

**TOWN OF DEDHAM
COMMONWEALTH OF MASSACHUSETTS**

James F. McGrail, Chair
J. Gregory Jacobsen, Vice Chair
Scott M. Steeves
Jason L. Mammone, P.E.
George Panagopoulos, Associate Member
Andrew Pepoli, Associate Member



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**ZONING BOARD OF APPEALS
MINUTES**

Wednesday, July 17, 2019, 7:00 pm, Lower Conference Room

Present: James F. McGrail, Chair
Gregory Jacobsen, Vice Chair
Scott M. Steeves
George Panagopoulos
Andrew Pepoli

Staff: Jennifer Doherty, Administrative Assistant

The meeting was brought to order at 7:00 pm. The plans, documents, studies, etc., referred to are incorporated as part of the public records and are on file in the Planning and Zoning office. The hearings were advertised in *The Dedham Times* as required, and notices to abutters within 300 feet of each property were sent.

Applicant:	Town of Needham Select Board
Project Address:	West Street, Dedham, MA Parcel 101-01
Zoning District:	Single Residence A (SRA)
Legal Notice:	The Applicant requests a Special Permit authorizing a governmental use pursuant to Section 3.1.6.B.5; a special permit authorizing a tower height in excess of 85' pursuant to Section 4.2.4; and a variance of the 50' height limit for antennas contained in Section 4.2.3.
Section of Zoning Bylaw:	<i>Town of Dedham Zoning Bylaw Section 3.1.6.B.5, Section 4.2.4, and Section 4.2.3.</i>
Representatives:	Representative Christopher H. Heep, Esquire

Attorney Chris Heep representing the Town of Needham gave background for the proposed project. He explained that the Town of Needham was currently building a brand new Public Safety building to house Fire and Police. They were also building a second new fire station to replace their existing secondary fire station. As part of this process they were also brand new public safety wireless

communication system to service the police and fire departments. The existing public safety communication system was in need of serious upgrading. In order to install a new public safety communication system they would need to construct four towers that would work on a microwave loop system beaming microwaves from one tower to another. One of these towers they wished to construct in Dedham. The parcel of land they were looking at is behind the Norfolk County Sheriff's Office and is owned by the Massachusetts Department of Transportation. The parcel was originally acquired as part of the highway division for route 128. The Mass DoT has indicated their approval for the Town of Needham to use this land and is currently working on a draft lease agreement with them. They are working with Martin Pollera of the real estate division of the Mass DoT. Attorney Heep explained that they would also like to make the tower facilities accessible for use by the Town of Dedham for their Police and Fire Safety Communications.

Chairman McGrail asked why the tower need to be in Dedham. Attorney Heep stated that they had looked at other parcels but there were none more practical. Ken Sargent, the Project Manager from the Town of Needham explained that they had looked into other areas in Needham by drone study, however they needed something in this location high enough and due to height limits set by the FAA, they were unable to find a different location that would meet all of the necessary requirements. Chairman McGrail asked who would own the tower, and the reply was Needham. He asked why, and the reply was it was originally thought that Needham would bear the responsibility for the maintenance and construction of the tower. They would be happy to entertain the idea of Dedham owning it, however the Town of Needham had a more imminent need to use it for their public safety communication system as they were already under construction for the new fire and police safety building. Dedham had still not broke ground on their new Public Safety Building. The Town of Needham has exchanged a draft agreement with the Town of Dedham and they are working on rights of access.

