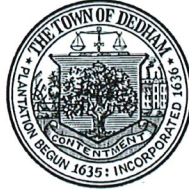


TOWN OF DEDHAM
COMMONWEALTH OF MASSACHUSETTS

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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**ZONING BOARD OF APPEALS
DECISION**

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TOWN OF DEDHAM
CLERKS OFFICE

Applicant: Elie on Bridge Street, LLC
Property Address: 22 Bridge Street, Dedham, MA 02026
Property Owner: Elie on Bridge Street, LLC
Property Owner Address: Same

Legal Notice: 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 7:00 p.m., Wednesday, July 18, 2018, on the petition of Elie on Bridge Street, 22 Bridge Street, Dedham, MA. The Applicant seeks to be allowed such Special Permits and Variances as necessary to construct an approximately 528 square foot addition to a pre-existing nonconforming service station to be used as a bay for automotive inspections (i.e., an extension, alteration, and enlargement of a pre-existing nonconforming structure and use) at 22 Bridge Street, Dedham, MA.

Section of Zoning Bylaw: *Town of Dedham Zoning Bylaw Section 3.1.3, 3.3.2, 3.3.3, 9.2.2, 9.3, 10 and Table 1.*

Zoning District, Map and Lot: General Business, 14/51
Date of Application: June 18, 2018
Date of Public Hearing: July 18, 2018
Date of Decision: July 18, 2018
Vote: Denial, 3-2 in favor of denial
Voting Members: James F. McGrail, Esq., J. Gregory Jacobsen, Scott M. Steeves, E. Patrick Maguire, Jason L. Mammone, P.E.

Date Filed with Town Clerk: October 12, 2018

The Zoning Board of Appeals ("ZBA") of the Town of Dedham, Massachusetts held a public hearing on Wednesday, July 18, 2018, at 7:00 p.m. in the Town Office Building, 26 Bryant

Street, Dedham, MA. Present were members of the ZBA, Chairman James F. McGrail, Esq., J. Gregory Jacobsen, Scott M. Steeves, E. Patrick Maguire, and Jason L. Mammone, P.E.

The hearings were duly advertised for two consecutive weeks in the *Dedham Times* in accordance with the requirements of MGL Chapter 40A, Section 11 and the Town of Dedham Zoning Bylaw. Notices of the hearing were sent to abutters within 300 feet of the property in question on June 29, 2018 and July 6, 2018. Notification of the hearing was sent to the neighboring towns, (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 Dedham Planning Department.

The Chairman called for the hearing on the petition of Elie on Bridge Street, LLC, 22 Bridge Street, Dedham, MA. The Applicant seeks to be allowed such Special Permits and Variances as necessary to construct an approximately 528 square foot addition to a pre-existing nonconforming service station to be used as a bay for automotive inspections (i.e., an extension, alteration, and enlargement of a pre-existing nonconforming structure and use) at 22 Bridge Street, Dedham, MA. The property is located at 22 Bridge Street, Dedham, MA, and is in the General Residence zoning district. *Town of Dedham Zoning Bylaw Section 3.1.3, 3.3.2, 3.3.3, 9.2.2, 9.3, 10, and Table 1.*

The minutes from the hearing are the primary source of evidence and are incorporated herein by reference:

Mr. McGrail asked who was in attendance for the applicant. Elie Lakkis, Manager of the applicant LLC and Peter A. Zahka II, Esq., counsel for the applicant LLC, were present. The applicant is seeking Special Permits/Variations to construct an addition that would create a third bay that would be dedicated to automobile inspections. The gasoline station is pre-existing nonconforming. It is in the General Business Zoning District. Attorney Zahka showed the location of the building on his map. The surrounding property is Waterford's Restaurant and the Charles River. There is 10,909 square feet of land with 136 feet of frontage on Bridge Street. The property is currently occupied by a gasoline/service station with two bays, three fueling stations, and a canopy. According to Attorney Zahka, there has historically been a gasoline/service station at this location dating back to before 1952. Gas stations at this location

were once allowed as of right. The land has been rezoned several times, including residential at one point. It is now it is zoned General Business. Service stations are required to have a Special Permit in the General Business Zoning District. A use that was started as of right now requires a Special Permit and is considered a pre-existing nonconforming use.

Attorney Zahka continued noting, there are no dimensional requirements per se in the General Business Zoning District, so the Applicant, despite asking for “variances” in its application is not seeking any Variances. The addition would be to the left of the building, and would be an additional bay dedicated solely to automobile inspections. Over the years, the regulations keep changing for inspections, and there are enough now that more and more stations will request such additions. One of the newer regulations relates to wait time for automobile inspections. The wait time for an inspection can be no more than 15 minutes. As a result, if you are using the inspection bay to repair an automobile and someone shows up for an inspection you need to stop the repair, remove the car being repaired, and start the inspection within 15 minutes. Attorney Zahka said it would be better for the site to have a third bay dedicated to inspections that satisfies all the requirements for a Special Permit. The additional bay would comply with all the dimensional zoning requirements. The additional bay would help the existing business and would be a convenience to the residents of the neighborhood who use this station. There is another service station on Ames and Bridge Streets, but this is the closest inspection station and is about a mile way. Attorney Zahka said that, as part of this, the Applicant will also need to go to before the Planning Board. The Applicant has had a scoping session with the Planning Board. The Applicant proposes re-striping the lot to lay it out better in terms of parking which will also give it the opportunity to add some (not a lot) of landscaping and further improve the aesthetics of the site. The Planning Board will need to approve this. The Applicant also believes that it will make the site more efficient in terms of the layout.

