

**TOWN OF DEDHAM**  
COMMONWEALTH OF MASSACHUSETTS

**John R. Bethoney, Chair**  
**Michael A. Podolski, Esq., Vice Chair**  
**James E. O'Brien IV, Member**  
**Jessica L. Porter, Member**  
**James McGrail, Esq., Member**



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**Jeremy Rosenberger**  
**Planning Director**

**PLANNING BOARD**  
**MEETING MINUTES**

**August 8, 2019, 6:30 p.m., Lower Conference Room**

**Present:** John R. Bethoney, Chair  
James E. O'Brien IV, Clerk  
Michael A. Podolski, Esq.  
James McGrail  
Jessica L. Porter

**Staff:** Jeremy Rosenberger, Planning Director  
Michelle Tinger, Community Planning & Engagement Specialist  
Jennifer White Doherty, Administrative Assistant

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.

**John Bethoney:**

Mr. Bethoney goes over the first item on the agenda, which is the approval of prior minutes, dated January 26, 2017; April 27, 2017; September 21, 2017; and 2018. Mr. Bethoney seeks a motion to table the approval of prior minutes to a meeting next. A motion was made by Mr. Podolski and seconded by Mr. O'Brien. There was a unanimous vote to approve the meeting minutes.

The next item on the agenda was the Town Planner update. First, under that agenda item, was the firearms zoning amendment. Mr. Bethoney let the audience know that the Planning Board would be taking up a brief discussion about a proposal regarding zoning all things firearms in the Town of Dedham. He continued by stating that the current zoning regulations characterize firearms as a retail use, and wherever retail use can be placed, there can be firearms sales and purchases. In concert with Town Council, the Town Planner, and the members of the Planning Board, it is intended to put forth zoning amendments for Town Meeting in November relating to firearms, sales, purchases, modifications, repairs, training, embellishments, etc. relating to what can be done and where it can be done.

The public process is that the Board, working with Town Council, the Town Planner, and other regulatory boards in the Town put together draft language, relating to that, to make

determinations about zoning districts in which those uses may be considered, and then propose that to the Town, to the public hearing process. At that time, the public will have an opportunity to come and talk about what is potentially being proposed, provide input, and have every opportunity to be heard. After that public hearing process is closed, the Planning Board will further deliberate, consult the Town Council, the Town Planner, and other regulatory authorities in the Town, and then ultimately propose a zoning amendment to Town Meeting in November. That zoning amendment would have to pass Town Meeting by a two-thirds vote. So anybody in the community that is interested in regulating all things firearms here in the Town of Dedham should support what we're going to do and try their best to convince the Town Meeting representatives to support it as well. The Planning Board, being sensitive to community sentiments regarding issues, passed around information, prepared by the Town, to answer a few questions. Mr. Bethoney had also previously asked the Building Department, who is charged with permitting such uses, to come and make a statement as to the current process of purchasing anything to do with firearms here in the Town of Dedham.

As a matter of procedure, Mr. Bethoney asked that everyone read the information that has been passed around. He will then ask Fred Johnson, of the Building Department, to make a brief statement about the process. Mr. Bethoney will then ask Mr. Rosenberger, the Town Planner, to discuss his thoughts relating to the zoning proposal process and what he has learned so far. Mr. Bethoney will give the community a brief opportunity to make any statements they may have relating to zoning, solely. "As you probably know by this, the Planning Board has no purview over currently permitting any firearms use," said Mr. Bethoney. The firearms store has never been before the Planning Board, and it's considered a retail use. They went into a retail establishment, obtained a lease, and now they are going through the permitting process. "So, we're really here tonight, looking toward the future," said Mr. Bethoney. Mr. Bethoney then reads an update to the community on J&J Arms, which is proposed to open in East Dedham.

Mr. Bethoney asked the public if there was anyone that did not receive the sheet. More copies were laid out on the front desk. There was also a sign in sheet, and for anyone that wishes to be kept up to date relating to this issue and any other issue, please sign in and include your email address.

Mr. Bethoney stated "According to J&J Arms Facebook page, they are slated to open at 224 Bussey Street in September, 2019. The business, as is the case with gun shops, has been reviewed and permitted by the Federal Government. Firearm sales are regulated by the Federal Bureau of Alcohol, Tobacco, Firearms and Explosives. Dealers are required to apply for and receive a federal firearms license. J&J Arms is owned by Joshua Cruise, a Dedham Resident. The ATF requires federal firearms applicants to have a signed lease as part of their permitting process. 224 Bussey Street is owned by JM Realty/River Family Limited Partnership, mailing address of P.O. Box 201 Neponset Valley Parkway, Readville 02137. This, in fact, is the same owner of 216 Bussey Street, which is the Family Dollar location. The attorney for the applicant is Andrew Cocher, the property manager is Desmond Flynn, and the contact on property records is Maryann Sayan at 15 Little Boot Lane in Westwood. It's the Town Council's opinion that Dedham's current zoning regulations allow the property to be used for these purposes, by right, meaning that the property owner can lease a space to the business owner without any additional sign off from the Town. This is what's required to receive an approval from the Dedham Police Chief, Michael D'Entremont. Mr. D'Entremont is scheduled to meet with the business owner on August 20, 2019. Business owners are also required to satisfy requirements