Lindsey DiTonno, PE from GPI is the civil engineer for the project and she explained that the site itself has an existing gravel drive they would maintain and use for access. The site is sandwiched between wetlands so they have filed a Notice of Intent with the Conservation Commission. The site itself has a 20 x 20 feet foundation for the tower, surrounded by a small gravel area used for maintenance vehicle parking. The disturbance would be to the existing gravel area and they would be mitigating the disturbance to the wetlands as much as possible. Chairman McGrail asked if you would be able to see the tower from the street, and how tall was it. The answer was the tower itself would be 180 feet, and then there would be a 10 foot antenna on top of that, so 190 feet total. And yes, you could see the tower from some locations, they had renderings they would show the Board for examples of what it would look like from different locations. Chairman McGrail asked other than the Town Planner, who had they been meeting with. The reply was the former Town Manager, and the Building Commissioner before the application was filed. Town Planner Jeremy Rosenberger stated that he had been in talks with the Police and Fire Chiefs regarding the tower. The Chiefs have indicated that Dedham will be using the same company, CyberCom, as Needham to install antennas on the tower, and that would be helpful. However, since our timeline for the Public Safety Building is not determined yet, it was a little difficult to pin down our exact needs for the tower. Chairman McGrail asked how far along were they with MassDot at present? The reply was that they currently had a draft agreement. Their timeline is to be under construction by October 2019. Chairman McGrail asked if the tower could be seen from any tower, and the answer was yes. In particular some houses on Schoolmaster Lane. The applicant showed some drawings of what they believed it would look like. Chairman McGrail asked if they had reached out to those houses, and the applicant had not. He asked if the houses had been notified of the application, and as standard practice, abutters within 300 feet of the tower had been notified. This list was given to Chairman McGrail to review.

Chairman McGrail asked if there were any questions from the public, and there were not. He stated there was a lot of information to digest, and he recognized the Town of Needham had been in talks with the Town Planner, and he appreciated that. He had no intention of delaying their start date, but he just wanted to give everyone a chance to have the information, and therefore the Board would be continuing the hearing.

A motion was made by Greg Jacobsen to continue the hearing to August 14th at 6:00 pm. The motion was seconded by Scott Steeves, and all were in favor, 5-0. The hearing will resume August 14, 2019 at 6:00 pm.

Applicant:	Marc-Danie Nazaire
Project Address:	170 Colburn Street, Dedham, MA
Zoning District:	SRB
Legal Notice:	The Zoning Board of Appeals for the Town of Dedham, Massachusetts, will hold a public hearing in the Town Hall Office Building, Lower Conference Room, 26 Bryant Street, Dedham, MA at <u>7:00 p.m., Wednesday, June 19, 2019 on the hearing of Applicant Marc-Danie Nazaire, 170 Colburn Street, Dedham, MA</u> The applicant requests a Special Permit to be allowed to convert a single-family residence to a two-family in accordance with the Town of Dedham Zoning Bylaw 7.2 and a variance to allow the two-family residence to exist on a lot having 8,000 square feet instead of the required 18,750 square feet.
Section of Zoning Bylaw:	<i>Town of Dedham Bylaws: Section 7.2.1, Conversion of Single Family to a Two Family Dwelling, Table 1, Principle Use Regulations, and Section 9.3, Special Permits.</i>
Representatives:	Keith P. Hampe

Attorney Keith P. Hampe asked to respectfully withdraw this application without prejudice. Scott Steeves made a motion to withdraw, the motion was seconded by Gregory Jacobsen, and all were in favor, 5-0, unanimous.

Applicant: James and Ruth Loughran
Project Address: 117 Cedar Street
Zoning District: Single Residence B (SRB)
Legal Notice: The Applicant requests a Special Permit to be allowed to convert a single-family residence at 117 Cedar Street that was formerly a child care facility to a two-family residence in accordance with Town of Dedham Zoning By-law 7.2 and a variance to allow the two family residence to exist on a lot having 13,766 square feet instead required 18,750 square feet in Single Residence B (SRB) Zone.
Section of Zoning Bylaw: *Town of Dedham Zoning Bylaw Section 7.2.1 Conversion of single family to two family dwelling, Table 1, principal use regulations, M.G.L. Ch. 40A, 9 & 10, Section 9.3 Special Permits.*
Representatives: Keith. Hampe, Esquire

Attorney Keith Hampe explained that they had previously withdrawn their application to be allowed to convert the residence with childcare facility into a two family residence. They were now asking for the residence to be allowed an accessory dwelling unit. The accessory dwelling unit would not house more than two people, it would not transfer with the land, but would end when the owners moved out. Chairman McGrail asked if there were any questions from the audience, and there were not. There were no questions from the Board.

