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**Planning Board**

**Michael A. Podolski, Esq., Chair**

**John R. Bethoney, Vice Chair**

**Robert D. Aldous, Clerk**

**Ralph I. Steeves**

**James E. O’Brien IV**

**Planning Director**

**Richard J. McCarthy Jr.**

**rmccarthy@dedham-ma.gov**

**TOWN OF DEDHAM**

**PLANNING BOARD**

**MEETING MINUTES**

**November 10, 2016, 7 p.m., Lower Conference Room**

**Present:** Michael A. Podolski, Esq., Chair

John R. Bethoney, Vice Chair

 Robert D. Aldous, Clerk

 Ralph I. Steeves

 James E. O’Brien IV

 Richard J. McCarthy, Jr., Planning Director

Call to order 7:00 p.m. The Pledge of Allegiance was recited. Plans, documents, studies, etc., referred to are incorporated as part of the public records and are on file in the Planning and Zoning office.

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| **Applicant:**  | **Giorgio Petruzziello, Trustee, 148 Schoolmaster Lane Realty Trust** |
| **Project Address:** | **148, 208, 210, and 240 Schoolmaster Lane, Dedham, MA** |
| **Owners:** | * Giorgio Petruzziello, Trustee, 148 Schoolmaster Lane Realty Trust, 148 Schoolmaster Lane, Dedham, MA
* J & J River Real Estate, Inc./Riverbend, Inc., 208, 210, 240 Schoolmaster Lane, Dedham, MA
 |
| **Case #:** | **ANR-11-16-2158** |
| **Zoning District:** | Single Residence A |
| **Representative(s):** | Peter A. Zahka II, Esq., 12 School Street, Dedham, MAGiorgio PetruzzielloJames Halpin |

**Prior to the beginning of the meeting, Mr. Podolski explained that Mr. Bethoney recused himself from the meeting and was not present in the building during the meeting. The agency at which he works has a professional relationship with Mr. Petruzziello. Because he was not in the building, he did not participate in any part of this meeting or consideration of the proposal.**

The Applicant requested endorsement of an ANR plan involving 148, 208, 210, and 240 Schoolmaster Lane. Fire Chief William Spillane provided a letter stating that there is adequate access for emergency vehicles. The road, which may be deficient, is sufficient for purposes of endorsement of the Form A plan. Mr. Petruzziello will improve the road, and is trying to work out details with one of the abutters, who has appealed an Order of Conditions and a superseding Order of Conditions. The road will be 18 feet of pavement with one foot wide shoulders. The base of the road will extend out one foot and there will be seeded sandy loam. This will be in three places where it is just 18 feet of pavement, and will be for drainage purposes and when one goes over the existing culvert. Mr. Zahka therefore believes that the Form A plan is entitled to endorsement. It is hoped that they will be able to work out the finality of an agreement with the abutter regarding to the stormwater management issue. If the Board endorses this, he asked that the plan be held until at least Monday, November 14, 2016, to see if final details of the agreement can be worked out. The agreement with the abutter would be that the road would need to be done before the Form A can be recorded.

The Board received a letter dated 10/11/16 from Mark Bobrowski, a noted land planning expert in Massachusetts, in which he said that, putting aside the issues of area and frontage, which are clearly met with the proposed lots, the issue becomes whether the street provides adequate access. Just because a road might be “deficient” or could be better but is manageable does not give the Board the grounds to legally deny the proposal for the ANR plan. It is an existing roadway. Mr. Podolski agreed that the Applicant has now met the ANR standard, although with the understanding that he will make the roadway changes. Mr. Zahka said this was his client’s intent. Mr. Steeves said he had no problem with the proposal, and said the Board should move on from this. Mr. Podolski, as an aside, said that his first day on the Planning Board, thirteen years ago, was an ANR plan for Schoolmaster Lane. Mr. Aldous and Mr. O’Brien agreed with Mr. Steeves. The neighborhood had been notified of the meeting, and the Board took comments. Mr. David Allen, 100 Schoolmaster Lane, said he has been working with Mr. Petruzziello and Mr. Zahka over the last three weeks. There should be a signed document within the next few days.