of the town's building department in order to receive a building permit and certificate of occupancy. The Building Department does not have an application as of yet filed by the business owner. The Building Department enforces the Commonwealth of Massachusetts building code, Town of Dedham Zoning Bylaw and all applicable fire codes. J&J Arms, often referred to as the Applicant to town meetings, did apply to the Zoning Board of Appeals to be able to refurbish and customize firearms on site. The Applicant was heard at a Zoning Board of Appeals meeting on July 17, 2019. A number of neighborhood and members of the community attended the meeting and expressed concern about the proximity of the store to a park and residential neighborhood. Mr. Cruise and his attorney have testified the refurbishment of firearms would represent 30-50% of his business. That activity is considered a trade use and that use is only permitted at this location via Special Permit. After hearing testimony and allowing Board members to ask questions, the ZBA explained to the applicant that the proposal was not likely to be approved by the Board. In an effort to encourage the applicant to relocate the business to get out of this lease, the ZBA suggested that he ask me to be able to withdraw his application without prejudice. The Applicant withdrew the application at the request of the Zoning Board of Appeals. So, to be clear, the Zoning Board of Appeals provided no relief what so ever to the applicant. Town Planner, Jeremy Rosenberger, is working with town council and every member of this Board to draft an article for Town Meeting that takes place in November. The Town Meeting date has not been set. That article would amend the zoning bylaw to further restrict where this type of business may be located in the Town. The specifics of that proposal will first be discussed at this meeting tonight, and should the Planning Board move forward with an article for Town Meeting, all residents would have an opportunity to weigh in on that proposal at Planning Board hearings and Select Board meetings this fall. J&J Arms also appeared before the Design Review Advisory Board last night for review and approval of their signage. After hearing testimony from a number of concerned residents, the Applicant offered to remove imagery of firearms from the proposed signs. The Design Review Advisory Board voted to approve the signage contingent on the removal of those images from the final designs. The remainder of the memorandum talks about what residents can do to stay actively involved in the process. Everyone who is signed in will also get notification of upcoming meetings related to the use and related to any potential zoning amendments that may be proposed. Thank you for giving me the opportunity to read that into the record."

"At this time, I'm going to request that Mr. Frederick Johnson, Assistant Building Commissioner, explain to the public the process by which this type of use is permitted here in the Town of Dedham."

**Frederick Johnson:**

"Thank you, Mr. Chairman. Good evening ladies and gentlemen. My name is Frederick Johnson, and I am the Assistant Building Commissioner. I think, first, we're probably wondering why the building Commissioner was not standing up. For most of the design article, going forward, he will be it. The Building Commissioner owns the property in the immediate area of the proposed gun shop in Bussey Street. He had made a decision from the very beginning, to avoid any possible local conflict of interest, to recuse himself from this map. The important duty fell on the Assistant Building Inspector. That's why I'm here. In terms of the process to 224 Bussey Street, that started several months ago, the gentleman had been looking for a location to sign a lease. And the first we found out about it, he presented himself at Town Hall needing documentation from the Town for the Alcohol, Tobacco and Firearms Bureau that he was permitted to go into that building and as the Chairman said, the Town of Dedham Zoning Bylaws are really straight forward. It's always been considered a retail use, and a retail use is allowed in this building. The current space that is available to this applicant is 995 square

feet of street-level grey foam. And the reason I say that is because I want to dispel one myth I heard last night: There will not be a gun range innovation. That basement cannot be used in any way, shape or form without a process before the Planning Board and approval from the Building Department. He would be limited to grade-level to street for his retail sales. Now, he has also presented to the Building Department at this time, verbally, his intention to run gun safety classes in there. It is in my opinion as the building official that this would be a permitted accessory very similar to cooking appliance stores in town. They have cooking classes or bookstores have reading clubs. So, you could say accessory for the use of selling guns and to have a small group of people. At this time, the Applicant has not presented a full set of plans to the Building Department. He is meeting with the chief of police on the 20<sup>th</sup> of August for his approvals to the chief and the state regulations. Once that is accomplished, he can then get a Building Permit, if everything is in order, from the Building Department. Prior to that, he needs to have a meeting with myself and the Fire Inspector. There are requirements under the State Building Code and the Fire Code, as well as the gun regulations, as to how much ammunition you can have in a building or anything of that nature. You can rest assured that before any Building Permits are issues, the Building Department is going to go over this with a fine-tooth comb. However, at this point in time, I have seen nothing presented to the Building Department that would indicate to me that he didn't follow the procedures and does not have a right to open that business in that location.

He has a very small parking lot, and if he decides to go above and beyond the 995 square feet, he will have to come back to this Board here. But again, the process is straightforward. He is going to file an application. He can file now, or he can wait to get the Police Chief's approval. I then have thirty days under state law to act on a Building Permit application. I don't forestall something if it's complete and ready to be issued, but I will not issue it if it is not complete and one-hundred percent correct, and in full compliance with the Town of Dedham Zoning By-laws, the State Building Code, and any regulations of the Fire Code. I think that's pretty much where we're at. I'm here to answer any questions through the Chair, if he deems it appropriate, or anyone can contact the Building Department anytime. The Building Department phone number is (781)751-1918. I'm there every day, and you can certainly call me with any legitimate questions, and I'll do my best. If I'm not available, leave me a message, and I will certainly get back to you."

**John Bethoney:**

"Ladies and gentlemen, we're going to hold off on any questions until I get through the entire program, okay? The Chair will now recognize Jeremy Rosenberger, relating to specifically proposed zoning amendment discussion."