Scott Steeves made a motion to grant the accessory dwelling unit as presented, the motion was seconded by Gregory Jacobsen, and the motion passed 4-1, which George Panagopoulos being against.

The following application was taken out of order of the agenda.

Applicant: Amy K. Loder
Project Address: 27 Hooper Road
Zoning District: General Residence (GR)
Legal Notice: seeks a special permit to construct a 13'3" x 26'5" second-story dormer within the existing building footprint; dwelling is pre-existing nonconforming with regard to the front yard setback (14.9 ft. provided; 20 ft. required). The property is located at 27 Hooper Road, Dedham, MA
Section of Zoning Bylaw: Sections 3.3, 4.1, 9.2, and 9.3

Ms. Loder and Mr. Michael Gallery were in attendance for the application. Michael explained the project and that they wished to extend out their second floor, but they would not be changing the

existing footprint at all. They had sprung a leak, needed to perform repairs and were looking to increase the size of the bathroom in the process. There had been 10 neighbors who signed in support of their petition.

George Panagopoulos made a motion to accept the proposal as presented. Greg Jacobsen seconded the motion, and all were in favor, 5-0, unanimous.

Applicant:	33 McDonald Street, LLC, of 5 Powder House Road, Medfield, MA 02052
Project Address:	10-14 Ames Street, Dedham, MA
Zoning District:	General Residential (GR).
Legal Notice:	The Applicant is requesting a special permit and/or variances as necessary to convert an existing single family dwelling to a two-family dwelling on a lot with frontage of approximately 70 feet, lot width of approximately 65 feet, lot width through front building line of approximately 65 feet, lot width through rear building line of approximately 612 feet, and for the continuation of a pre-existing nonconforming commercial building and use on the same lot.
Section of Zoning Bylaw:	<i>Town of Dedham Zoning Bylaws: Section 3.3, 9.2, Table 1, and Table 2.</i>

Peter A Zahka, Esquire represented the Applicant. Applicant is the owner of the real estate known and numbered as 10-14 Ames Street, Dedham, Massachusetts, and shown on Dedham Assessors Map 55, Lot 89 (hereinafter referred to as the “Subject Property”). The Subject Property contains approximately 17,018 square feet of land and has approximately 70 feet of frontage on Ames Street. The Subject Property is located in the General Business (GB) with a small portion of the rear of the property located in the General Residence (GR) Zoning District.

The Subject Property is currently occupied by a 2-story single family residential dwelling and a 1-story commercial building. According to the records maintained by the Dedham Assessors, the single family dwelling and commercial building were constructed circa 1920. The commercial building has historically been used for furniture repair and other commercial activities. It is noteworthy that a portion of the commercial building and parking for the same is located in the GR Zoning District. The entire dwelling is located in the GB Zoning District.

Applicant proposes to convert the single family dwelling on the Subject Property into a two-family dwelling¹. The footprint of the existing single family dwelling will remain substantially the same. In addition, the pre-existing nonconforming commercial building would continue to be occupied by allowable commercial uses.

Pursuant to Table 1 (Principal Use Table) of the Dedham Zoning By-Law a two-family house is a use allowed as of right in the GB Zoning District. Said Table 1 further provides that a variety of nonresidential uses including offices, retail businesses, trade shops, personal service establishments, and general service establishments are allowed as of right in the GB District. However, none of these uses are allowed in the GR Zoning District. Therefore, since a portion of the commercial building is in the GR Zoning District the building and the nonresidential uses therein are pre-existing nonconforming.

