

TOWN OF DEDHAM  
COMMONWEALTH OF MASSACHUSETTS

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**ZONING BOARD OF APPEALS  
DECISION**

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**Applicant:** OCW Retail - Dedham, LLC  
**Property Address:** 150-370 Providence Highway, Dedham, MA  
**Property Owner:** OCW Retail – Dedham, LLC  
**Property Owner Address:** 800 Boylston Street, Boston, MA 02199  
**Applicant Representative:** Peter Zahka, Esq., 12 School Street, Dedham, MA

**Legal Notice:** The Zoning Board of Appeals for the Town of Dedham, Massachusetts, will hold a public hearing in the Town Office Building, 26 Bryant Street, Dedham, MA at 7:00 p.m., Wednesday, October 17, 2018, on the petition of OCW Retail, 800 Boylston Street, Boston MA. The Applicant seeks to be allowed such waivers from the Dedham Sign Code a required to remove four (4) freestanding (wayfinding) signs, and replace said signs with seven (7) new freestanding signs, increasing the total number from 13 to 16 and increasing the total area from 554.41 s.f. to 578.41 s.f.

**Section of Zoning Bylaw:** *Town of Dedham Sign Code Section 237-29- 237-30, Table 1, and Table 2.*

**Zoning District, Map and Lot:** Highway Business (HB), 57/4, 57/9, 57/11, 57/12, 76/1, 93/1, 93/2

**Date of Application:** September 14, 2018

**Date of Public Hearing:** October 17, 2018

**Date of Decision:** October 17, 2018

**Vote:** 5-0, Unanimous in favor

**Voting Members:** James McGrail, J. Gregory Jackson, Scott Steeves, E. Patrick Maguire, and George Panagopoulos

**Date Filed with Town Clerk:** October 31, 2018

The Zoning Board of Appeals (“ZBA”) of the Town of Dedham, Massachusetts, held public hearings on October 18, 2018, in the Town Office Building, Bryant Street, Dedham, MA. Present were members of the ZBA, Chairman James F. McGrail, Esq., J. Gregory Jacobsen, Scott M. Steeves, and E. Patrick Maguire, MLA, RLA, CLARB, LEED AP. In the absence of Jason Mammone, P.E., the Chairman appointed Associate Member George Panagopoulos, to sit in his place. These hearings and meeting of the ZBA were duly advertised in accordance with the requirements of MGL Chapter 40A, Section 11.

At 7:10 p.m. the Chairman called for the hearing on the application of OCW Retail-Dedham, LLC, to be allowed such waivers from the Town of Dedham Sign Code as required to remove four (4) freestanding (wayfinding) signs, and replace said signs with seven (7) new freestanding (wayfinding) signs, increasing the total number of freestanding signs from 13 to 16 signs (inclusive of 7 wayfinding signs) and increasing the total area of said freestanding signs from 554.41 s.f. to 578.41 s.f. The property is located at 150-370 Providence Highway, Dedham, MA, and is in the Highway Business (HB) Zoning District. *Town of Dedham Sign Code Sections 237-29, 237-30, Table 1, and Table 2.*

The Applicant was represented by Peter A. Zahka, II, Esq., 12 School Street, Dedham, MA. Also present on behalf of the Applicant was Matthew Joyce, Asset Manager for the Wilder Company. With the Application, Attorney Zahka submitted a certified plot plan, photographs/drawings of the proposed signs, a sign location plan, and a listing of the current and proposed signs on the property. 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 57, Lot 4, Map 57, Lot 9, Map 57, Lot 11, Map 57, Lot 12, Map 76, Lot 1, Map 93, Lot 1, and Map 93, Lot 2, contains over 65 acres of land and has over 3,700 feet of frontage on the surrounding streets. The Subject Property is fully developed and is occupied by several commercial buildings

known as the Dedham Mall. According to the Dedham Zoning Map, the Subject Property is located in the Highway Business (HB) Zoning District.