**Jeremy Rosenberger:**

"Mr. Chairman, members of the Board, good evening. Members of the public, good evening. So, I'm here to talk as the Town Planner. And, just for folks, a background. I'm not going to go through zoning and all the intricacies. But, ultimately, for those not really sure what zoning is, it's really a mechanism for the Town to regulate and provide rules for how we govern land, whether it's how high buildings are, whether it's our industrial areas, and what kind of uses you can have there to how we can regulate our waterways, and everything in between. So, for this purpose, we've already talked about having determined that this current proposal is allowed by right. And, so, I want to back up and talk about what we have for zoning. We have two forms of what we call retail business uses. One is a retail business that exceeds 10,000 square feet. These are what we consider larger businesses, mostly populated along the Route 1 Corridor. Uses defined as retail businesses are allowed in most of our business districts and

by Special Permit through our Zoning Board of Appeals in industrial areas. The second retail business use is a small retail business. This is predominantly the use we found in many of our smaller districts and this governs any uses like bookstores, dry good stores, drug stores that are less than 10,000 square feet. So, this is just for reference, and this is how we, myself and the Building Commissioner, look at uses and define them and see if they're allowed or forbidden or they require a permitting body, such as the Planning Board or the Zoning Board of Appeals, for further discussion and public process. And, so, I've done some research and we began looking at this use as soon as we heard about it in May and realized that, unfortunately, there was no provision in our zoning that specifically talked about how we regulate firearms from a zoning perspective. There are many other mechanisms through the state, local, and, as we heard, federal, that govern safety and procedural stuff, but unfortunately, we do not have anything in zoning. And that's why we're really starting the discussion tonight, and hopefully, we'll end up with something that the community can support by November and this is all through the Planning Board process, and ultimately Town Meeting. So, through my analysis and research, there were previously two uses, I'd say within the last 10 years that provided guns or sold, through the retail use, firearms to the public. These were both located in what we call the Highway Business District on Route 1. One was Dick's Sporting Goods. They sold whatever guns were allowed in Massachusetts. I believe, recently, they stopped selling guns at this location because it was not a high seller, and they also sold ammunition. As far as I know, this operated without incident, and I haven't heard otherwise. The other location was Triple A Tactical Supply, and this is close to Legacy Place, and I believe this business supplies a number of equipment related to police activities and etc. I'm not sure when they ceased, but this retail business used to sell firearms and they do sell ammunition. As far as I know, and haven't heard otherwise, this business operated without incident. So it's good to know that there has been a precedent here that the sale of firearms has seemed to have operated along our larger business district without incident. So, I took that as a good measure to understand what we want to do. Has the Town actually had this use before? Because, legally, and I'm not a lawyer, but legally, that has some implication of whether we really want to prohibit it everywhere, or based on history and shown that this use has been here and seemed to have operated without incident, maybe that's an appropriate place to have it. And so, before I got into that, I went to look at what other cities and towns, both in Massachusetts and nationally, have done about this, and no surprise, it's quite a conversation, and zoning is a way to help regulate firearms. So, we looked at some prominent locations. One of them was Everett, Massachusetts where they have some pretty strict provisions on firearms. They treat it similar to an adult use, and that would be bookstores, video stores, where it's allowed by Special Permit, and there's a number of restrictions, such as you can't be within a certain distance to a church, school, playground, etc. We also saw some other cities and towns that ultimately provided a definition of what a firearm store is. Unfortunately, our zoning does not provide this provision which is a mechanism to unlock controlling that specific use—defining firearms and then, ultimately, defining what a firearms store is. Through my research, that varies. It could be just guns or firearms and ammunition. It could be any use normally associated with the selling of firearms, whether it's educational uses, trainings, etc. And, so, the second step that I've noticed most cities and towns take, when they want to regulate it through zoning, is to define what a retail firearm store was. And then third, it's making sure that in those small and large business districts that that definition excludes firearms retail sales, and potentially manufacturing and any other associated uses. So, it's clear where we allow and prohibit, potentially, this use. And, so, based on my research, I put together a matrix with four categories, and this is the beginning of a discussion. This is based on my thoughts and the history in this Town. The categories are: Least Change, Slightly More Change, More Change, and Most Dramatic Change. And this is coming from the Town not having anything." (Jeremy goes over the matrix below.)

<b>Change</b>	<b>Definition</b>	<b>Use Allowance</b>	<b>Use Criteria</b>
Least	Provide definition of Firearm, Firearm Retail Sales, and Update Retail Sales definition	Allowed in Highway Business Zoning District, Not allowed in any other Zoning District	None
Slightly More	Provide definition of Firearm, Firearm Retail Sales, and Update Retail Sales definition	SP* in Highway Business Zoning District, Not allowed in any other Zoning District	None
More	Provide definition of Firearm, Firearm Retail Sales and Update Retail Sales definition	SP* in Highway Business Zoning District, Not allowed in any other Zoning District	Yes
Most	Provide definition of Firearm, Firearm Retail Sales, and Update Retail Sales definition	Not allowed in any Zoning District	None

*\*ZBA would be SPGA for Use*

“So, taking into consideration that Dedham has had previous uses of firearm sales without incident, I put forth what I feel is the conversation starter. And this is, again, my initial recommendation, and this is for the community and the Planning Board to discuss how we want to regulate this going further. So, we talked about definitions, defining a firearm, and we can easily refine that. Then, creating a definition of a firearm store, specifically how this operates and what they sell. And then the last is updating our retail businesses so it’s clear that firearms are not allowed for sale in any of our retail business districts. And, so, the fourth is that I believe it should be allowable in the Highway Business District, and this is based on precedent. I’m not a lawyer, but there are some legal ramifications here. Precedent is a very important subject here where there have been uses and it seemed to have existed and coexisted with the neighborhood. We did hear from the potential business at Bussey Street that that’s initially where they wanted to be – in the highway business district. Unfortunately, due to rents and availability he was unable to find a lease or a size that accommodated. And what we have heard is that some folks, not everyone, felt that that’s an appropriate place for it. Not saying that that constitutes the overall sentiment of the Town, but I have heard some of those conversations. There are folks that do not want them near our small business districts, next to residences, or near playgrounds. If we’re going to have them, let’s concentrate them here along our large business district. And that’s my initial recommendation, and like I said, conversation starter. I’m happy to discuss further. Mr. Chairman and members of the Board and thank you members of the public. Zoning is a very important tool. This is how we regulate the uses and our lands in this town, and happy to discuss further.”