Table 2 (Table of Dimensional Requirements) sets forth the dimensional requirements for the various zoning districts. It's noteworthy that per said Table 2, there are no dimensional requirements in the GB Zoning District (with the exception of lot coverage and floor area ratio). However, Footnote 9 of said Table 2 states that dimensional regulations of the General Residence (GR) Zoning District apply to two-family homes in the GB Zoning District. Per Footnote 1 of said Table 2, the frontage, lot width and lot width through the front and rear building lines is 90 feet for a two family home in the GR Zoning District. Footnote 12 of said Table 2 states that the minimum lot width for the required front yard in the GR Zoning District shall be equal to the frontage requirement. The lot and/or existing dwelling has frontage of approximately 70 feet, lot width of approximately 65 feet, lot width through the front building line of approximately 65 feet, and lot width through the rear building line of approximately 61 feet. Therefore, Applicant has requested relief from the dimensional requirements in order to convert the existing single family dwelling to a two-family dwelling.

As stated above, both the commercial building and its commercial use are pre-existing nonconforming. Applicant desires to continue the same, Pursuant to Section 3.3.2 of the Dedham Zoning By-Law the ZBA may award a special permit to change a nonconforming use if it determines

¹ During the presentation Applicant acknowledged that Applicant had been cited by the Dedham Building Commissioner for previously utilizing the house as a two-family house without proper approvals and permits.

that such change or extension shall not be substantially more detrimental than the existing non-conforming use to the neighborhood. The types of changes the ZBA may consider are those that change or substantially extend the use, or change from one nonconforming use to another, less detrimental, nonconforming use. Per Section 3.3.3 of the Dedham Zoning By-Law the ZBA may grant special permits to change, alter, extend, or reconstruct nonconforming structures. Per said Section 3.3.3, the ZBA “may award a special permit... if it determines that [the proposed change, alteration, extension, or reconstruction] shall not be substantially more detrimental than the existing nonconforming [use or structure] to the neighborhood.”

In acting upon requests for special permits, the ZBA is guided by Section 9.3.2 of the Dedham Zoning By-Law which provides that:

Special permits shall be granted . . . only upon [the] written determination that the adverse effects of the proposed use will not outweigh its beneficial impacts to the town or the neighborhood, in view of the particular characteristics of the site, and of the proposal in relation to that site. In addition to any specific factors that may be set forth in this By-Law, the determination should include consideration of each of the following:

1. Social, economic, or community needs which are served by the proposal;
2. Traffic flow and safety, including parking and loading;
3. Adequacy of utilities and other public services;
4. Neighborhood characteristics and social structure;
5. Impacts on the natural environment; and
6. Potential fiscal impact, including impact on town services, tax base, and employment.

In addition, Section 9.2.2 of the Dedham Zoning By-Law provides that 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. The adverse effects of the proposed use will not outweigh its beneficial impacts to the Town or neighborhood considering these requirements and criteria. The use (i.e., two-family house) is allowed as of right, but the dimensional requirements under the Footnotes of Table 2 require Applicant to request relief. It is noteworthy that under the Dedham Zoning By-Law, Applicant could, as of right, utilize the house for commercial purposes and/or demolish the house and place another commercial building on the Subject Property without regard to lot area, frontage, or yard setbacks. Applicant further notes that with a special permit Applicant could construct a mixed use building with commercial uses on the first floor and apartments on the upper floor. Applicant believes that the other potential uses would cause more adverse effects to the neighborhood than a two-family home. Further, the footprint of the current single family residence will remain substantially the same, resulting in only minor changes to the exterior of the building which may be necessary to comply with the Building Code. If the variances are not granted, Applicant will suffer a substantial financial hardship since the proposed two-family house could not be constructed.

With respect to the pre-existing nonconforming commercial structure, Applicant simply desires to continue utilizing the same as it has been historically (i.e., for allowable commercial uses). Applicant is proposing no changes to the building itself. Therefore, since there are no proposed changes, Applicant submits that it cannot be substantially more detrimental to the neighborhood than the current building and use.