Attorney Zahka received an e-mail from Waterford’s engineer and they have had discussions with them. There is a dumpster at the rear of the property, and this is actually off the site and is not related to the Applicant’s property. They have discussed potential encroachment that may be going down to the back of the property. The Applicant has removed anything that may be associated with their operation and cleaned up the area. All employees have been in-

structed not to use that dumpster; there is a dumpster located on the Applicant's site. In addition, if the Application is approved, they have agreed to add a condition that the rear property line between the two properties be confirmed via survey, and will erect a stockade fence along the property line. They will also maintain all their apparatus and materials on the Applicant's property. There are currently some vent pipes that go underground and come up. The survey will confirm that they are on the Applicant's property. If they are not, the Applicant will be required to relocate those 6'6" onto his property.

Should the petition be approved, since it is about 80 feet from the Charles River, it is Attorney Zahka's understanding that it is within the 200 foot zone from the river's edge. Accordingly, the project, because (a) it is a gasoline/service, (b) it is an increase in commercial space, and (c) because of the location of the river, will need to go before the Town of Dedham Conservation Commission for, at a minimum, stormwater management. Attorney Zahka thought they would actually have to have a file a Notice of Intent. The Applicant has already gone through meetings with Conservation Commission about the nature of the use being so close to the river. The Applicant wants to make sure that, since his property is so close to the river, there is no potential run-off.

Mr. McGrail said that, in his opinion, even though the Zoning Board of Appeals is not the Conservation Commission, there are concerns about expanding a gas station and its operation right along the Charles River. The applicant has been before the Zoning Board of Appeals twice for relief on signage, and other things, and the ZBA has been favorable to him. He was concerned about the proximity to the river. Mr. McGrail also added the Applicant is able to provide inspections at the site now if he so chooses. It is not as though he cannot do something since it has been proven that he can. Regardless whether the Board votes yes or no, he can still continue to do inspections. The gas station at Ames and Bridge Streets has two bays, and the gas station on Washington Street across from the Fire Station has two bays. Inspections are provided at both locations, and they are very similar in size and scale to the Applicant's station.

Attorney Zahka said that, for the record, the applicant is not seeking any variances. Since he is seeking Special Permits, hardship does not apply. In terms of expansion of a service station,

he has been very specific that this bay would be used only for automotive inspection. No work will be done in that bay other than changing a bulb. There would be no oil changes. Mr. McGrail said the applicant can do inspections at the site right now. Mr. Zahka said that, depending on how the Building Commissioner views this the bay has to be a certain length (they currently have an awning to accomplish this), and they may need to return to the Zoning Board of Appeals if the Building Commissioner rules that the two-foot extension is a change to a pre-existing nonconforming use.

John Bielowski, an employee of the LLC, said that he runs the station daily, six days a week, and there are two bays now, which does not give them a lot to work with, although it is enough to make a living. If, under today's new Registry of Motor Vehicle laws, they apply for a Registry license, there would have to be a specifically dedicated bay that does nothing other than inspections. This would cut the volume of the service department in half. He said he has six children in the Dedham school system and is a life-long Dedham resident who makes his living at the station. He hoped to do that for the rest of his life. This would be a hardship for him and his family.

Elizabeth Gustin, 8 Walker Lane, lives down the street from the station. She is concerned that the station is so close to the Charles River; she disagreed with Attorney Zahka's estimate that it is 80 feet from the Charles River, and said it was probably 20 feet. She said that as construction is started, there is a wall right behind the station and she would be concerned that the wall would collapse. She also said the intersection is very difficult to negotiate because of the traffic and the lights.

Michael Haggerty, Waterford's, said his main concern is pollution because the parking lot is right on the river. He said, that in 2013, they spent \$65,000 cleaning the parking lot. He said he is not against the bay being built, but he has to do it properly. He also wants catch basins and a vent in case of an accident. Once something hits the soil, the whole process starts over again. He wants his property protected, and will not object if it is done properly. He also wants the fence moved. Mr. Lakkis said he had a contractor install the initial stakes and an engineer on the property that presented information that was currently as of the date of the hearing today. He will provide a copy to Mr. Haggerty. They will stake the line and then walk

it with him. He said he wants to give him everything he needs to comply. Mr. Haggerty was satisfied with this.

Michael O'Connor, 45 Marlboro Street, said the residents of Riverdale need competition for mechanical services because there are not enough options at this time. Mr. Bielowski offers an important option for the residents who need ongoing mechanical repairs to their cars.

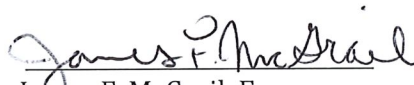
Mr. McGrail asked if there were any further comments from the audience, and there were none.

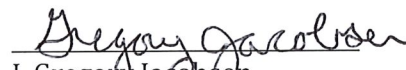
The Board had no further questions. Mr. McGrail said his concerns remain. Mr. Steeves echoed Mr. McGrail's concerns, and made a motion to deny a Special Permit for Elie on Bridge Street, LLC. Mr. Jacobsen seconded the motion. The vote of the Board to deny was 3-2 with three members supporting the denial and two members supporting the applicant.

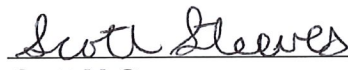
In accordance with MGL Chapter 40A, Section 11, the Applicant has twenty days after the date of the filing of this decision with the Dedham Town Clerk to appeal the decision to a court of competent jurisdiction.

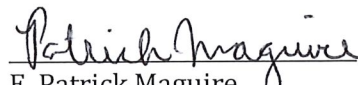
Dated: October 12, 2018

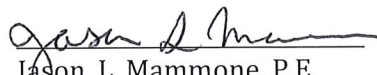
Attest by the Zoning Board of Appeals


James F. McGrail, Esq.


J. Gregory Jacobsen


Scott M. Steeves


E. Patrick Maguire


Jason L. Mammone, P.E.