Mr. Steeves moved to endorse the ANR plan as presented, but to hold it in abeyance for one week to allow sufficient time to work out the details with Mr. Allen. If the agreement that they have in principal holds, he will ask Mr. McCarthy to hold it. The intent is that the road will be put in first so the neighbors have a guarantee that the road will be as described. At that point, the Form A will be recorded.

Kenneth Wildes, 120 Schoolmaster Lane, asked if there would be a time limit when the road will be finished, or will the final coat be put on after the last house is built. Mr. Petruzziello said he would bring the road all the way up, raise the manhole covers, and put asphalt on the ground. The only thing left would be the finish coat when the last house is finished. He will do one house at a time. Mr. Zahka said that when they are working through the agreement, they will come up with a timeline saying that if Mr. Petruzziello is done or not done, the final pavement will go on with X amount of time. Mr. Petruzziello said he can bring in most of the utilities. Mr. Wildes asked about trucks in the morning; when they are coming up the road, there is only one way in and one way out. He asked if there was a stipulation as to when they would bring trucks up. The Building Department has rules in the bylaw for construction, and Mr. Petruzziello will have to abide by those. If there is a large problem in the neighborhood from construction vehicles, the neighbors are encouraged to talk to the Building Department, which may be able to do something about it under the Zoning Bylaw. He said the Applicant is committing to the neighbors that he is going to have a drop-dead date when the final asphalt is going on.

Mr. Allen said the big issue is not the houses, but the big equipment coming in when the road is being built. He suggested working out a time frame for the rest of the construction. Mr. Podolski said that if this was a regular subdivision, not an ANR, the Board could control all the construction traffic through the Certificate of Action. However, under the ANR law, the Board is not allowed to bind the Applicant with any kind of certificate. Whatever Mr. Allen and the roadway owners can agree to with Mr. Petruzziello and Mr. Zahka is the best way to try control it. Mr. Wildes said acknowledged the extensive work involved in the roadway, but wanted to know if there was a time limit. Mr. Petruzziello said that a lot of the previous work was laying the sewer and water; this is the hard part and it is all done. Most of the heavy construction will be from the culvert. He is pretty sure that he can get the whole road done within four to eight weeks. Mr. Podolski asked him to work with the neighborhood to see if a schedule can be worked out. He will in touch with Mr. McCarthy if there is a major issue that becomes a stumbling block.

Mr. Podolski asked for a second on the motion, and Mr. Aldous seconded it. The vote of the Board was unanimous at 4-0. **Again, Mr. Bethoney was not present in the building for any of the discussion, consideration, or vote as he had recused himself from the meeting as noted above.**

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| **Applicant:**  | **Cellco Partnership d/b/a Verizon Wireless** |
| **Project Address:** | **Utility Pole # No Tag near 750 Providence Highway, Dedham, MA** |
| **Case #:** | **SITE-09-16-2143** |
| **Zoning District:** | Highway Business  |

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| **Applicant:**  | **Cellco Partnership d/b/a Verizon Wireless** |
| **Project Address:** | **Utility Pole #366/9/2 near 124 Quabish Road, Dedham, MA** |
| **Case #:** | **SITE-09-16-2144** |
| **Zoning District:** | RDO  |

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| **Applicant:**  | **Cellco Partnership d/b/a Verizon Wireless** |
| **Project Address:** | **Utility Pole #22 near 110 Elm Street, Dedham, MA** |
| **Case #:** | **Site-09-16-2145** |
| **Zoning District:** | RDO  |

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| **Applicant:**  | **Cellco Partnership d/b/a Verizon Wireless** |
| **Project Address:** | **Utility Pole #455/5 1X near 69 Allied Drive, Dedham, MA** |
| **Case #:** | **SITE-09-16-2150** |
| **Zoning District:** | RDO  |

Representatives for all applications were:

* Daniel Klasnick, Esq., Duval and Klasnick, LLC, 210 Broadway, Suite 204, Lynnfield, MA 01940, outside counsel for Verizon
* Chris Swiniarski, Esq., McLane Middleton, 300 Trade Center, Suite 7000, Woburn, MA 01801, outside counsel for Verizon