Elizabeth Gustin of 8 Walker Lane, Dedham, MA, appeared in objection of the requested relief. Applicant noted that he discussed his proposed with most direct abutters of the Subject Property, and none objected (nor appeared at the hearing).

Upon motion duly made the ZBA voted unanimously (5-0) to approve Applicant's request for such special permits and variances as necessary to convert an existing single family dwelling into

a two-family dwelling on a lot with frontage of approximately 70 feet, lot width of approximately 65 feet, lot width through front building line of approximately 65 feet, lot width through rear building line of approximately 61 feet, and for the continuation of a pre-existing nonconforming commercial building and use on the same lot.

Applicant: Michael A. Morris and Karen J. Winters
Project Address: 762 East Street, Dedham, MA
Zoning District: Zoning District Single Residence B (SRB).

Legal Notice: The Applicants seek to request a variance for an attached two-car garage. The front corner of the garage extends into the side setback by 3.4 feet at the deepest point (lot line is not parallel to the building) and tapering back for approximately 12 feet. The front corner of the garage will therefore be 6.6 feet from the property line rather than the required 10 feet.

Section of Zoning Bylaw: *Town of Dedham Bylaw Section 4.1, Table 2.*

Michael Morris was in attendance with his architect Katherine MacPhail. They explained the proposal and that they wished to remove a porch and build a room that would connect to the garage. The existing garage would be torn down and replaced with a large, two-car garage, and would connect. The footprint of the garage would be moved over a bit which triggers the need for this variance. The Chairman asked if there were any questions from the Board, or from the audience, and there were none.

Mr. Steeves made a motion to approve the proposal as is, and the motion was seconded by George Panagopoulos. All were in favor, 5-0, unanimous.

Applicant: OCW Retail, Dedham, LLC
Project Address: 150-370 Providence Highway, Dedham, MA
Zoning District: Highway Business (HB)

Legal Notice: The Applicant, OCW Retail, Dedham, LLC, is requesting a waiver to allow a wall sign with a height of approximately 30 feet, which is above the lowest point of the roof of said building.

Section of Zoning Bylaw: *Town of Dedham Sign Code: Section 237-4, 237-19, 237-29, 237-30, Table 1 and Table 2.*

In attendance for the Applicant were Peter Zahka, Esquire, and Kelli Burke, Senior Vice President for The Wilder Companies, and Ron Ferigno from Sign Design. Burlington Coat Factory is

a new tenant that will be going into the Dedham Mall next to the At Home store. The sign code does not allow the sign to be above 25 feet but in order to be in line with the At Home store right next to it the sign will need a waiver. The Design Review Board had already reviewed the Burlington Coat Factory signage and recommended approval. The Chairman asked if there were any questions from the public, or from the Board, and there were none.

A motion was made by Greg Jacobsen to grant the waiver for the wall sign, and the motion was seconded by George Panagopoulos. All were in favor, 5-0, unanimous.

Applicant:	Kimball Inn Condominium Trust
Project Address:	4 Spruce Street, Dedham
Zoning District:	Single Residence B (SRB)
Legal Notice:	The Applicant, Kimball Inn Condominium Trust, seeks to be allowed a special permit to amend a previous decision of the Board of Appeals dated January 31, 2006 recorded in Norfolk Registry of Deeds Book 23453, Page 462, attached hereto as exhibit A by allowing the trustees of the condominium to convey 1,702 square feet of land to the abutting property owner at 14 Spruce Street, Dedham, MA.

