

**TOWN OF DEDHAM**  
COMMONWEALTH OF MASSACHUSETTS

**ZONING BOARD OF APPEALS**

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Jared F. Nokes, J.D.  
George Panagopoulos

**MEETING MINUTES**

**Wednesday, December 19, 7:00 p.m., Lower Conference Room**

**Present:** James F. McGrail, Chair  
J. Gregory Jacobsen, Vice Chair  
Scott M. Steeves  
Jason L. Mammone, P.E.  
Jared F. Nokes, J.D., Associate  
George Panagopolous, Associate

**Staff:** Jennifer Doherty, Administrative Assistant

The Zoning Board of Appeals (“ZBA”) of the Town of Dedham, Massachusetts, held public hearings on Wednesday, December 19, 2018, in the Town Office Building, 26 Bryant Street, Dedham, Massachusetts. Present were members of the ZBA, James McGrail, Chair, Gregory Jacobsen, Vice Chair, Scott M. Steeves, Jason Mammone, Associate member Jared Nokes, and Associate member George Panagopoulos. Chairperson James McGrail called the meeting to order at 7:00 p.m.

The hearings for this meeting of the ZBA were duly advertised in *The Dedham Times* in accordance with the requirements of Massachusetts General Law, Chapter 40A, Section 11, and the Town of Dedham Zoning Bylaw. In addition, notices of the hearings were sent to abutters within 300 feet of the properties on the agenda. Notification of each hearing was sent to the abutting towns of Boston, Needham, Canton, and Westwood. Copies of all plans referred to in this decision and a detailed record of the Zoning Board of Appeals proceedings are filed in the Town of Dedham Planning Department.

<b>Applicant/Owner</b>	<b>Speedway, LLC By National Sign Corporation</b>
<b>Property Address</b>	<b>367 Bridge Street, Dedham, MA</b>
<b>Zoning District</b>	GB, General Business
<b>Map and Lot</b>	55/8
<b>Representative</b>	Heather Hopkins Dudko, National Sign Corporation
<b>Legal Notice</b>	The Applicant seeks to be allowed any and all waivers from the sign code, specifically from Section 231-18 (5) no internally illuminated signs shall be permitted in any residential districts, and Table 2, maximum area of signage and maximum height in zoning district General Business., for the purposes of replacing a manual pricing board with a digital sign board in the exact same location.
<b>Section of Zoning Bylaw</b>	<i>Town of Dedham Sign Code 231-18, Section 5 and Town of Dedham Sign Code Table 2.</i>
<b>Date of Application</b>	11/16/2018
<b>Date of Public Hearing</b>	12/19/2018
<b>Date of Decision</b>	12/19/2018
<b>Vote</b>	5-0, Unanimous
<b>Voting Members</b>	James McGrail, Chair, Gregory Jacobsen, Vice Chair, Scott M. Steeves, Jason Mammone, Associate member Jared Nokes, and Associate member George Panagopoulos.

On November 16, 2018, the Applicant submitted an application, which included:

- Letter of authorization from Applicant/Owner Speedway, LLC
- Certified Plot Plans
- Pictures of existing conditions
- Renderings of proposed conditions with elevations
- Pictures of proposal as approved by Design Review Advisory Board
- Complete and signed application
- Check for ZBA fee

Heather Hopkins Dudko from National Sign Corporation was representing the applicant and addressed the board. She explained that the applicant had been before the Design Review Advisory Board already, and had gained approval from them, when they were then told by Ken Cimeno, Building Commissioner, that since the original sign was under variance any change at all had to go before the Zoning Board of Appeals for approval again. She further explained there would be no structural changes to the height, width, or depth of the sign. The only change would be the casing which holds the current manual sign. This would be removed and replaced with a digital reading sign. The Chair Jim McGrail asked if there were any questions from the Board Members, there were none. He asked if there were any questions from the public in attendance, there were none.