Peer review consultant: Philip Viveiros, P.E., PTOE, McMahon Associates

Verizon wants to put small wireless cell antennae on the above noted utility poles to improve reliability of service and provide service to areas where the service is unavailable or unreliable. Each site will cover a relatively small area, but as a group, they will provide Verizon with the ability to address an extensive gap in coverage. Each installation will consist of one cylindrical antenna measuring approximately 12” in diameter and about 38” high, one remote radio head, and associated wires, cables, and meter and junction boxes. The idea is for them to look like transformers. The Applicant has obtained a Special Permit for these locations from the ZBA.

**Pole near 750 Providence Highway:** The location is within the State Highway layout across from Panera at Dedham Plaza. An access permit has been obtained from MassDOT for the location. This is a panel antenna. Separate electrical service has been established. There is no ground disturbance. Mr. Viverios’ comments were the same as for the other installations.

**Pole near 124 Quabish Road:** The location is near the gravel pit. Equipment is identical or very similar to the equipment at 750 Providence Highway. It is not a panel antenna. Mr. Viverios’ comments were the same as for the other installations.

**Pole near 110 Elm Street:** The location is right outside of Legacy Place. Equipment is identical or very similar to the equipment at the other sites. There will be a slight 7.5’ extension on which the antenna will be installed to get the necessary height to get past Legacy Place’s wall. The extension is a thin rod bracketed to the side of the utility pole to which the antenna is attached. Mr. O’Brien asked if the extension has been tested for extreme winds, etc. Mr. Klasnick said that part of the installation and the utility requirement is structural capacity of a pole and anything attached to it. The utility company, under licensing, requires Verizon to do a site survey of certain locations, and then they make a determination as to the location suitability. A health report indicated that installation so close to residential properties was fine. Mr. Klasnick said that Verizon Wireless is entitled to nondiscriminatory access to any of these locations. Mr. Viverios’ comments were the same as for the other installations.

**Pole near 69 Allied Drive:** The proposal is substantially the same as the other proposals. The equipment is the same. The plans were just revised today, and Mr. Swiniarski provided these to the Board. They are willing to paint to match if the Board wants that, although he believes it would make them look worse. Mr. Viverios’ comments were the same as for the other installations.

Mr. Viveiros was satisfied with the responses to his comments. There is a gray area on painting the equipment.

1. Color: The Applicant was asked to revise the site plans to clarify the color of the proposed devices to reduce visibility. The Applicant said the equipment proposed matches the appearance of equipment typically installed on a utility pole, and painting the equipment would not serve to further minimize its visibility.
2. Signage: There was signage for contact information. The Applicant revised the plans to include two small signs with contact information, one placed below the antenna canister for service, and one further down on the pole with contact information and identification.
3. Parking: The Zoning Bylaw states that any free-standing structure requires one off-street parking space for service vehicles. This type of structure is a new location and is not on existing buildings or cell towers. The Applicant said there is no parking in the right of way, and any site visit will be in the same manner as a utility or cable company servicing equipment on a utility pole. The Applicant is requesting a waiver for this requirement.

Mr. Aldous asked about grounding the antennae and the size of the wire coming down to the ground. This is dictated by the utility company, Eversource, and Verizon enters into a license agreement with them to comply with the electrical code requirement. Mr. Steeves asked why they are not paying rent to the Town for the installations. Mr. Klasnick said there is a licensing requirement with a nominal fee. The utility poles are owned by Eversource, which pays personal property tax to the Town. Mr. Steeves said that Eversource should be kicking something back to the Town. Mr. Swiniarski said the rates are governed by State and Federal law, and the amount is quite small. Mr. Steeves and Mr. Aldous thought the Town should be paid for the wireless installations. Mr. Klasnick said these installations are intended to fill in in areas of high demand for capacity and to off load some of the service that the macrosite has, i.e., Holiday Inn; it will not eliminate them. This was discussed in detail. Mr. Klasnick said his client is looking at additional locations. Mr. Podolski said that compensation would be addressed at a later date.