Section of Zoning Bylaw:	<i>Town of Dedham Zoning Bylaw Section 3.3.2, Section 9.3, and MGLA CH 40A section 9.</i>
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Kevin Hampe, Esquire was in attendance for this project. The Applicants are requesting to amend the special permit dated January 31, 2006 which allowed a non-conforming office use to be changed to a residential use on a lot having 17,209 sq. ft. The Applicants are requesting relief to reduce the lot area to 15,507 and to allow a portion of the lot (Lot B) containing 1,702 sq. ft. to be conveyed to the adjoining property at 14 Spruce Street, Dedham, MA owned by Douglas Smink, and Kara Tierney. The Applicants are not changing the size of use of the existing structure. The purchasers intend to widen their driveway and landscape the area between the properties. Since the property is a non-conforming use that was granted previously they must come before the Zoning Board, and if granted they would then proceed to the Planning Board for approvals. Fred and Jan Civian of 24 Spruce Street had written in support of this a application. The Chairman asked if there were any questions from the audience or from the Board, and there were none.

A motion was made by Andrew Pepoli to approve the proposal as presented, and was seconded by Scott Steeves. All were in favor, 5-0, unanimous.

Applicant: Candy Mountain Corporation
Project Address: 49-57 Bridge Street, Dedham
Zoning District: General Residence (GR) and General Business (GB)
Legal Notice: The Applicant, Candy Mountain Corp., seeks to be allowed a special permit for the use of a pre-existing nonconforming accessory parking lot as for the parking (as a principal use) of vehicles not associated with the existing principal use when not utilized by said existing principal use.
Section of Zoning Bylaw: *Town of Dedham Zoning Bylaw Section 3.3, Section 9.2, Section 9.3.2, Section 10, and Table 1.*

Peter A. Zahka, Esquire was in attendance for the Applicant, as was the owner of Mosley’s Edward DeVincenzo. Applicant proposes to rent/lease the parking lot during weekdays from 6:00 a.m. to 6:00 p.m. for the parking of vehicles of employees and patients of the Veterans’ Administration (VA) Hospital during construction at the VA Hospital in West Roxbury, MA. These employees and patients will be shuttled from the parking lot to the VA Hospital and back at the end of the workday. Pursuant to Table 1 (“Use Regulation Table”) of the Dedham Zoning By-Law, the parking of motor vehicles incidental to (i.e., as an accessory use to) a permitted principal use is allowed as of right in all zoning districts. In this case, the principal use is Mosely’s-on-the-Charles. Therefore, the parking of vehicles at the Subject Property incidental to the use of Mosely’s-on-the-Charles is allowed as of right. However, the proposed parking of vehicles for VA employees and patients would not be considered incidental to the principal use.

As stated above, given that the Subject Property is located partially in the GR Zoning District and does not have a formal parking plan approval, the same is considered as pre-existing nonconforming. Said Table 1 further provides that a parking lot as a principal use is allowed by special permit in the GB Zoning District but is not allowed in the GR Zoning District. However, pursuant to Section 3.3.2 of the Dedham Zoning By-Law the ZBA may award a special permit to change a nonconforming use to another nonconforming use if it determines that such change or extension shall not be substantially more detrimental than the existing nonconforming use to the neighborhood. The types of changes the ZBA may consider are those that change or substantially extend the use, or change from one nonconforming use to another, less detrimental, nonconforming use.

In acting upon requests for special permits, the ZBA is guided by Section 9.3.2 of the Dedham Zoning By-Law which provides that:

Special permits shall be granted . . . only upon [the] written determination that the adverse effects of the proposed use will not outweigh its beneficial impacts to the town or the neighborhood, in view of the particular characteristics of the site, and of the proposal in relation to that site. In addition to any specific factors that may be set forth in this By-Law, the determination should include consideration of each of the following:

7. Social, economic, or community needs which are served by the proposal;
8. Traffic flow and safety, including parking and loading;
9. Adequacy of utilities and other public services;
10. Neighborhood characteristics and social structure;
11. Impacts on the natural environment; and
12. Potential fiscal impact, including impact on town services, tax base, and employment.