Chairman Bethoney asked Mr. Rosenberger if he could prepare a memorandum to all Board members and also publish it on the website for the community to have access to what you just spoke about, the 4 elements of your matrix as well as the elements within. Then we’ll review it and take it up at a future meeting and we can discuss those meeting dates under old business and new business.

He then asked if there were other members of the Board of Selectmen present besides Dr. Teehan. Selectman MacDonald and Selectman Sullivan were also present. Selectman Teehan had asked to be recognized on this issue.

Dr. Teehan thanked everyone for coming and said he would give some background. “This is something that wouldn’t typically come before the Board of Selectmen, similar to the Planning Board. We don’t typically get involved in zoning matters. We have a great planning board that cares about the town and does a great job. Based on the tremendous public outcry over the past several days, we definitely took notice and thought it would be smart to talk to Town Counsel to see what our options were, exactly, based on the situation we’re in right now. Certainly, from the zoning perspective, it is a matter of right that the gun shop can open there because it is considered retail. There was another avenue that was put forward by town council that the Board of Selectmen took a vote on tonight that people should be aware of. The Board of Health has the opportunity, based on Massachusetts General Laws, to regulate anything that it considers threatening to the public health in Dedham. The Board of Health has in the past shown its precedence to do this, whether it’s tobacco, marijuana or plastic bags. The Select Board tonight authorized a letter to request the Board of Health to look into investigating the public health implications of this gun shop and whether there is a role for the Board of Health to get involved. Hopefully, what we can do from this point, is have the Board of Health and Leanne Jasset, who is the Chairwoman of the Board of Health who enthusiastic about the possibility of looking down this road, work with town counsel to see what role the town might have in offering some sort of regulation to potentially influence the gun shop down there. I don’t want to give false hope because it might be an uphill battle. But I do want people to know we’re looking into it. We fought Hooters and it’s open. We fought the gas pipeline, and its open now. I do want people to know that we take your voice very seriously and when we see the kind of public outcry from our citizens and taxpayers like we’ve had in the last few days, we take that very seriously. We also took a second vote at the advice of Sarah McDonald who is also on the Select Board. Sarah wanted us to send a letter to the property owner asking him to reconsider the location of the gun shop. The Board authorized that letter and it was sent to the shop owner to formally ask him to reconsider. We will work with the Board of Health and town council to see if there is any realistic legal role we can take to make regulations and for the Board of Health to look at the public health impact. We’ll take it one step at a time. It’s tough. Sometimes it’s hard to figure out how things work. We learned that on the pipeline and other things that have come to Dedham that we tried to oppose and did everything we could, but sometimes the law is the way it is. But we’re certainly going to try and do what we can in the future moving forward to represent the sentiment you shared. At the end of the day, there’s probably a wide variety of perspectives on guns in this room, but everyone is concerned about the public health impact and health and safety of our community.”

Chairman Bethoney thanked Planning Board member Jessica Porter, Select Board member Sarah MacDonald and anyone else involved in working on this memo and information sheet for the public. He called for questions from attendees related specifically to the zoning proposal or general zoning proposal.

**Lynnette Lee**  
**60 Coronation Drive**

This business is supposed to open in September. My husband determined that they’re not able to open a shooting area in the basement. If they have a permit, but the zoning changes in the fall, how would that address their desire to open the shooting area? Would the zoning changes in the fall affect anything he wants to do after that?

Chairman Bethoney replied, certainly, after the Attorney General has approved the amendment.

Mr. McGrail: I’m opposed to the gun shop being there. However, he can be there as a matter of right. If we get too restrictive about where we can put gun shops in Dedham, we might create a situation whereby this guy is in this neighborhood for as long as he wants to be. My goal is to try to get him

out of that neighborhood and also create a firearms zoning regulation that works for all of us. First and foremost, is to get him to move from where he is. If we create a new bylaw, it will not affect him except for any future changes he wants to make.

Ms. Lee asked if he could still sell semi-automatic weapons.

Chairman Bethoney said he did not know.

Someone replied that he is subject to the rules and regulations of the Commonwealth of Massachusetts set forth by the Attorney General. He did not think he could sell semi-automatic weapons.

Ms. Lee said he has pictures online that give the impression he's able to sell those guns.

Chairman Bethoney asked Mr. Johnson if he could sell semi-automatic weapons. He replied that the regulations of the Commonwealth of Massachusetts that are enforced by the Chief of Police in Town will determine what he will be allowed to sell. Mr. Johnson only regulates the use of a gun store. The applicant will get a license from the Police Chief plus his approval from the Alcohol, Tobacco and Firearms Board. He is not aware of any restrictions that prohibit him from selling anything that the ATF allows to be sold. Now it goes to the Chief of Police for the state regulations and what the chief considers appropriate. He will make that determination, not the Building Department. Once the Chief tells Mr. Johnson to grant the building permit so the applicant can get his Certificate of Occupancy, Mr. Johnson will give it to him. What he sells is up to regulations that the Chief of Police will approve.

**Allison Staton**  
**30 Woodleigh Rd.**

Federal regulators have very strict security protocols for other businesses. Pharmacies must lock opioids and other controlled substances in fortified cabinets, and explosive makers have to keep all materials and boxes in rooms capable of withstanding explosions, but there are only 4 states (Massachusetts is not one of them) that impose on gun stores physical security measures. Does the zoning include measures to ensure that the guns cannot be easily stolen, particularly when the store is closed?

