required 11,000 square feet.
<b>Section of Zoning Bylaw:</b>	<i>Town of Dedham Zoning Bylaw Section 4.1 Table of Dimensional Requirements</i>

This property is located at 397 Whiting Avenue, has a lot area 10,781 square feet, and frontage of 68 feet. It is located in the General Residence zoning district. The house was built in 1880. The existing house is within five feet of the sideline, off to one side. Mr. Howdy recently bought the house, and wants to take it down and build a two-family dwelling. The existing house is in horrific condition as noted in pictures that have been submitted, and cannot be saved due to the extent

of damage. Mr. Howdy has checked the neighborhood, and there are a number of multi-unit projects in the area. This project will be in harmony with the neighborhood. He has also submitted a petition in support that has been signed by a dozen neighbors:

James Raftery	Owner, 177 River Street
David Raftery	408 Whiting Avenue
Jose A. Obando	403 Whiting Avenue
Danielle Arenda	405 Whiting Avenue
Brian Lamb	166 River Street
Albert F. Powers, Jr.	389 Whiting Avenue
Patricia Balzarini	385 Whiting Avenue
Kostas Moustakis	240 River Street
Leslie Anderson	386 Whiting Avenue
Mark Ingemi	422 Whiting Avenue
Rhonda Brown	414 Whiting Avenue
Linda Driscoll	23 Dale Street

Mr. Steeves, who lives nearby and runs by the property regularly, said it will be nice to see the neighborhood cleaned up. The existing house is a real eyesore. No one spoke on behalf of or against the petition.

Mr. Steeves moved to allow 68 feet of frontage instead of the required 90 feet, and lot area of 10,781 square feet instead of the required 11,000 square feet at 397 Whiting Avenue. Mr. Jacobsen seconded the motion. The vote was unanimous to approve at 5-0.

<b>Applicant:</b>	<b>William McCaig</b>
<b>Property Address:</b>	<b>25 Trimount Street, Dedham, MA</b>
<b>Case #:</b>	<b>VAR-05-17-2234</b>
<b>Property Owner:</b>	William and Kathleen McCaig, 25 Trimount Street, Dedham, MA
<b>Zoning District and Map/Lot</b>	General Residence, Map 7, Lot 11
<b>Application Date:</b>	May 19, 2017
<b>Present and Voting:</b>	James F. McGrail, Esq., J. Gregory Jacobsen, Scott M. Steeves, E. Patrick Maguire, MLA, RLA, CLARB, LEED AP, <sup>®</sup> Jared F. Nokes, J.D.
<b>Representative:</b>	None
<b>Legal Notice:</b>	To be allowed a rear yard setback of 11 feet instead of the required 20 feet to enlarge and square off the kitchen area.
<b>Section of Zoning Bylaw:</b>	<i>Town of Dedham Zoning Bylaw Section 4.1, Table of Dimensional Requirements</i>

No one appeared at the designated time for this hearing. Ms. Webster had contacted the Applicant by e-mail, and was told that Mr. McCaig would be present for the meeting. On June 23, 2017, she received an e-mail from Kathleen McCaig stating that they had decided to put the project on hold and were therefore requesting withdrawal without prejudice. Mr. Jacobsen moved to allow the withdrawal without prejudice, seconded by Mr. Steeves. The vote was unanimous at 5-0.



<b>Applicant:</b>	<b>Boston Bread, LLC, d/b/a Panera Bread</b>
<b>Property Address:</b>	<b>725 Providence Highway, Dedham, MA</b>
<b>Case #:</b>	<b>VAR-05-17-2237</b>
<b>Property Owner:</b>	Federal Realty Investment Trust, 450 Artisan Way, Suite 320, Somerville, M 02145
<b>Zoning District and Map/Lot</b>	Highway Business, Map 122, Lot 1
<b>Application Date:</b>	May 22, 2017
<b>Present and Voting:</b>	James F. McGrail, Esq., J. Gregory Jacobsen, Scott M. Steeves, E. Patrick Maguire, MLA, RLA, CLARB, LEED AP, <sup>®</sup> Jared F. Nokes, J.D.
<b>Representative:</b>	Graham Theodore, Panera Bread
<b>Legal Notice:</b>	To be allowed waivers from Dedham Sign Code for four (4) signs mounted above the roofline on the northeast wall of the building, three (3) signs mounted above the roofline on the southeast wall of the building, and five (5) additional free-standing signs on the property, over the present amount of existing free-standing signs, i.e., a preview board for the drive thru, a speaker canopy, a menu board, a <i>Do Not Enter</i> sign, and a <i>Thank You</i> sign. <i>Town of Dedham Sign Code Section 237-19E and Section 237 Attachment 2</i>
<b>Section of Zoning Bylaw:</b>	<i>Town of Dedham Sign Code Section 237-19E and Section 237 Attachment 2</i>

This is a continuation from a hearing held on June 21, 2017. Graham Theodore represented Panera as the Director of Operations; Jason Berg had previously spoken on behalf of the Applicant.