Mr. Scott Steeves made a motion that 367 Bridge Street, Speedway Gas, LLC, be allowed waivers from the sign code, specifically from Section 231-18 (5) no internally illuminated signs shall be permitted in any residential districts, and Table 2, maximum area of signage and maximum height in zoning district General Business., for the purposes of replacing a manual pricing board with a digital sign board in the exact same location. Mr. Greg Jacobsen seconded the motion, and all were in favor. The vote was unanimous in favor, 5-0.

<b>Applicant/Owner</b>	<b>Federal Realty Investment Trust</b>
<b>Property Address</b>	<b>750 Providence Highway, Dedham, MA</b>
<b>Zoning District</b>	HB, Highway Business
<b>Map and Lot</b>	122/1
<b>Representative</b>	David Webster, Federal Realty Trust Kevin Hampe, Esq., 411 Washington St., Dedham
<b>Legal Notice</b>	The Applicant seeks to be allowed a waiver from the Town of Dedham Sign Code Chapter 237-29, Table 2, Sign Dimensions and Locations, for the purposes of locating the previously approved free standing pylon sign 6.6 feet from the front property line instead of the required 25 feet at the main entrance to the retail shopping plaza.
<b>Section of Zoning Bylaw</b>	<i>Town of Dedham Sign Code 237-29, Table 2.</i>
<b>Date of Application</b>	11/09/2018
<b>Date of Public Hearing</b>	12/19/2018
<b>Date of Decision</b>	12/19/2018
<b>Vote</b>	5-0, Unanimous
<b>Voting Members</b>	James McGrail, Chair, Gregory Jacobsen, Vice Chair, Scott M. Steeves, Jason Mammone, Associate member Jared Nokes, and Associate member George Panagopoulos.

Mr. Kevin Hampe, Esquire, and David Webster of Federal Realty Investment Trust were in attendance for the application. Mr. McGrail also read the second application legal notice in anticipation of the applicant addressing both matters, however agreed the Board would keep the vote separate. Mr. Hampe explained to the Board that on September 22, 2009 the Zoning Board of Appeals granted the applicant a waiver from the Town of Dedham Sign Code to locate the previously approved free standing pylon sign 6.6 feet from the front property line instead of the required 25 feet at the main entrance to the retail shopping plaza. Since that time the new Panera site has opened and the sign was taken down due to this project. Federal Realty would like to reestablish this sign in a different location now, which would make the sign closer to the highway, 6.6 feet. It is the

exact same sign so it would be the same dimensions, just closer to the highway. David Webster showed the board members where the sign had been previously and where it would be located if they approve the new location. Mr. McGrail asked if anyone on the board had questions, and Jason Mammone asked about the original variance, he asked how close was the original sign located to the highway. Attorney Hampe said it was originally 35 feet from the curb lane and was in compliance but they asked for a variance for the size of the sign. It was supposed to be 200 feet and they asked for 244 feet for the sign, which at the time was not in compliance. Mr. McGrail asked if anyone in the audience had any questions, and no one did. Mr. Jacobsen asked what the hours of operation were for the stores, and Mr. Hampe responded he and Mr. Webster were aware of the issue with the lights and he was planning to address that with the next application. Mr. Steeves made a motion to approve the waiver from the sign code, Mr. Jacobsen seconded the motion, and all were in favor. The waiver was approved unanimously, 5-0.

<b>Applicant/Owner</b>	<b>Federal Realty Investment Trust</b>
<b>Property Address</b>	<b>750 Providence Highway, Dedham, MA</b>
<b>Zoning District</b>	HB, Highway Business
<b>Map and Lot</b>	122/1
<b>Representative</b>	David Webster, Federal Realty Trust Kevin Hampe, Esq., 411 Washington St., Dedham
<b>Legal Notice</b>	The Zoning Board of Appeals for the Town of Dedham, Massachusetts, will hold a public hearing in the Lower Conference Room of the Town Office Building, 26 Bryant Street, Dedham, MA at <b>7:00 p.m., Wednesday, December 19, 2018</b> , on the petition of Federal Realty Investment Trust of 450 Artisan Way, Somerville, MA 02145. The Applicant seeks to be allowed a waiver from the Town of Dedham Sign Code Chapter 237-29, Table 2, Sign Dimensions and Locations, for the purposes of erecting a new, free-standing pylon sign 15.6 feet from the property line adjacent to the southerly entrance to the retail shopping plaza on Washington Street. The property is located at <b>725 Providence Highway</b> , Dedham, MA, and is in Zoning District Highway Business (HB).
<b>Section of Zoning Bylaw</b>	<i>Town of Dedham Sign Code 237-29, Table 2.</i>
<b>Date of Application</b>	11/09/2018
<b>Date of Public Hearing</b>	12/19/2018
<b>Date of Decision</b>	12/19/2018
<b>Vote</b>	5-0, Unanimous
<b>Voting Members</b>	James McGrail, Chair, Gregory Jacobsen, Vice Chair, Scott M. Steeves, Jason Mammone, Associate member Jared Nokes, and Associate member George Panagopoulos.

