

TOWN OF DEDHAM
COMMONWEALTH OF MASSACHUSETTS

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J. Gregory Jacobsen, Vice Chairman
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ZONING BOARD OF APPEALS
DECISION

Applicant:	Petruzziello Properties, LLC
Property Address:	125 Washington Street, Dedham, MA
Property Owner:	Petruzziello Properties, LLC
Property Owner Address:	21 Eastbrook Road, Dedham, MA
Applicant Representative:	Peter A. Zahka, II, Esq.
Legal Notice:	To be allowed a waiver from the Town of Dedham Sign Code for an off-premises (and on-premises signs/sign panels) on an otherwise conforming free-standing sign. The property is located at 125 Washington Street, Dedham, MA and is in the Highway Business zoning district.
Section of Zoning Bylaw:	Town of Dedham Sign Code Sections 237-4, 237-9, 237-15, 237-29 237-30, and Table 1.
Zoning District, Map and Lot:	HB, Map 77, Lot 19
Date of Application:	June 20, 2018
Date of Public Hearing:	July 18, 2018
Date of Decision:	July 18, 2018
Vote:	5-0, unanimous approval
Voting Members:	James F. McGrail, Esq., J. Gregory Jacobsen, Scott M. Steeves, E. Patrick Maguire, MLA, RLA, CLARB, LEED AP®, Jared F. Nokes, J.D.
Date Filed with Town Clerk:	July 31, 2018

The Zoning Board of Appeals (“ZBA”) of the Town of Dedham, Massachusetts, held public hearings on July 18, 2018, commencing at 7:00 p.m. in the Town Office Building, Bryant Street, Dedham, MA. Present were members of the ZBA, James F. McGrail, Esq., Chairman, J. Gregory Jacobsen, Scott M. Steeves, E. Patrick Maguire, MLA, RLA, CLARB, LEED AP, and Jason L. Mammone, P.E. These hearings and meeting of the ZBA were duly advertised in accordance with the requirements of MGL Chapter 40A, Section 11.

At 7:30 p.m. the Chairman called for the hearing on the application of Petruzziello Properties, LLC, to be allowed such waivers from the Town of Dedham Sign Code as required for off-premises (and on-premises) signs/sign panels on an otherwise conforming free-standing sign. The property is located at 125 Washington Street, Dedham, MA, and is in the Highway Business (HB) Zoning District. *Town of Dedham Sign Code Sections 237-4, 237-9, 237-15, 237-29, 237-30, and Table 1.*

The Applicant was represented by Peter A. Zahka, II, Esq., 12 School Street, Dedham, MA. Also present on behalf of the Applicant was Applicant’s Manager, Giorgio Petruzziello. With the Application, Attorney Zahka submitted a certified plot plan, photographs/drawings of the proposed sign, and the Town of Dedham GIS map depicting the Subject Property and surrounding area. 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 77, Lot 19, contains approximately 41,650 square feet of land with over 330 feet of frontage on Washington Street (and additional frontage on Eastbrook Road). The Subject Property is occupied by a mixed-use building with first floor commercial uses and upper story residential apartments. The Subject Property is located in the Highway Business (HB) Zoning District.

Applicant proposes to erect a free-standing sign at the Subject Property. The sign will be located on Washington Street near the intersection with Eastbrook Road. The proposed sign will satisfy and conform with the dimensional requirements under the Town of Dedham Sign Code for such

signs in the HB Zoning District. As currently designed, the sign will be 13 feet in height and will have a number of sign panels with a total sign area of 50 square feet. In addition to sign panels advertising/promoting business and goods and services located at the Subject Premises, Applicant desires to have sign panels advertising/promoting business and goods and services not located at the Subject Premises. Specifically, Applicant desires sign panels promoting business and goods and services located in other buildings owned by Applicant on Eastbrook Road.

Section 237-4 of the Town of Dedham Sign Code defines an "Off-Premises Sign" as "a sign pertaining to products, accommodations, services, or activities not located on the premises. Said Section 237-4 defines an "On-Premises Sign" as "a sign pertaining exclusively to the premises on which it is located or to the products, accommodations, services, or activities on the premises." In light of these definitions, it appears that the proposed sign panels pertaining to the other buildings owned by Applicant on Eastbrook Road would fall within the definition of "Off-Premises Signs".

As noted above, the proposed sign panels would be considered both an "On-Premises Sign" and an "Off-Premises Sign". Applicant submits that the Town of Dedham Sign Code is unclear and/or ambiguous as to whether Off-Premises signs are allowed as of right. Applicant notes that the listing of prohibited signs set forth in Section 237-15 does not include an "Off-Premises Sign". Due to this confusion and ambiguity, Applicant has requested waivers for off-premises (and on-premises) signs and sign panels on an otherwise conforming free-standing sign.

The ZBA is authorized and empowered to grant waivers to the provisions of the Town of Dedham Sign Code pursuant to Sections 237-29 (Waiver from Requirements) and Section 237-30 (Waiver criteria) of the Code. Applicant submits that it satisfies the requirements for the requested waiver. Specifically, "the literal compliance with the provisions of this chapter is not practical or is unfeasible" and "the desired relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the by-law".

Applicant owns several properties/buildings along Eastbrook Road and states that customers, deliveries, and others have a difficult time locating the same from the main road. While Applicant could erect free-standing signs on each of these properties, the effectiveness of the same is questionable. On the other hand, Applicant avers that the proposed free-standing sign with sign panels for these other properties/businesses (as well as for the Subject Property) would address this problem and would be optimal in notifying and alerting the general public as to the businesses on Eastbrook Road. It also would obviate the need for multiple free-standing signs along Eastbrook Road.

No one appeared in favor or in opposition of this Application.

Upon motion being duly made and seconded, the ZBA voted unanimously (5-0) to grant the requested waivers from the Town of Dedham Sign Code as required for off-premises (and on premises) signs and signs panels on an otherwise conforming free-standing sign at 125 Washington Street, Dedham, MA, in the HB Zoning District. Notwithstanding any herein to the contrary, the off-premises signs/sign panels shall be limited to businesses and goods and services in other properties and buildings owned by Applicant (or any entity affiliated with Applicant) on Eastbrook Road. In granting this waiver, the ZBA finds that “the literal compliance with the provisions of this chapter is not practical or is unfeasible” and “the desired relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the by-law”.

Dated: _____

James F. McGrail, Esq., Chairman

J. Gregory Jacobsen

Scott M. Steeves

E. Patrick Maguire, MLA, RLA, CLARB, LEED AP

Jason L. Mammone, P.E.

Attest by the Administrative Assistant

Jennifer Doherty