Chairman Bethoney called on Mr. Rosenberger who deferred to Mr. Johnson first. He replied, yes, there are security regulations that will be under the purview of the Chief of Police. The Chief of Police will look at the applicant's proposal and tell him what needs to be done. Once that's established, that proposal comes to the Building Department to be permitted. Regarding the issue of ammunition, black powder, etc., there is a section in the Commonwealth of Massachusetts state building code, as well as the fire code, that will be in addition to whatever regulations the federal government or the Chief of Police puts on him. When he satisfies the Chief, the Planning Board will get the plan. Mr. Bethoney will then go over it with the Fire Inspector for hazardous materials cabinets and gun storage safes. If the applicant's proposal works, the Board will permit it.

**Alexandra Jump**  
**72 Chestnut St.**

Ms. Jump said she'd like to make a community impact statement. She was pleased that the Planning Board is going to draft an article for the town to review in the fall and hoped to have a voice in that process. She had given the Board a photograph of a card that was written by a 1<sup>st</sup> grade student in Aztec, New Mexico. Her daughter was a teacher in Aztec, New Mexico and she is a hospice chaplain. While she was doing her job as a chaplain, she got a text from her child saying, "Mom, there's an active shooter. We're in lockdown. I'll let you know." Four hours went by and she told me they found the gunman at the high school. Her daughter was at the elementary school. She sheltered with



22 first graders in place for 4 hours. That card was written by a first grader thanking her and asking her if she knew anybody that had died, because it was a small town. The Board said there is precedent for gun sales along the highway corridor, however she argued there was precedent of increasing gun violence due to firearms that need to be defined as those that are for hunting and fishing versus those that are military grade. She strongly supported the town going forward this fall and town discussion on this issue.

**Julie Martin**  
**26 Hill Ave.**

Ms. Martin asked if it would be possible to see the building plans. Mr. Johnson replied that once an application has been filed, it is public record. Anyone can see the plans during business hours, however he doesn't have an application or a plan yet. Once it's submitted, he has 30 days to act.

Ms. Martin asked if he could let them know when it's submitted. He responded that they would figure out a way through the town website.

Ms. Martin asked if there was any way to find out what the Police Chief is thinking for restrictions? Chairman Bethoney said he hadn't spoken to him, but that she could ask him.

**Jolienne Antonino**  
**78 Sunset Ave.**

Ms. Antonino asked if the applicant was set to go in there in September, why is the Board having the next meeting in November allowing him to be grandfathered in? Why wouldn't the Board switch things around and make this more of the agenda before the shop opens?

Chairman Bethoney explained that the November reference is when the legislature of the town has to vote on whether or not they support the Board's proposal. Any changes to zoning cannot be unilaterally acted on by the Board. They must be proposed to Town Meeting, which takes place in November, and passed by a 2/3 majority to become a bylaw.

Ms. Antonino then asked if the applicant would be grandfathered in, the length of his lease, would he be able to renew that lease, and would the new bylaw apply to the renewed lease.

Chairman Bethoney said his guess is that as long as he exists there, he is grandfathered in once the regulations change. Mr. McGrail asked to speak and the Chair introduced him as the Chair of the Zoning Board of Appeal, as well.

Mr. McGrail said he asked this question when the Applicant came before the Zoning Board of Appeal. His lease starts on September 15<sup>th</sup> and is for one year with options to extend. He has to notify his landlord within the 10<sup>th</sup> month of the lease if he plans not to extend. The Zoning Board asked him to withdraw his application. Their hope was that he would go back to the landlord and try to convince them to let him out of his lease so he could go somewhere else. Or, within the 10 month time frame, he would figure out this wasn't going to be a good location since he's missing 30-50% of his sales if the Zoning Board doesn't give him the relief he's looking for. If he decided to go elsewhere, he would be impacted by the new bylaw. Currently, he can stay there as long as he wants and there is nothing that can be done to prevent it. The Town needs to act two-fold: create a dynamic where he wants to leave and also protect the town at large.

**Rosemarie Shortt**  
**60 Winstead Ave.**

Ms. Shortt wanted to know where the Chief of Police stands and where the owner of the property was? Is there no imperative that the people who are making these decisions come and hear what they have to say? Is the Chief of Police going to view this meeting?

Chairman Bethony answered that he has no power to force the property owner to be there and cannot speak for the Chief's whereabouts. Ms. Shortt said she felt it was a disconnected process. Chairman Bethony explained there's no finality to the process tonight. The process will take place over the next few months. Certainly, the Police Chief will be here before the decision is made and she will have the opportunity to ask him any questions on the record.

[Name and street address unclear]

If there are AR15s being sold at the shop, it's a safety issue. It's the main gun being sold and used in mass shootings across our country and people are afraid of this, afraid for the safety of their children in the playgrounds. How close can you sell AR15s to a school?

Chairman Bethony told her that she would be able to ask the Chief of Police that question: Are you going to permit assault style weapons at this location? As for the zoning process, he was sure the banning of assault style weapons through the zoning process would be discussed. But as far as this specific location, that will be up to the Chief of Police and she will have the opportunity to ask him that.

**Erin Boles Welsh**  
**18 Morse Ave.**

According to the Gifford Law Center, Massachusetts has restrictions around sensitive neighborhoods that are inclusive of schools. This location is .2 miles from the Avery School, 550 feet from a playground and there are childcare centers in between. Has this been researched and considered before the Chief of Police makes a determination?

Chairman Bethony responded that her question had no relation to zoning, but as a courtesy, he referred it to Mr. Johnson.

Mr. Johnson said that Mr. Cruise had filed his application at the police station and had his federal and state approval. He would get fingerprinted, and already completed the background check. He has a meeting on August 20 with the Chief. The Chief can nix or approve it. The Chief and Mr. Johnson are the last two steps in the process and it was his belief that he will not get approval from the Chief.