**Vote:**

1. Mr. O’Brien moved to approve the 750 Providence Highway installation as proposed and the requested waiver of one off-street parking space. Mr. Aldous seconded the motion. The vote was unanimous at 4-0.
2. Mr. O’Brien moved to approve the 124 Quabish Road installation as proposed and the requested waiver of one off-street parking space. Mr. Aldous seconded the motion. The vote was unanimous at 4-0.
3. Mr. O’Brien moved to approve the 110 Elm Street installation as proposed and the requested waiver of one off-street parking space. Neither Mr. Aldous nor Mr. Steeves would second the motion because of compensation issues. Mr. Bethoney came to the hearing room (he had recused himself from the first hearing) and was filled in on the application. Mr. Aldous and Mr. Steeves explained that it was their opinion that the Applicants should pay a small amount to the Town. Mr. Bethoney asked if the Board has the legal authority to require a contribution. Mr. McCarthy said he would have to ask Town Counsel, but he did think it did because the installations are not on Town property. Assuming the Town could not receive compensation based on legal requirements, Mr. Bethoney asked if Verizon would be willing to offer anything and not have the Board take a position to require something. Mr. Swiniarski said that neither he nor Mr. Klasnick could answer that at this time. It sets a precedent for anyone to ask for payment from a big company, and he did not know if the board wanted to set that precedent.

Mr. Bethoney asked if Verizon had any community involvement in the Town, i.e., outreach, support, or participation in volunteer programs. Mr. Swiniarski said that Verizon has a retail facility in Dedham and provides an incredibly important service that everybody in Dedham uses. Mr. Bethoney countered by saying he has a real estate office in town and provides an incredibly important service; if anyone wants to visit, he is available. He asked if Verizon is anything more than a service that they provide. He has never seen “Verizon” on the back of any shirt, on a sign at any public event, or anything to that effect. There is no requirement to do that, but he is asking for informational purposes only, and with no connection to the requests made tonight or the filings. Mr. Klasnick was sure that Verizon Wireless has many programs in which they give back to communities, but he does not deal with this. Mr. O’Brien recalled seeing Verizon at one community event for Down syndrome, and has seen their contribution on the backs of shirts. Mr. Swiniarski said that Verizon makes contributions to a lot of charities; he does not have that information with him. Mr. Bethoney asked if there was a requirement for the Board to take a position on this tonight. Mr. Swiniarski said these applications have already gone through 7-8 months of meetings, including with the Board of Selectmen.

Mr. Steeves reiterated his concerns, noting that there are many installations in Town, and the Applicant has said there would be more. Mr. Bethoney asked if there is a legal obligation under the FCC regulations. Mr. McCarthy said they do. Mr. Bethoney asked if Town Counsel could be consulted about requiring mitigation in return for installing the equipment. Mr. McCarthy thought they would say no. He said there was an issue with the Board of Selectmen as to whether they should have a review at all with the Zoning Board of Appeals or the Planning Board. Instead of getting into a potential legal battle with the Town, the Applicants felt it was more prudent to go through the processes, which they have done.

Mr. Bethoney asked what Town Counsel’s opinion is on the process. Mr. Podolski said he did not believe the Board had that. Mr. Swiniarski said that Town Counsel did weigh in, and gave an opinion that was significantly more complicated than stating the Town has the right or did not. The theme of Town Counsel’s opinion was what regulatory process, if any, these would have to go through. The opinion was that they had to go through ZBA per the Wireless Bylaw. There was a discussion with the Building Department about whether there needs to be a licensing issue, and they went to the Board of Selectmen for that. They then came to the Planning Board for site plan review. Mr. O’Brien asked if there is a fee for the license. They pay a $1,000 application fee to the Town for the Planning Board.

