

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.



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**TOWN OF DEDHAM
 ZONING BOARD OF APPEALS MINUTES
 Wednesday, August 16, 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. In the absence of Member Jason L. Mammone, P.E., Mr. McGrail appointed Associate Member Jared F. Nokes, J.D., to sit in his stead.

Mr. McGrail announced that Jack Kearney, who was the chairman of the Zoning Board of Appeals for over 30 years, recently passed away. He was a long-time resident of Dedham, and the attorney on the Board. He was very involved in the Town as well. He asked for a moment of silence in his memory.

Applicant:	Robert A. Jenks, Jr., Midway Restaurant
Property Address:	269 Washington Street, Dedham, MA
Case #:	VAR-07-17-2252
Property Owner:	RJ Realty Trust, Robert A. Jenks, Jr., Trustee, 269 Washington Street, Dedham, MA 02026
Zoning District and Map/Lot	Highway Business, Map 93, Lot 5
Application Date:	July 31, 2017
Present and Voting:	James F. McGrail, Esq., J. Gregory Jacobsen, E. Patrick Maguire, MLA, RLA, CLARB, LEED AP®, Scott M. Steeves, Jared F. Nokes, J.D.
Representative:	Robert A. Jenks, Jr.
Legal Notice:	To be allowed waivers from the Town of Dedham Sign Code for additional sign area from 108 square feet to 132 square feet, which includes a 2' x 38' existing wall sign, a new pylon sign with a proposed sign area of 55 square feet, a waiver from the setback to replace an existing pylon sign with a

	sign with the same sign area, and replacement of an existing sign panel that reads “Restaurant” with an LED Reader Board.
Section of Sign Code:	Town of Dedham Sign Code Section 237, Attachment 3, Table 2 Sign Dimensions and Location, Section 237-26E Sign Area

Mr. Jenks is looking to reface the existing signage. The pylon sign is in need of repair because it is leaning over. The LED reader board is the same size as the existing sign. It will show daily specials, what is going on over the week, and advertising live music. Mr. McGrail said the application says that he is changing the sign area from 132 square feet to 108 square feet. Mr. Jenks’ letter said the existing sign would remain the same size, and only the face of each side would be updated. Mr. Jenks said the sign area includes the front of the building, but this will not be changing. The size will not change at all. The pylon will stay the same, but will be straightened and painted. He has been before the Design Review Advisory Board, who recommended the signage; a copy of the recommendation letter is in the folder. No one in the audience spoke in favor or against the petition.

Mr. McGrail did not understand why he was before the Board, but Mr. Jenks said that Building Commissioner Kenneth Cimeno wanted to solve some loose ends. Mr. McGrail said the Board should approve the petition with the caveat “provided the Applicant actually needs the requested relief for any elements.” Mr. Maguire moved to allow waivers from the Town of Dedham Sign Code for additional sign area from 108 square feet to 132 square feet, which includes a 2’ x 38’ existing wall sign, a new pylon sign with a proposed sign area of 55 square feet, a waiver from the setback to replace an existing pylon sign with a sign with the same sign area, and replacement of an existing sign panel that reads “Restaurant” with an LED Reader Board, provided the Applicant actually needs any elements of the requested relief. Mr. Steeves seconded the motion. The vote was unanimous at 5-0. Mr. McGrail said he would have a conversation with the Building Department to make sure everyone is on the same page.

Applicant:	Kristin Manning
Property Address:	4 Ridgeway Street, Dedham, MA
Case #:	VAR-08-17-2253
Property Owner:	Kristin Manning et al, John B. Larsen, JT
Zoning District and Map/Lot	Single Residence B, Map 178, Lot 27
Application Date:	August 9, 2017
Present and Voting:	James F. McGrail, Esq., J. Gregory Jacobsen, Scott M. Steeves, E. Patrick Maguire, MLA, RLA, CLARB, LEED AP, [®] Jared F. Nokes, J.D.
Representative:	Kristin Manning
Legal Notice:	To be allowed a variance for a 19 foot front yard setback instead of the required 25 feet to construct a porch.
Section of Zoning Bylaw:	Town of Dedham Zoning Bylaw Section 4.1, Table of Dimensional Requirements

Ms. Manning purchased the house about two years ago. It had previously been neglected, and she has restored. The front steps are a safety hazard, as they are crumbling away from the

house. As part of replacing the steps, she would also like to cover them as a shield from the elements. The front door and windows have also deteriorated because of the weather and the lack of protection against the elements.