She wanted to be sure that the Zoning Board and the Board of Selectmen researched this thoroughly and the Chair ensured her they would.

**Anthony DiBeneditto**  
**15 Stivaletta Drive**

Mr. DiBeneditto mentioned the women at the meeting with children who were worried about their safety. He pointed out that their neighbor could have a BB gun and legally use that in their yard. Chairman Bethony redirected that this topic did not apply to zoning, that they could call the police should that issue arise.

**Anna Kijas  
High Street**

She said she understood that Dedham has zoning bylaws and regulations for adult use, but not around firearms stores which is a big oversight. When the application came to the Board, why was there no concern raised around the social, economic and community needs that could arise from the impact of having this store, as well as further discussion around neighborhood character and societal structures?

Chairman Bethoney informed her that the application did not come before the Planning Board. She asked where the application went before it went to the July 17<sup>th</sup> meeting? Chairman Bethoney said he did not know where it went.

Mr. McGrail said it did not come to this Board and does not have to. His purpose for the store to buy and sell firearms does not have to come before any board in Dedham. It goes through state and federal government procedures and then to the Building Department and Police Chief. He came to the Zoning Board of Appeal on July 17 to get approval to expand upon what he was offering to do. He wanted to paint guns and repair guns. That was not approved. The rest did not need approval.

Ms. Kijas asked why this was not brought to the community after July 17. Chairman Bethoney indicated that this was the purpose of the current meeting. Ms. Kijas said this was too late. Chairman Bethoney asked her if the discussion had been on July 18, what would have changed? She indicated that the townspeople could have put more pressure on the Chief of Police.

Chairman Bethoney told her that the applicant does not yet have a permit. His application had two stops: the Building Department and Chief of Police. As of now, he hasn't even filed a plan or applied for a permit. He has done everything but. He went to the Zoning Board of Appeal, and they convinced him to walk away because they didn't give him the relief he asked for.

**Vivian Daley  
107 Ames St.**

Ms. Daley said it sounded like the initial plan is to only allow zoning for gun sales on Rt. 1 in Dedham. Chairman Bethoney corrected that nothing has been decided yet. Ms. Daley asked that if that is the plan, that the Board consider putting distance between gun shops. Chairman Bethoney said that Mr. Rosenberger had already mentioned that previously.

**Dot Walsh  
923 North Stone Mill Drive**

Ms. Walsh said she was wondering about the ownership of the property. She looked online and saw that it was sold on May 5, 2019 for \$2,000. That's a real small amount of money. She wondered what's behind that.

Mr. Johnson replied that when the building application permit is officially filed, the owner of record of the property will have to provide an affidavit saying he is authorized to apply for the building permit. Mr. Johnson guessed that since his lease does not start until September, he may not file for the permit until then. He does have a lease. He is not the owner.

Ms. Walsh asked who the owner is?

Chairman Bethoney pointed to paragraph 3 on the front page: JM Realty/River Family Limited Partnership, 201 Neponset Valley Parkway, Readville, MA. They are also the owner of record for 216 Bussy St., which is the Family Dollar.

**Sara Stephany**

**31 Harvard Street**

She mentioned the matrix outlined earlier. She raised concern that if a recommendation is made with only moderate restrictions in place, there will be a rising number of incidents. If the majority of town meeting wants something that is the most restrictive it can be, is there an attorney for the city to advise in that process so it can actually stay in place to help the town get the maximum protection? Chairman Bethoney replied, yes: Kopelman & Paige. Town Meeting will only entertain what we present to them.

She said if the townspeople want the most restrictive and it goes to Town Meeting, she'd heard of other measures in other communities that were watered down. Chairman Bethoney said that he himself wondered if the option of complete prohibition was legal. He said any provisions that the Board presents will be thoroughly reviewed and consulted with town counsel for legality. When Town Meeting approves a zoning change, that is the first step. Then it goes to the Attorney General of the Commonwealth of Massachusetts. If they determine it's too restrictive and deny it, we start all over. So we have counsel to help ensure that it will get through the Attorney General's Office.

**Jeanette Chevere**

**88 Emmett Ave.**

Ms. Chevere said she supported the most restrictive measure. If it ends up at a compromise, supporting a measure by special permit and the applicant is denied, how does that work? Does there have to be grounds for denial, or can it be community sentiment and are there grounds for appeal?

Mr. Rosenberger responded that a Special Permit can include a number of measures to provide guidance to the regulatory board, or in this case, the Zoning Board of Appeals, that the applicant would have to meet to obtain the Special Permit. If the applicant doesn't meet set criteria, the Board can deny it. Any measure, if denied, could be appealed by any party.

Ms. Chevere asked once the Board decides, when will the zoning bylaw be in affect-- when it's voted on at Town Meeting or after the Attorney General approves it and how long does that take? Chairman Bethoney said normal approval turn-around time from the Attorney General is 6 months. Attorney Podolski confirmed that, if approved, it would be effective the date of the Town Meeting.

**Christina Pendleton**

**46 Fox Meadow Lane**

Ms. Pendleton stated her major concern is that kids are allowed in a gun shop. She respectfully asked that that be considered. Children can't go into a pot shop, so she's not sure why they should be allowed to go into a gun shop. She also asked if there was scope for change in the bylaws to prevent this from happening again where someone has already signed a lease and the town has no leverage. She asked if there were no rules for someone signing a lease with a building owner without approval from the town?