Kevin Hampe, esquire explained that Federal Realty is proposing a sign in the back of the Dedham Plaza on the Washington Street side. There has never been a pylon sign at the back of this plaza, but there are numerous business located there. They are asking for a waiver to locate the sign 15.6 feet from Washington Street instead of the required 25 feet in a Highway Business zone. The sign itself would be in compliance. The sign would be located in the South side of Washington Street closer to where the current gas station is located. Mr. Webster showed pictures of the proposed location. He stated he was aware there had been issues as to the sight lines. Additional discussion ensued as to the sight line issues, and the sign being close to the intersection of Washington Street and Court Street. Mr. McGrail noted that the rendering was backwards and was difficult to determine because of this. In addition, the rendering also showed the sign too close to the curb line, and it would be farther away than was shown in the drawings. Mr. McGrail went on to say the issue was not the sign, it was the location of the sign. He asked if Mr. Mammone could weigh in as the town engineer. Mr. Mammone explained that the statues pertained to the intersecting streets, not intersecting streets of an egress, as was the case here. He explained it was hard to say whether it was too close or not, but in terms of safety, they do not want people to edge out farther to get a better look at traffic. Mr. McGrail stated he was not opposed to signage there, but because it is was such a crazy intersection it would make sense to give the town engineer, Jason Mammone, time to review the location. It was agreed upon that the applicant would return after deliberating with their civil engineer, and Jason Mammone. It was agreed that the applicant will return on January 16, 2019.

Jared Nokes asked what the rational was for putting the sign in that location. Mr. Webster explained there was more depth to the landscaping there, and there was power there as well. The issue was raised about possibly moving the sign closer to the bus stop location. Mr. Mammone asked if they anticipated losing the first tree that was there. Mr. Webster stated he was unsure and will check. Regarding the lighting at the plaza, Kevin Hampe explained that Planning Board member Jessica Porter had brought up that a lot of the tenants at the Plaza were still leaving their lights on all night. Mr. Webster stated that the tenants all had different obligations in their leases, and so it would be a matter of educating them on turning off the lights when their business closed, and possibly putting them on timers. Mr. Webster assured the board that he was working with the tenants to do this and would continue to get them to comply with the request. Mr. Jacobsen made a motion to postpone the hearing until the January 16, 2019 meeting, Mr. Steeves seconded the motion, and all were in favor.