There were errors on the legal ad, i.e., they requested three signs mounted above the roofline on the northeast wall of the building; this was incorrectly listed as four. They requested one wall sign above the roofline on the northwest wall; this was incorrectly listed at three. The application requested a window sign on that elevation as well, did not clarify this. The location of the roofline was not shown, and the locations of the signs listed on the application were also not indicated. Ms. Webster attempted to put these locations on the renderings provided by the Applicant to help clarify the locations, which were shown as:

**Signs Above the Roofline:**

- On the northeast side, the Applicant wants to put two signs above the roofline, which is used to shield the view of mechanicals on the roof.
- On the northwest side, the Applicant wants to put one wall sign above the roofline.
- On the southeast side, the Applicant wants one wall sign above the roofline.
- On the southwest side, the Applicant wants to put one wall sign above the roofline, and one *Drive Thru* wall sign.

**Miscellaneous Signs:**

- On the northeast, the Applicant wants a window sign.



- On the southwest side on the ground, the Applicant wants a preview board, a menu board, a speaker, and a canopy.
- On the northeast corner on the ground, the Applicant wants a double-sided sign saying *Do Not Enter* and *Thank you*.

This yields five wall signs and six ground signs.

Mr. McGrail said there was confusion on the application itself, making it difficult for the Board to discern exactly what the Applicant wanted. When he tried to match the list of signs to the renderings, it does not match. In addition, there was no clear indication of where the roofline is. He went through the application very carefully, confirming each one with Mr. Theodore. The Applicant only asked for five ground signs, but there are six. Mr. Theodore said he has an e-mail written to Mr. Berg by Administrative Assistant Susan Webster. She went through all the signs and numbered them on the renderings. There are ten total signs; the Applicant had asked for 12, according to Mr. McGrail.

Mr. McGrail said the issue is that the Applicant is changing what he is asking for. He should have filed a new application. Mr. Berg said he would clarify the signage. Based upon his clarification and based upon what his original application was, the Board can approve some of the signs, but it cannot approve all of them. Mr. Theodore said he is brand new to this, and he is confused. Mr. McGrail explained that an application asks for something. The Board can give less than what is asked for, but it cannot give more. In essence, the application asked for four signs in the northeast, three signs in the southeast, and five free-standing signs. What was asked for matters; it is not just the number but the location. The application shows four signs in the northeast, but the rendering only shows two; therefore, the Board can approve two signs. According to the application, the Board could grant up to four signs or less than four on the northeast. The Board cannot grant anything on the northwest because it was not advertised. The Applicant asked for three on the southeast; they only asked for one. The Board can grant one if they so choose. The Applicant said there are five free-standing signs, but Mr. McGrail counted six. He said the Applicant should choose which five he wants. This is all the Board can do under the law. The Applicant can return with a different application and ask for the rest of the signs.

Mr. McGrail explained what approvals they could seek this evening:

- Two signs in the northeast
- One sign in the southeast
- Five free-standing signs

The process of resubmission of another application was explained to Mr. Theodore. Ms. Webster will determine whether he can make the August 16, 2017, meeting; this depends on whether the application is submitted in time for publication. Mr. Maguire said that there is no shovel in the ground, and there is no time crunch for getting approval of the signs. He did not see a problem with this getting done. If it has to wait until September, it will not cost the Applicant anything. Mr. McGrail agreed, saying they would be better off having a clean sign package. Mr. Theodore agreed.

Mr. McGrail said the hearing will be kept open in anticipation of the new application. Mr. Steeves moved to continue the hearing, seconded by Mr. Jacobsen, and voted unanimously, 5-0.

### **New Business**

Mr. Howdy and Mr. Lindholm returned to the hearing room with Building Commissioner Kenneth Cimeno, who they met in the parking lot. Mr. Cimeno noted that the frontage requirement of 68 feet was approved, but the application did not request relief for lot width in the front and the rear. It had unfortunately not been reviewed by Mr. Cimeno prior to the hearing. It is the same as the frontage requirement. He wondered if the Board could approve this. Mr. McGrail asked if the Applicant needed to return for additional relief since the Board granted what he asked for. Mr. Cimeno said relief also needs to be granted for the lot width at the front of the building line. Mr. Howdy will file a new application and be seen again on August 16, 2017.

### **Review of Minutes**

Mr. Jacobsen moved to approve the minutes of May 17, 2017, and June 21, 2017. Mr. Steeves seconded the motion. The vote of the Board was unanimous at 5-0.

Mr. Steeves moved to adjourn, seconded by Mr. Jacobsen, and voted unanimously 5-0. The meeting ended at 7:45 p.m.

Respectfully submitted,



Susan Webster  
Administrative Assistant