Mr. Bethoney asked if there is any other fiscal benefit to the Town for these installations other than the legal requirement to do so. There is not. They pay Eversource to put them on the poles. Mr. Klasnick said the fee is set by the State and administered by the Department of Telecommunications and Energy. He again said that Verizon is entitled to nondiscriminatory access to any of these locations, just like a cable company or anyone who wants to use the infrastructure. This reflects the State and Federal governments’ encouragement of the use of wireless service, which he feels is absolutely critical in this day and age where everyone has basically a computer in his/her pocket that they want to be able to use. Verizon Wireless reflects a commitment to the Town to provide the best quality of service; he did not know if a price could be put on that. This is a way to be certain that the devices work in an effective manner with no impact. Mr. Swiniarski said the regulation of the fees for these installations is governed by Federal and State law and mandated. When they take jurisdiction, it is no longer up to local jurisdiction. In the land use forum, the Town is always entitled to charge reasonable impact fees. In this case, there is no land taken; an existing piece of infrastructure is used. To try to obtain fees is not really within the spirit of any land use law allowing any sort of imposition for development. It does not tax any Town resources, but provides a service to the Town.

Mr. Aldous again spoke in favor of the wireless companies donating even $1.00 per pole per year, saying this is a new product with many more to come. Mr. Bethoney, in a spirit of cooperation, said the applicants have a right to have the equipment on the poles, as the Town is bound by laws that are going to force the Town to do this regardless of beliefs of what is fair or overly intrusive. The Board is caught between a rock and a hard place. He asked the Board to yield and move forward.

The motion by Mr. O’Brien was repeated to approve the installation at 110 Elm Street with a waiver for one off-street parking space. Mr. Aldous then seconded the motion. The vote was unanimous at 5-0.

1. Mr. O’Brien moved to approve the installation as proposed and the requested waiver of one off-street parking space. Mr. Aldous seconded the motion. The vote was unanimous at 5-0.

Mr. Bethoney asked if this technology was going to be the wave of the future for cellular communications, as opposed to cell towers, etc. Mr. Swiniarski explained this in detail, saying that these will be used in denser areas of population where the use is so demanding that the sites need to be relieved. These will not be an effective solution in more rural areas because they are concentrated devices that provide concentrated coverage.

Mr. Podolski said that the Zoning Bylaw requires the equipment to be painted, but asked what color. Mr. Vivieros said that he wanted to clarify what the applicants were going to do. Mr. Podolski said that if the bylaw applies to these types of application, the Board will probably have to revisit the bylaw. This applies to off-street parking as well. The installation is done by a bucket truck and then pulls away. Unless there is a problem, i.e., the pole gets taken down, there will never be a need for parking. Mr. Vivieros feels that the equipment blends in with similar equipment on the pole. Mr. Aldous said that the next time diagrams are drawn for this type of application, he would like to see where the grounding ends up. Mr. Swiniarski said they indicated a grounding rod, but was not sure where it would end up. This will be shown in the future.

Mr. Steeves said he expressed his opinion of the compensation situation. The Board is extremely proud of its members. His objection on these four sites would be turned over to “Yes” to benefit his colleagues. However, his opinion is his opinion, and he will be changing his vote from “No” to “Yes” in all four cases.

The Board took a short break.

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| **Applicant:**  | **ECEC** |
| **Project Address:** | **1100 High Street, Dedham, MA** |
| **Case #:** | **SITE-01-16-2061** |
| **Zoning District:** | Single Residence A |
| **Representative(s):** | * Daniel Bradford, AIA, KBA Architects, 6 Thirteenth Street, Charlestown Navy Yard, Charlestown, MA 02129
* Neil Joyce, Construction Monitoring Services, Inc., 270 Main Street, Marlborough, MA 01752
* Dave Roberts, School Building and Rehab Committee
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Mr. McCarthy gave an update on yesterday’s working group regarding the off-site roadway, pedestrian access, traffic related to speed, and the broader scope of what the items are. More analysis is needed for completion, and Nitsch Engineering will be responding today. Back-up information needs to be provided. They are attempting to go before Town Meeting on 11/14/16, with the design costs. It was decided to wait until spring, as it is not necessary to go forward with the on-site work yet unless it slowed down the project. There is time to do that in the decision process and still get to Town Meeting in the spring. Mr. Podolski said there is nothing worse than going to Town Meeting with a number that is not certain, so it is better to wait until spring. Roadway work needs to be better than it is now. A sample decision was given to them, and standard conditions in a decision were discussed. Mr. Podolski said that the actual detail of construction management and hours are not set until the contractor is chosen. Design work associated with the construction is unique for a municipal project, but the Board determinations mitigation and adds it to the decision. Mr. Podolski said there is a provision in the Municipal Modernization Act that says municipal officials are now allowed to set speed limits as long as 20 or 25 mph in certain areas. He will speak with Town Counsel for an interpretation of this. If the Town can make its own decision to reduce the speed on High Street, which is a State road but is basically a town road, without it having to be a school zone, all the complexity of trying to make it qualify as school zone would not be needed.