<b>Applicant:</b>	<b>Edith Araby and Frances Araby</b>
<b>Property Address:</b>	<b>219, 221, and 225 East Street, Dedham, MA</b>
<b>Property Owner:</b>	<b>Edith Araby and Frances Araby</b>
<b>Property Owner Address:</b>	<b>As above</b>
<b>Applicant Representative:</b>	<b>Peter Zahka, Esquire</b> <b>12 School Street, Dedham, MA 02026</b>
<b>Legal Notice:</b>	The Zoning Board of Appeals for the Town of Dedham, Massachusetts, will hold a public hearing in the Lower Conference Room of the Town Office Building, 26 Bryant Street, Dedham, MA at <b>7:00 p.m.</b> , Wednesday, <b>December 19, 2018</b> , on the petition of <b>Edith Araby and Frances Araby of 219, 221, and 225 East Street</b> . The Applicant seeks to be allowed such variances and special permits required to reconfigure three (3) pre-existing nonconforming occupied lots into two (2) lots as follows: (a) one lot with an area of 11,566.2 square feet and lot frontage and width of 74.80 feet (90 feet required) to be occupied by an existing two-family dwelling, two existing accessory structures, and an existing pool, with a lot width at front and rear building lines of 75.61 feet and 84.66 feet, respectively (90 feet required), front yard of 10.02 feet (20 feet required), side yard of 5.9 feet (15 feet required), side yard for an accessory structure of .6 feet (5 feet required), distance between buildings of 1.57 feet (10 feet required), and lot coverage of 34% (30% maximum) and (b) one lot with an area of 2,881.6 feet (5,000 square feet required) and frontage of 45.02 feet (50 feet required), to be occupied by an existing single family dwelling and an existing accessory structure, with a lot width of 43 feet (50 feet required), lot width at front and rear building lines of 44.47 feet and 42.07 feet, respectively (50 feet required), front yard of 9.82 feet (20 feet required), rear yard of 9 feet (25 feet required), side yards of 5.2 feet and 9.5 feet (15 feet required), side yard for an accessory building of 3.3 feet (5 feet required), distance between buildings of 8.18 feet (10 feet required), and lot coverage of 32.1% (30% maximum). The application and plans are available for inspection in the Town of Dedham Planning/Zoning office during normal business hours. Interested persons are encouraged to attend the meeting and make their views known to the Zoning Board of Appeals.
<b>Section of Zoning Bylaw:</b>	<i>Town of Dedham Zoning By-Law Sections 3.3, 4.0, 9.2, 9.3</i>
<b>Zoning District, Map and Lot:</b>	General Residence (GR) 76/11,12, & 13
<b>Date of Application:</b>	<b>November 14, 2018</b>

**Date of Public Hearing:** December 19, 2018  
**Date of Decision:** December 19, 2018  
**Vote:** 5-0, Unanimous in favor  
**Voting Members:** James McGrail, J. Gregory Jacobsen, Scott Steeves,  
Jason Mammone and Jared Nokes

**Date Filed with Town Clerk:** December 21, 2018

At 7:15 p.m. the Chairman called for the hearing on the appeal of Edith Araby and Frances Araby to be allowed such variances and special permits required to reconfigure three (3) pre-existing nonconforming occupied lots into two (2) lots as follows: (a) one lot with an area of 11,566.2 square feet and lot frontage and width of 74.80 feet (90 feet required) to be occupied by an existing two-family dwelling, two existing accessory structures, and an existing pool, with a lot width at front and rear building lines of 75.61 feet and 84.66 feet, respectively (90 feet required), front yard of 10.02 feet (20 feet required), side yard of 5.9 feet (15 feet required), side yard for an accessory structure of .6 feet (5 feet required), distance between buildings of 1.57 feet (10 feet required), and lot coverage of 34% (30% maximum) and (b) one lot with an area of 2,881.6 feet (5,000 square feet required) and frontage of 45.02 feet (50 feet required), to be occupied by an existing single family dwelling and an existing accessory structure, with a lot width of 43 feet (50 feet required), lot width at front and rear building lines of 44.47 feet and 42.07 feet, respectively (50 feet required), front yard of 9.82 feet (20 feet required), rear yard of 9 feet (25 feet required), side yards of 5.2 feet and 9.5 feet (15 feet required), side yard for an accessory building of 3.3 feet (5 feet required), distance between buildings of 8.18 feet (10 feet required), and lot coverage of 32.1% (30% maximum). The property is located at 219, 221, and 225 East Street, Dedham, MA, in the General Residence (GR) Zoning District. *Dedham Zoning By-Law Sections 3.3, 4.0, 9.2, 9.3*

The Applicant was represented by Peter A. Zahka, II, Esq., 12 School Street, Dedham, MA. Also present on behalf of Applicant was Joseph Araby (nephew of Applicants). With the Application, Attorney Zahka had submitted a certified plot plan (which depicted the existing conditions and the proposed addition), and photos of the existing conditions. The transcript from the hearing is the primary source of evidence and is incorporated herein by reference.