Currently, there are a variety of freestanding “wayfinding” signs located within the Subject Property designed to assist and direct the traveling public to the various establishments within the Dedham Mall. Since these signs contain the names of establishments (i.e. contain a commercial message), they do not qualify as directional signs. Applicant proposes to remove four (4) of these freestanding “wayfinding” signs, and replace the same with seven (7) new freestanding “wayfinding” signs. As a result, this increases the total number of freestanding signs on the Subject Property from 13 to 16 signs (inclusive of 7 “wayfinding” signs) and increases the total area of said freestanding signs from 554.41 s.f. to 578.41 s.f. (i.e., an increase of less than 30 s.f.). These signs will be located throughout the property substantially in the locations shown on the plan submitted with the Application. For the most part, these “wayfinding” signs are barely (if at all) visible from any public way. The proposed individual signs will satisfy and conform with the dimensional requirements under the Town of Dedham Sign Code for such signs in the HB Zoning District. It is noteworthy that the overall sign area at the Subject Property is substantially less than is allowed under the Dedham Sign Code. Applicant submits these signs will improve the flow of traffic (and safety) in and around the Subject Property by providing direction to the traveling public.

In light of the number of free-standing signs at the Subject Property and the sign area of the same Applicant requires relief or waivers from the Dedham Sign Code for the proposed freestanding “wayfinding” signs. Specifically, Applicant respectfully requests that ZBA grant waivers from the Dedham Sign Code as required to remove four (4) freestanding “wayfinding” signs, and replace said signs with seven (7) new freestanding “wayfinding” signs, increasing the total number of freestanding signs from 13 to 16 signs (inclusive of 7 “wayfinding” signs) and increasing the total area of said freestanding signs from 554.41 s.f. to 578.41 s.f. Sections 237-29 and 237-30 of the Dedham Sign Code authorize and empower the ZBA to grant waivers to the provisions of the Dedham Sign Code. Relative to the relief requested from the provisions of the Dedham Sign

Code, Applicant submits that it has satisfied the procedural and substantive criteria and requirements of said Sections 237-29 and 237-30 of the Dedham Sign Code. With respect to the procedural requirements, Applicant submitted appropriate documentation to the Design Review Advisory Board (DRAB). Prior to appearing before the ZBA, Applicant appeared before DRAB to discuss the requested waivers or relief. At this meeting, DRAB voted to approve and recommend Applicant's request for the relief or waivers from the Dedham Sign Code.

With respect to the substantive requirements, said Section 237-30 provides that the ZBA may grant relief or waivers if the same "are warranted owing to any circumstances including (a) that literal compliance... is not practical or is unfeasible or (b) that such relief or waivers are recommended by the Design Review Advisory Board". As indicated above, DRAB is recommending such relief or waiver. In addition, the sign area, number of signs, height and setback of free-standing signs, and other nonconformities with the Dedham Sign Code have existed at the Subject Property for many years (and have all been the subject of previously granted permits (and in some cases previously granted waivers). Applicant further notes that the Dedham Sign Code does not appropriately or sufficiently address the needs of the unique features of the Subject Property and its use as a shopping mall. Accordingly, literal compliance with the Dedham Sign Code provision applicable to residential properties is not practicable and is unfeasible.

No one appeared at the hearing 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 to remove four (4) freestanding "wayfinding" signs, and replace said signs with seven (7) new freestanding "wayfinding" signs, increasing the total number of freestanding signs from 13 to 16 signs (inclusive of 7 "wayfinding" signs) and increasing the total area of said freestanding signs from 554.41 s.f. to 578.41 s.f. at 150-370 Providence Highway, Dedham, MA, in the HB Zoning District. In granting this relief, the ZBA finds (1) that Applicant has satisfied the procedural requirements set forth in the Dedham Sign Code,

(2) that the relief is recommended by DRAB, (3) that the relief is warranted due other “circumstances” (as described above), and (4) that the same may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Sign Code.

Dated: November 2, 2018

James F. McGrail  
James F. McGrail, Esq., Chairman

J. Gregory Jacobsen  
J. Gregory Jacobsen

Scott M. Steeves  
Scott M. Steeves

E. Patrick Maguire  
E. Patrick Maguire, MLA

George Panagopoulos  
George Panagopoulos