Mr. Bradford had hoped that this meeting would have been the one in which they presented off-site mitigation or final review in hopes that they would be able to have a vote on the entire project. Since the last meeting, they met with MassDOT and had a good working session with them. A lot of ideas were presented to see if they was a process within which they could work to have them consider what was needed for approval. MassDOT is very amenable to them, but would not even discuss STOP signs at the exit ramps.

Mr. Bradford asked they have the proper clearance from the Board if they raze the building and/or do the ledge work and put the utilities on site; there was no vote at the last meeting. Mr. Bethoney said the Board was going to vote, but the neighbors started talking about their driveway, etc. He asked Michael Williams from KBA Architects if he needed anything from the Board that evening, and he said no. Mr. Podolski said that prior to a vote, he wanted to be sure that the neighborhood had taken this into full consideration once the contractor is hired. Mr. Bradford said they have put out a projected event schedule that is not necessarily pinned to a date. It is their intent to meet with the neighbors between the time when he is awarded the contract and mobilizing. Discussion will entail the schedule of the contractor’s process and the events that will be part of the razing and site work. Mr. Roberts said the School Building and Rehab Committee’s plan, once the contractor is chosen, is for him to initially meet with the SBRC for his presentation and to discuss questions and concerns. After that, the community, including the Fire Department, Building Department, and any other departments responsible for overseeing that operation, would be invited to a meeting for a presentation. Mr. Bradford said he needs something from the Planning Board when the contractor pulls a permit. Mr. McCarthy said that the Board could take a vote and use the minutes.

Mr. Steeves was concerned about asbestos. The applicant said there is some in the building. He asked if the demolition contractor would have an asbestos scenario, and they will. Mr. Joyce said that the control that is exerted now, even with building demo, includes monitoring the entire time the demolition occurs. Air testing will be done at all times. Mr. Steeves said that they cannot have anyone complain about this, and it must be in the contract that a water truck will be spraying during the process. Mr. Joyce said that before the building is razed or demolished, it needs to be abated. An industrial hygienist will monitor the entire process.

Mr. Bethoney asked exactly what Mr. Bradford wants the Board to agree to this evening, and would like this in writing, if possible. Mr. Bradford gave a list: (1) agreement that they can raze/demolish the building, (2) ledge removal on site, and (3) plant the underground utilities, including the drainage basins. He added that the contractor will have to put in all the sediment and erosion control before anything is done. The Board had no issue with that and said it would add that they need to comply with the Order of Conditions. Blasting will be done via chipping and dynamite. The intent is to reprocess the ledge that is taken down and use it as fill. Mr. Bethoney asked if these issues will be discussed at the neighborhood meeting, and if the neighbors would be informed as to what they plan to do under this preliminary agreement. Mr. Bradford said this will be done at the community meeting.

Joanna Ciavardini, 119 Booth Road, was here to discuss traffic mitigation, but this was not discussed this evening.