Applicant respectfully submits it satisfies the above stated requirements and criteria for the issuance of the requested special permits. In connection with the proposed use of the parking lot, Applicant submitted the following suggested terms and conditions (which Applicant agrees to have incorporated in a decision):

1. Parking will be for private passenger vehicles only (i.e., no construction vehicles).
2. Parking will be limited to 150 vehicles.
3. Parking will be limited to Monday through Friday, 6:00 a.m. – 6:00 p.m.
4. On-site security will police the lot for security purposes and for litter control.
5. A small mobile guard house and handi-house will be placed in the lot and removed prior to Saturday morning.
6. The use will be allowed for a period of twelve (12) months (unless specifically extended after a hearing before the ZBA).
7. The shuttle bus shall not idle in the parking lot prior to 6:00 a.m.

Applicant avers that the adverse effects of the proposed use will not outweigh its beneficial impacts to the Town or neighborhood considering the above stated requirements and criteria, and that the proposed use is not substantially more detrimental than the current use. The Subject Property is use as a parking lot and will continue to be so used. Arguably, Applicant could lease Moseley's-on-the Charles to the VA and special permits would not be required (since the parking lot would be incidental to the lease). It is also noteworthy that a similar request for the use of the parking lot was approved by the Dedham Planning Board in 2012 (although it was never actually

utilized as requested). The “conditions” proposed by Applicant will provide adequate mitigation and protection to the residential abutters. In addition, the proposed use will not conflict with the use of the parking lot by Moseley’s-on-the-Charles (which will continue).

No one appeared in opposition to the requested relief. Elizabeth Gustin of 8 Walker Lane, Dedham, MA, appeared in support of the requested relief. Applicant submitted a petition signed by direct abutters of the Subject Property, indicating their support for the requested relief.

Upon motion duly made the ZBA voted unanimously (5-0) to approve Applicant’s request for a special permit for the use of a pre-existing nonconforming accessory parking for the parking (as a principal use) of vehicles not associated with the existing principal use when not utilized by said existing principal use. Said relief is granted on the following terms and conditions:

1. Parking will be for private passenger vehicles only (i.e., no construction vehicles).
2. Parking will be limited to 150 vehicles.
3. Parking will be limited to Monday through Friday, 6:00 a.m. – 6:00 p.m.
4. On-site security will police the lot for security purposes and for litter control.
5. A small mobile guard house and handi-house will be placed in the lot and removed prior to Saturday morning.
6. The use will be allowed for a period of twelve (12) months (unless specifically extended after a hearing before the ZBA).
7. The shuttle bus shall not idle in the parking lot prior to 6:00 a.m.

Applicant:	Joshua Cruz
Project Address:	224 Bussey Street, Dedham
Zoning District:	Central Business (CB)
Legal Notice:	The Applicant Joshua Cruz seeks to be allowed a special permit for the use of a Trade Shop (gunsmith services, cerakoting/painting and stippling of firearms).
Section of Zoning Bylaw:	<i>Town of Dedham Zoning Bylaw Sections 3.1.6(E), 6, 9.2, 9.3 and 10.</i>

Attorney Andrew Couture and Joshua Cruz, applicant were both in attendance. Attorney Couture indicated that on September 15, 2019 his client Mr. Cruz would be opening up a shop to sell firearms, as was his right by law. His client was seeking a special permit to allow Mr. Cruz to get his federal firearms license, not to manufacture firearms but to perform basic functions of a gunsmith. Chairman McGrail asked for an explanation and they replied the services were changing the barrel in a rifle, or fixing a shotgun, as well as cerakoting (painting) and stippling, (carving

into the plastic of the gun). Mr. Cruz explained that he would also be offering safety classes at his establishment.

Chairman McGrail asked the attorney for experience as a specified firearms attorney, although he stated he does not usually ask this question of the presenting attorneys. The attorney listed his very lengthy credentials.

Chairman McGrail asked typically how many guns would he have on his property. And the applicant replied 150-200 at any time. The type would be pistols, shotguns, rifles. In addition he would be selling ammunition. No more than 10,000 rounds can be on site without a permit from the Chief of Police.