Ms. Manning submitted a petition in support of her proposal, signed by eight neighbors:

Mohamed Sesay	10 Ridgeway Street
Rakiatu Sesay	10 Ridgeway Street
Marilyn Gasbarro	71 Creston Avenue
James Gasbarro	71 Creston Avenue
Nancy Gasbarro	15 Ridgeway Street
Leang Pornng	74 Creston Avenue
Nazma Mahmood	82 Creston Avenue
Glenn Williams	86 Creston Avenue

Marilyn Gasbarro, 71 Creston Avenue, was also present at this hearing. She lives directly across from Ms. Manning, and said it is very nice to see the house restored. She is very happy with the proposal.

Mr. Steeves moved to allow a variance for a 19 foot front yard setback instead of the required 25 feet to construct a porch. Mr. Jacobsen seconded the motion. The vote was unanimous at 4-0.

Applicant:	David and Amber Moroney
Property Address:	82 Upland Road, Dedham, MA
Case #:	VAR-08-17-2257
Property Owner:	David P. Moroney
Zoning District and Map/Lot	Single Residence B, Map 167, Lot 90
Application Date:	August 16, 2017
Present and Voting:	James F. McGrail, Esq., J. Gregory Jacobsen, Scott M. Steeves, E. Patrick Maguire, MLA, RLA, CLARB, LEED AP, [®] Jared F. Nokes, J.D.
Representative:	David and Amber Moroney
Legal Notice:	To be allowed alteration of a pre-existing nonconforming single family dwelling with a front yard setback of 13.7 feet instead of the required 25 feet and a rear yard setback of 6 feet instead of the required 20 feet to construct a second floor and a three-season porch.
Section of Zoning Bylaw:	<i>Town of Dedham Zoning Bylaw Section 3.3.5, Nonconforming Single and Two Family Residential Structures and Section 4.1, Table of Dimensional Requirements</i>

Mr. and Mrs. Moroney would like to add a second floor to their pre-existing nonconforming one-story single family dwelling for three bedrooms, a bathroom, and a laundry room. They would also like have a three-season porch in the back. They want to expand their family and need the room.

The Moroneys submitted a petition in support of their proposal, signed by 17 neighbors:

Paul Buchanan, 53 Top Hill Avenue
William Whitley, 12 Top Hill Avenue
Carol Elkurdi, 34 Top Hill Avenue
Mario Taddeo, 56 Top Hill Avenue
Helene Baldino-Delahunty, 90 Upland Road
Brian F. O'Connor, 71 Upland Road
Donna Rando, 47 Hermaine Avenue
Thomas Hart, 54 Hermaine Avenue
Jessica Fitzpatrick, 85 Upland Road

Mary Foley, 33 Top Hill Avenue
Kaitlyn DeStefano, 24 Top Hill Avenue
Elise Taddeo, 56 Top Hill Avenue
Michael Baldino, 90 Upland Road
Carlo Prisco, 95 Upland Road
Jean Caffrey, 59 Upland Road
Martin Columbo, 48 Hermaine Avenue
Jeanne A. Flannery, 79 Upland Road

Thomas M. and Donna T. Hart, 54 Hermaine Avenue, wrote a letter in support of the proposal. Jeanne A. Flannery, 79 Upland Road, spoke as a representative of the neighbors, and said that the neighborhood is very happy and in favor of the request. She said they are good neighbors, and they want to keep them there. No one else in the audience spoke for or against the application.

Mr. Jacobsen moved to allow a variance for alteration of a pre-existing nonconforming single family dwelling at 82 Upland Road with a front yard setback of 13.7 feet instead of the required 25 feet and a rear yard setback of 6 feet instead of the required 20 feet to construct a second floor and a three-season porch. Mr. Steeves seconded the motion. The vote was unanimous at 5-0.

Applicant:	Boston Bread, LLC, d/b/a Panera Bread
Property Address:	725 Providence Highway, Dedham, MA
Case #:	VAR-05-17-2237
Property Owner:	Federal Realty Investment Trust, 450 Artisan Way, Suite 320, Somerville, M 02145
Zoning District and Map/Lot	Highway Business, Map 122, Lot 1
Application Date:	May 22, 2017
Present and Voting:	James F. McGrail, Esq., J. Gregory Jacobsen, Scott M. Steeves, E. Patrick Maguire, MLA, RLA, CLARB, LEED AP, [®] Jared F. Nokes, J.D.
Representative:	<ul style="list-style-type: none">• Wendy Regan, Permit/Compliance Associate, Mandeville Sign, 676 George Washington Highway, Lincoln, RI 02865• Gina Reynolds, District Manager, Hamra Enterprises/Panera Bread
Legal Notice:	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.
Section of Zoning Bylaw:	<i>Town of Dedham Sign Code Section 237-19E and Section 237 Attachment 2</i>

This hearing is a continuation from July 19, 2017. Ms. Regan said she has had several conversations with Richard McCarthy, Planning Director, and Kenneth Cimeno, Building Commissioner, and met with them on September 5, 2017. She presented an e-mail that summarized that meeting, which resulted in a decrease in the amount of relief that is required. She passed out revised plans.