The Subject Property consists of the “lots” known and numbered as 219, 221, and 225 East Street, Dedham, MA (hereinafter referred to collectively as the “Subject Property”). The portion of the Subject Property know as 219 East Street is shown on the Dedham Board of Assessors

Map 76, Lot 12, has a land area of approximately 1,483 square feet and with frontage on East Street of approximately 45 feet. This lot is currently occupied by a single-family dwelling. Per the records maintain by the Dedham Board of Assessor's this dwelling was constructed in 1810 and has a gross area of 1,417 sf. The portion of the Subject Property known as 221 East Street is shown on Dedham Assessors Map 76, Lot 11, has a land area of approximately 2,220 square feet and no frontage (i.e., is "landlocked"). This lot is currently occupied by two accessory buildings. The portion of the Subject Property know as 225 East Street is shown on the Dedham Board of Assessors Map 76, Lot 13, has a land area of approximately 10,900 square feet and with frontage on East Street of approximately 74 feet. This lot is currently occupied by a two-family dwelling, an accessory building, and a swimming pool. Per the records maintain by the Dedham Board of Assessor's this dwelling was constructed in 1880 and has a gross area of 3,130 square feet. According to the Zoning Map for the Town of Dedham, the Subject Property is located in the General Residence (GR) Zoning District.

Each lot and the building structures thereon are considered as a legal pre-existing "nonconforming building, structure, or use" as that term is defined in Section 10 of the Dedham Zoning By-Law. The lots were established and the dwellings were constructed prior to the adoption of the Dedham Zoning By-Law. While single and two-family dwelling are allowed as of right in the GR Zoning District, the lots and the buildings and structures thereon a currently nonconforming in a number of respects including but not limited to lot area, lot frontage, lot width, yard setbacks, and space between buildings.

Applicant proposes to re-configure the three lots into two new lots. No new buildings or structures are proposed. Essentially, it is Applicant's desire to allocate portions of 221 East Street (the land locked parcel) and the accessory buildings thereon to the two lots which have existing frontage on East Street. Applicant notes that this will allow for the continued "historic" use of these accessory structures (i.e., one accessory structure has historically been used in connection with each of the other lots). It would also allow Applicant to convey either of the houses with corresponding accessory structure. While a number of the existing nonconformities will remain (and a few additional ones created with respect to the accessory buildings), in many respects the two remaining lots will be less nonconforming than the current situation (all as shown on the certified plot plan).



Pursuant to Sections 3.3.2, 3.3.3, and 3.3.5, the ZBA may award special permits for changes, extensions, and alterations to nonconforming uses and structures if it determines the same are not more detrimental than the existing nonconformity to the neighborhood. In addition, Section 9.3.2 of the Dedham Zoning By-Law provides that when acting upon requests for Special Permits, the ZBA must determine that the “adverse effects of the proposed use will not outweigh its beneficial impacts “after consideration of the six (6) enumerated factors set forth in said Section.

In addition, pursuant to the authority granted under Section 9.2.2 of the Dedham Zoning By-Law, the ZBA has the power “to hear and decide appeals or petitions for variances from the terms of this By-Law, with respect to particular land or structures as set forth on G.L. c. 40A, § 10.” Section 10 of Chapter 40A of the General Laws of Massachusetts states that a variance may be granted if:

Owing to circumstances relating to soil conditions, shape or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located, a literal enforcement of the provision of the ordinance or by-law would involve substantial hardship, financial or otherwise, to the petitioner or appellant and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of such ordinance or by-law.

Applicant respectfully submits it satisfies the above stated requirements and criteria for the issuance of the requested special permits and variances. As stated above, there are no proposed alterations, extensions, or changes to the structures or uses and there will there be no change to the physical layout of the site. Therefore, there is no adverse impact to the Town or the neighborhood. Two-family houses are allowed in the GR Zoning District and after the proposed re-configuring of the lots, the two-family lot will be in conformity with the lot area requirement of the Zoning By-law. Other non-conformities will also be eliminated or reduced. The adverse effects of the proposed use will not outweigh its beneficial impacts to the Town or neighborhood considering the above referenced requirements and criteria. It is noteworthy that the GR Zoning District is the only zoning district to have a minimum lot width through front and rear building lines requirement. Furthermore, due to the unusual lot situation (one lot being “landlocked”) and location of the structures on the lots, without the requested relief Applicant will never be able to re-configure the lots (or sell either of the houses with the corresponding accessory structure) and would suffer a financial hardship.