Frederick Johnson, Assistant Building Inspector, said that according to the relevant town by-law, the store can open once it deals with a few minor points with his office. He added, "In regards to the manufacturing license, I have to tell the ATF first, that they're ok at that location for the manufacturing license. If they get a manufacturing license, in theory they can manufacture guns. If the Board in their wisdom decides to give them this trade shop use, I would just request that the special permit clarify that it's for what these gentleman are offering and not for the manufacture of guns, even if the license he gets from the ATF says he can manufacture guns."

Chairman McGrail stated that he had submitted 30 signatures in support of the application. He listed the street locations of these supporters. Mr. Panagopoulos asked what safety features and security the applicant had and the response was the storefront would be barred with metal grates, dark-tinted windows, a live security system, 16 cameras, steel doors, a hookup to the police station, and at night all of the firearms will be locked up in a safe and inaccessible.

Chairman McGrail asked if any of the audience members wished to speak, and Mr. Charlie Kruger of Stafford Road stated that he supported the seconded amendment, but he felt the shop should be in a more industrial area, such as Route 1, he did not want it in East Dedham Square as they were attempting to revitalize East Dedham. Chairman McGrail asked about the location choice and Mr. Cruz stated that his first choice had been in Dedham Square, where Liberty Tax was moving, but it was rented out before he could secure it. Rita Mae Cushman of Garfield Road agreed with Mr. Kruger, as did Tom Polito, the owner of Polito Insurance on Bussey Street. Mr. Polito stated he is a direct abutter and he was opposed to the gun shop being there.

Speaking in favor of the shop was Mr. Ray Harris of Forest Street, who is a former deputy sheriff and police officer. He said that a lot of police officers are in favor of the shop and want to visit it. He felt that more policemen would be visiting the shop and therefore it would be even safer. Enis Mattozzi of Emmett Avenue spoke against the proposal, she was also worried about the location

and children in the area. Mr. Polito asked what the hours of operation would be for his shop and Mr. Cruz replied 9:00 am to 9:00 pm most likely.

You need a commercial lease before you can get a firearms permit to operate, so this is why he secured a location right away. Mr. Panagopoulos asked about his logo, and if he could make changes to it and possibly remove the guns and just have the target to make neighbors a little more comfortable. He also asked if perhaps he could alter his hours to close earlier to make the neighbors more comfortable as well.

Mr. Steeves mentioned that although he is in favor of guns, and gun ownership, he had to agree with the neighbors that it was not the right location for the shop. Greg Jacobsen agreed. Chairman McGrail stated that he felt the applicant was a very impressive person and that he presented very well, and he clearly cared about safety and wanted to do the right thing, however he had to agree with the neighbors that the location was not correct. He suggested that since the Board would most likely deny the request if it went to a vote would they like to consider other options. Attorney Couture asked if he could have a minute alone with his client to speak about it. They retired to the hallway for a few minutes. When they returned they asked if they could withdraw the application without prejudice.

Scott Steeves made a motion to withdraw the application without prejudice, the motion was seconded by Greg Jacobsen and all were in favor, 5-0, unanimous.

A motion was made by Greg Jacobsen to approve the minutes from June 16, 2019, the motion was seconded by Scott Steeves and all were in favor, 5-0, unanimous.

Chairman McGrail announced that Andrew Pepoli was the new associate member appointed to the Zoning Board of Appeals from the Select Board, and he apologized for not introducing him in the beginning of the meeting. Mr. Pepoli spoke to his qualifications. Chairman McGrail explained that Jared Nokes not being reappointed was an administrative oversight that was not intended. At some point in the near future it was hoped that Mr. Nokes would take the place of Mr. McGrail for the attorney position on the Board when Mr. McGrail steps down for his Planning Board duties.

Greg Jacobsen made a motion to adjourn the meeting at 9:21 pm, and Scott Steeves seconded the motion, all were in favor, unanimous.