Mr. Johnson responded, no, that is a private property transaction. Usually, an applicant comes to the Building Department first to confirm that the location is suitable and what they want to do is permissible before they sign a lease. This applicant was originally looking at Dedham Square, and then

signed a lease in East Dedham. He has an expert constitutional gun attorney representing him. He knows his rights and he was within his rights to sign the lease.

Ms. Pendleton asked if the plan will include signage restrictions. There are no laws against it. The Advisory Board said they could ask him to take guns off his sign. She asked if Zoning could include not having prominent pictures of guns displayed.

Mr. Rosenberger said that the owner met last night with the Design Review Advisory Board, which provides an advisory recommendation to the Building Department regarding signs, and after much discussion agreed that he would remove any firearm depictions on his signs. Mr. Rosenberger also pointed out that a recent Supreme Court decision stated that content on a sign is protected by free speech.

Ms. Pendleton asked that when the decision is made where to have a shop, is the town within its rights to decide which firearms are sold? Mr. Rosenberger said they did not have that answer. Chairman Bethoney said they would be able to answer that question by the end of the process.

He then said he would take two more questions.

A woman asked if this is how a democracy works. She heard about fighting Hooters and the pipeline and losing, and this was going to be another scenario where the public majority speaks up and is not heard. She said the big picture is being missed. The town is caught in all these legal things. Why isn't the town just saying no?

Chairman Bethoney said the Board has no purview over whether this person is permitted. If the Board had any ability to regulate the current store, they would, but they don't. The Board is trying to create regulations to assist in this not happening again.

**Margaret Adams**  
**255 East Street**

Ms. Adams said she lives off of Rt. 1. Dedham is interesting because Rt 1 is in our neighborhoods. If you put a gun shop in the Highway District, there are people who live on that highway. She asked that the store not be moved from one neighborhood to another. The Chair assured her that would not happen. Ms. Adams continued that if there is this a highway district, is there some way to inform those that are immediately impacted? It would have been helpful in this process so neighbors can be informed and give their input.

**Dan Driscoll**  
**41 Lilly Lane**

Mr. Driscoll said he is the Town Meeting Moderator. He asked at what point in the process would someone not be impacted by a new bylaw? Mr. Johnson answered that it's at the filing of a reasonably complete permit application. After that date, there is nothing that can be done.

Mr. Driscoll said the Planning Board is the primary generator of zoning articles which are then presented to Town Meeting, however citizens can also file zoning articles. Town Meeting representatives can choose not to accept what the Planning Board presents and amend it. The ultimate final authority is Town Meeting.

Chairman Bethoney explained that in order to attempt to freeze zoning on any parcel, the property owner can file a simple plan with a line drawn on it called an Approval Not Required Plan or a

Form A Plan. The filing of that plan freezes the zoning to what exists as of the day of the filing. Many developers use it to retain the existing zoning when they fear zoning changes coming. Because it is an Approval Not Required Plan, the Planning Board is required by statute to approve it.

**Michelle Ramsdell**  
**45 Border Street**

Ms. Ramsdell confirmed with Chairman Bethoney that the Form A was not relevant to the current applicant.

**Tracy Herowin [Name and address unclear]**  
**73 Rinkle St.**

She said she is a Town Meeting member. She was looking at the J&J Arms website and said it lists safety classes with live fire. The first one is scheduled for Sept. 21 with live firing on Sept. 22. She asked where that would be. Mr. Johnson said that there will be no use of the basement for firing, or the first floor. He will have gun safety classes, but not live fire drills.

Chairman Bethoney then closed the meeting to questions.

Sarah MacDonald of the Select Board stated that the Board of Selectmen voted tonight to write a letter to the property owner asking if they would reconsider the lease since there is so much citizen concern.

### **Dedham 2030 Master Plan Committee**

The Chair then took Ms. Borsellino out of order as a courtesy. She was applying to be a member of the Master Planning Committee, Dedham Master Plan 2030. All members had a copy of her resume.

**Sharna Borsellino**  
**55 Barrows St.**

Ms. Borsellino said she has a long history in transportation management. She worked as a transportation manager with the MBTA for over 13 years where she oversaw the suburban bus program. At one time, the MBTA subsidized the suburban bus program of which the Dedham town bus was a part. After the MBTA, she is now Director of the Human Service Transportation Office for the Executive Office of Health and Human Services. Her work entails managing transportation for Mass. health members and other health and human service agency consumers that have disabilities. Children birth to age 3 go to early intervention care. She also oversees Mass. health non-emergency medical transportation, transportation for the Mass. Commission of the Blind, DDS and Mass Health Data. Transportation management is an interest of hers. She also recently served on the Suburban Mobility Work Group of the Neponset Valley Regional Coordinating Council. As such, she worked with them to look at infrastructure improvements, health care transportation and employment shuttles up and down the Rt. 1 corridor. This was a collaborative effort of all the communities from Dedham to Wrentham. She'd like to utilize her transportation management, planning talent and experience to benefit the town she lives in. She is Town Meeting member 366.

Mr. Bethoney asked for questions.

Mr. McGrail said he and Sharna worked together years ago in the Transportation Building and he couldn't say enough good things about her.

Ms. Porter added that Sharna, in working with the Neponset Valley Coordinating Council while there has been no Town Planner has been the one person representing Dedham and tirelessly trying to get other people from Town Hall to go.

### **850-858 Washington Street – Washington 850 LLC**

**Applicant:** Washington 850 LLC  
**Project Address:** 850-858 Washington Street  
**Representative:** Peter A. Zahka II, Esq.