Mr. Francis Prisco, of 227 East Street, Dedham, MA, a direct abutter to the Subject Property, appeared at the hearing and testified that he had no objection to the granting of the requested relief. No one appeared in opposition to this Application.

Upon motion being duly made and seconded, the ZBA voted unanimously (5-0) to grant such special permits and variances as required to reconfigure three (3) pre-existing nonconforming occupied lots at 219, 221, and 225 East Street into two (2) lots as follows: (a) one lot with an area of 11,566.2 square feet and lot frontage and width of 74.80 feet (90 feet required) to be occupied by a two-family dwelling, two existing accessory structures, and an existing pool, with a lot width at front and rear building lines of 75.61 feet and 84.66 feet, respectively (90 feet required), front yard of 10.02 feet (20 feet required), side yard of 5.9 feet (15 feet required), side yard for an accessory structure of .6 feet (5 feet required), distance between buildings of 1.57 feet (10 feet required), and lot coverage of 34% (30% maximum) and (b) one lot with an area of 2,881.6 feet (5,000 square feet required) and frontage of 45.02 feet (50 feet required), to be occupied by a single family dwelling and an existing accessory structure, with a lot width of 43 feet (50 feet required), lot width at front and rear building lines of 44.47 feet and 42.07 feet, respectively (50 feet required), front yard of 9.82 feet (20 feet required), rear yard of 9 feet (25 feet required), side yards of 5.2 feet and 9.5 feet (15 feet required), side yard for an accessory building of 3.3 feet (5 feet required), distance between buildings of 8.18 feet (10 feet required), and lot coverage of 32.1% (30% maximum). In granting said special permits, the ZBA finds that, after consideration of the criteria in Section 9.3.2 of the Dedham Zoning By-Law, the adverse effects of Applicant's proposal will not outweigh its beneficial impacts on the Town and neighborhood. In granting said variances, the ZBA finds that the Applicant has satisfied the requirements Section 10 of Chapter 40A of the General Laws of Massachusetts, to wit: a literal enforcement of the Dedham Zoning By-Law requirements would cause a substantial financial hardship to Applicant, and that the relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Dedham Zoning By-Law.

Applicant:	Kevin Costello
Project Address:	35 Roosevelt Road, Dedham, MA
Zoning District:	Single Residence B
Representative(s):	Peter A. Zahka II, Esq., 12 School Street, Dedham, MA Kevin Costello, Owner
Petition:	To be allowed such Special Permits and variances as required to construct a single family dwelling on a lot with an area of 7,500 square feet instead of the required 12,500

square feet, lot frontage and width of 75 feet instead of the required 95 feet, and with a resulting impervious surface of 25% of the lot area, including the area to the center line of any new street in the Single Residence B zoning district and the Aquifer Protection Overlay District

Section of Zoning Bylaw: Town of Dedham Zoning Bylaw Sections 8.2, 9.2, 9.3, and Table 2

The application for 35 Roosevelt had been postponed since the original hearing date of June 20, 2018. Mr. Peter Zahka, Esquire was in attendance to represent Mr. Costello. Mr. Zahka stated that his client would like to withdraw his application without prejudice. Mr. Steeves made a motion to withdraw the application without prejudice, and Mr. Jacobsen seconded the motion. The board voted unanimously in favor, 5-0. The application was withdrawn without prejudice.

Mr. McGrail said the minutes from November 14, 2018 needed to be approved. Mr. Jacobsen made a motion to approve the minutes, the motion was seconded by Mr. Steeves, and all were in favor. The minutes were approved unanimously 5-0.

A motion was made by Mr. Jacobsen to adjourn the meeting, the motion was seconded by Mr. Steeves and all were in favor. The meeting was adjourned at 8:27 p.m.