According to Ms. Regan, the Building Department said the drive-thru sign, shown on the north-east (front) elevation is compliant. The Building Department believes that the roofline is the lowest part of the mansard roof. In this case, this would only give Panera a few inches. It did give them the opportunity to get the drive-thru plaque below the roofline, so that waiver is no longer needed. The rest of the building signs do require waivers. The Zoning Bylaw says that there can be no signs above the roofline; she believes the intent of this is to eliminate large commercial signs on the top of roofs. Panera is designed with the signage in mind to flow and give the appearance of a complete project, not a building constructed and then a user came in wondering where they can put signage. She said that the use of the varying rooflines and mansard heights is intended for interest and to avoid a typical boxy mass. She believes that the signs as proposed meet the intent of the design of the building. She presented copies of what compliant signage would look like on the building.

Mr. McGrail asked Ms. Regan to go through the signs individually.

1. Two signs mounted above the roofline on the northeast wall of the building: Reduced to one sign. **Waiver is required.**
2. Window sign greater than 25%, mounted on the door: Mr. Cimeno defined a window as the entire window, not just a pane. The opening is 8'6" tall x 3.6' wide. This sign is now compliant since it is less than 25% of the entire window. **No waiver is required.**
3. One sign mounted above the roofline on the northwest wall of the building: **Waiver is required.**
4. One sign mounted above the roofline on the southeast wall of the building: **Waiver is required.**
5. One sign mounted above the roofline on the southwest wall of the building: **Waiver is required.**
6. Five additional pylon signs on the property, for a total of 9: The company name and logo have been removed, so this is no longer advertising and they are not considered pylons. The remaining four pylon signs are multi-tenant shopping center signs that are not owned or controlled by Panera. **No waiver is required for the five additional pylon signs.**
7. Preview board on the southwest side of the building: **Waiver is required.**
8. Speaker with canopy on the southwest side of the building: The logo has been eliminated. **No waiver is required.**
9. Menu board: **Waiver is required.**
10. "Thank you/Do Not Enter" sign is two-sided, so it counts as two pylon signs. According to the Building Commissioner, the site development approval mandated MassDOT spec "Do Not Enter" signage in the same location. Therefore, there was no reason to have that sign. The "Thank You" sign would be one-sided. The company name and logo have been removed, so this is no longer advertising. The sign is considered incidental. **No waiver is required.**

11. Ms. Regan said that the MassDOT spec sign is required for site plan approval. The Building Commissioner said that a Panera sign that says “Do Not Enter” holds no legal authority. If someone ran through the sign and was hurt, there is no recourse. If it is a state mandated sign, it is legal despite being on Panera property. Mr. Maguire, although not saying this is wrong, said that the Board has never had this comment with all the Dunkin Donuts applications. Mr. McGrail said the Planning Board requires a “Do Not Enter” sign as part of its process. Ms. Regan said that this is on the actual approved development plans, and is detailed and specked out as the DOT requires. Mr. McGrail said that the peer reviewer, McMahan, required this. Ms. Regan said that they are bound by the recorded approval to have the MassDOT sign. Mr. McGrail said the Board will approve a “Do Not Enter” sign in the event that the Planning Board can be convinced that this is acceptable. Ms. Regan said she has been led to believe that the police cannot take any action on private property unless it is an ADA issue. In addition, the “Do Not Enter/Thank You” signs are now considered incidental since there is no logo or name on them. Therefore, [no waiver is required](#).

Mr. McGrail made a motion to allow the waivers from the Town of Dedham Sign Code as follows:

1. Waiver from Section 237-19E for one sign mounted above the roofline on the northeast wall of the building.
2. Waiver from Section 237-19E for one sign mounted above the roofline on the northwest wall of the building.
3. Waiver from Section 237-19E for one sign mounted above the roofline on the southeast wall of the building.
4. Waiver from Section 237-19E for one sign mounted above the roofline on the southwest wall of the building.
5. Waiver from Section 237-19E, Attachment 3, Table 2 for two additional pylon signs on the property for a total of six on the site, including the four existing multi-tenant shopping center signs that are not owned or controlled by Panera. These consist of a preview board located on the southwest side of the building and a menu board located on the southwest side of the building.
6. The Board wanted to go on record that it believes that the “Do Not Enter” sign should match the rest of the signage and not match MassDOT Highway Standard.

Mr. Nokes seconded the motion. The vote of the Board was unanimous at 5-0.

Review of Minutes

Mr. Steeves moved to approve the minutes of August 16, 2017, seconded by Mr. Jacobsen, and voted unanimously, 5-0.

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

Respectfully submitted,

Susan Webster

Susan Webster

Administrative Assistant