Mr. Bethoney moved to approve Phase I of on-site work only, which will involve razing or demolition of the existing building, site preparation including ledge removal, site preparation including trenching for utilities of all types, installation of stormwater management, and sanitary facilities, all in compliance with the Conservation Commission’s Order of Conditions. Mr. Steeves seconded the motion. The vote was unanimous at 5-0. This will be typed up and Ms. Webster will sign it. Mr. Steeves asked if the Planning Board would be involved with the meeting with the residents and contractor. Mr. Podolski said they can be; it will need to be posted. Mr. Steeves asked that the contractor be informed that there will be zero dust. He needs to bring in whatever water he needs to keep the dust down. He will be in trouble if there is any cloud of dust. Mr. O’Brien said the Board erred with Legacy Place by not moving to keep the dust down at Fed Corp.

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| **Applicant:**  | **Gregory Carlevale/Concinnitas Corporation: Charlesbend** |
| **Project Address:** | **255 West Street, Dedham, MA** |
| **Case #:** | **SITE-12-14-1930** |
| **Representative(s):** | Gregory Carlevale, owner |

The applicant wishes to discuss the substitution of an agreement between him and Taunton Bank to replace the existing covenant. This is in contemplation of the first sale transactions that are anticipated soon. Peter A. Zahka II, Esq., drafted the agreement, and it was reviewed by Town Counsel. There is a list of items that remain to be done; these are site amenities that are not associated with individual units. Values have been put on items, and they have been reviewed by the Engineering Department. There is also a 30% contingency, which constitutes the last item to be released. Mr. McCarthy said there is an exhibit as part of the package, and this outlines the covered items. It will be a tri-partite agreement among the Bank, the developer, and the Town of Dedham, with money that the bank is holding for the Town. They are holding back $112,000. There is a covenant in place right now against the sale of any units. Mr. Carlevale wants a full release in return for the $112,000 surety. He said he would consider a partial release in the event there is an issue with his request.

Mr. Bethoney said that the Board typically releases all but one. A further condition would be that six of the seven lots would be released, but not the last until the Board sees that it meets the conditions. He said the Board is always reasonable. Mr. Steeves noted Hale Road and how this has changed the Board’s idea on bonds. He does not want this to happen to a project that is going so well. Mr. Carlevale said his only thought would be in terms of timing final transactions such as only minor items being left such as lines on the street or re-seeding of grass. Mr. Podolski said the Board considers items such as completion of the roadway, stormwater management, landscaping. It would not expect him to finish up items like seeding in March.

Mr. Podolski said he can do the tri-partite with a proposal that he will hold back the one remaining sale until he comes back to the Board to show that everything else has been done. Mr. Carlevale asked if holding back the unit would suffice in lieu of the agreement. He said there are administrative details, i.e., getting inspections from both the Town and the bank. He said that if they are going to hold one unit, perhaps they could hold the unit and dispense with the tri-partite agreement. Mr. Podolski asked when he needed this. Mr. Carlevale said the first sale of Unit 3 (37 Cottage Circle) is anticipated in about a month.

Mr. Bethoney said he really believed that holding one unit is sufficient, and Mr. Podolski agreed. Mr. Carlevale said that all the units will be about $1 million. Mr. Bethoney said that holding back that unit would save him a bunch legal issues. Mr. Podolski said that if the Board forgot the tri-partite agreement, it could put something else in place of it. There is already a covenant in place, so the Board could amend that.

Mr. Podolski suggested that Mr. Zahka prepare a revised covenant, holding the final unit for sale until Mr. Carlevale has met the conditions. Mr. Steeves moved to release the covenant as of the first six units, but the last unit to be sold be held. Mr. Aldous seconded the motion. This would be subject to working out an appropriate revised covenant. Mr. Bethoney said it is much cleaner for the applicant this way. The vote of the Board was unanimous at 5-0.

**Old/New Business**

* Mr. Steeves discussed the new buildings on Providence Highway across from Legacy Place. He said the buildings do not look like the renderings shown to the Board. Mr. Podolski asked who was responsible for enforcing the appearance of the building. Mr. McCarthy said the Building Department is not inspecting the materials going up. Mr. Podolski said the owner would need to return to the Board with the Building Department.

Mr. Steeves moved to adjourn, seconded by Mr. Bethoney, and voted unanimously 5-0. The meeting ended at 9:02 p.m.

Respectfully submitted,

Robert D. Aldous, Clerk

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