Mr. Zahka thanked the Chair for taking him out of order. He submitted a letter for the above referenced property on July 17 with a site plan application. Next to him was Greg Salvadore the principle. The site comprises 4 commercial buildings that share a parking lot. It's the Bank of America building. Currently, there are 438 parking spaces. Only 398 are required. The applicant is proposing to renovate the first floor space at 858 for an existing tenant, including a new deck/patio area in place of the loading dock, which has not been used for 12-15 years, as well as new handicap access. One parking space will be eliminated to accommodate the access ramp. Another spot will be taken in order to relocate 2 handicap parking spaces. This will leave 436 parking spaces for a building that requires 398. He submitted floor plans, a site plan and recently the elevation plans. This will go in the back of the building, eliminating the ramp in the picture and providing a nice patio area. Pursuant to 9.5.9 of the Dedham Zoning Bylaw, he wanted to declare that this modification is insignificant, not requiring peer review or abutters notice, and after the Board makes that filing, to vote approval. He must also file an application to the Design Review Advisory Board and will be before them in September. Because they will be eliminating the loading dock, he also submitted a memo requesting a waiver of the loading dock.

Chairman Bethoney recapped it as 3 issues and called on Mr. Podolski.

Mr. Podolski stated he had no concern at all with the proposal. His one concern was that one side of the new patio appeared to be on ground level with the parking of vehicles. Mr. Salvadore replied that's a distortion. The level of the patio will be higher than that. Mr. Podolski said they needed to build something into that area so cars won't run over the patio. Mr. Bethoney asked if there were ballards within the fence. Mr. Zahka said it will be a concrete wall.

Mr. Bethoney asked Mr. Salvadore if what was before them represented what he was intending to build. The drawing does not show a concrete wall, but post and rail. Mr. Salvadore said it's not exact, that it is an earlier rendering that hadn't been updated. Mr. Bethoney responded that Mr. Zahka will tell you that representations made on renderings are what the Board expects to see on the ground when the project's completed. If we drive by and see something different than what he shows here, that's an issue. Although we will consider your proposal, it is subject to renderings of what it will actually look like and review of those renderings.

Mr. Podolski said they need to put safety measures into that wall. Ms. Porter confirmed that it would be the same height as the existing.

Mr. Zahka stated that they will submit updated renderings. The Chair asked Mr. Zahka which he would like voted on first and he stated the waiver. The Chair sought a motion to waive the requirement of a loading dock on said plan. He then said let the record reflect that the Planning Board was provided a staff report dated August 5, 2019 relating to this

submission. The summary of the proposed removal of the loading dock and two parking spaces will meet the site plan criteria above. The loading dock is not utilized, etc. He then called on Mr. Rosenberger who said it would provide an upgrade to the building and ultimately the office market.

Motion: Mr. Bethoney sought a motion to waive the requirement for the loading dock on the site plan. Ms. Porter so moved and Mr. O'Brien seconded. There was no discussion.

Vote: The vote was unanimous, 5-0, with the Chair voting aye.

Mr. Bethoney asked Mr. Zahka for the second request.

Mr. Zahka said the 2<sup>nd</sup> request was that the modifications be considered insignificant and not warranting notice to abutters or peer review.

Motion: Chairman Bethoney sought a motion that was made by Ms. Porter and seconded by Mr. Podolski.

Vote: After no discussion, the vote was unanimous, 5-0, with the Chair voting aye.

Mr. Bethoney asked Mr. Zahka for the 3<sup>rd</sup> request.

Mr. Zahka stated approval of the proposed modifications subject to submittal of updated renderings that show exactly what they will be doing.

Motion: Chairman Bethoney sought a motion that the renderings and plans reflect the accurate build out and safety measures acceptable to the Planning Board be proposed. Mr. Podolski made a motion, seconded by Ms. Porter.

Vote: There was no discussion and the vote was unanimous with the Chair voting aye.

### **1100 High Street – Town of Dedham**

<b>Applicant:</b>	Town of Dedham/ECEC
<b>Project Address:</b>	1100 High Street, Dedham, MA
<b>Zoning District:</b>	Single Residence A
<b>Representative(s):</b>	<ul style="list-style-type: none"><li>• David Roberts, Chair, Finance and Warrant Committee</li><li>• Mayanne Briggs, School Building and Rehabilitation Committee, School Committee</li><li>• John Tocci</li><li>• Mike Williams, AIA, KBA Architects, 6 Thirteenth Street, Charlestown, MA 02129</li></ul>

Chairman Bethoney welcomed Mr. Roberts who introduced members of SPRC: Ms. Briggs, Mrs. McDonough, John Tocci, and Mike Williams of KBA. They were before the Board in January and granted waivers for elements of the site plan. It moved forward and the school opened in February to great success. He was there to report on issues that were brought up in June.

An issue outstanding from the previous meeting was the flashing speed indicator sign on High Street. That has since been installed and made operational. Other items were plantings that needed



to be completed on site. They were completed, however some plantings installed in the fall did not survive the winter. They will be replaced this fall as summer is not an opportune time to make plantings. There is one small item left on site and that is that some of the pavers in front of the building need to be lifted and repair work done beneath them. That will be completed this summer before school opens.

Mr. Podolski said they still owe speed reports on that and asked if he addressed that.

Mr. Bethoney asked him, before answering that, that he address the outstanding requirements for the public.

Mr. Roberts said the other outstanding requirement was something that they could not start until the flat stream light was installed, which is for the speed studies on High Street. That has been installed. Now, one of the Certificate of Action items is to perform speed studies 6 months and 12 months after the completion of that sign to verify that the mitigation measures are effective. They spoke with the town engineer. The first study will be in January and the second will happen in June 2020 before school lets out.

Mr. Podolski said that back in April, he had an email from John down the Cape and from Jason dated April 23. There was a lot of action needed. Do we have something from Jason that all of this has been complied with? Off-site mitigation? The Chair restated that the report from Jason Mammone raised issues and questions. He asked if those issues had been addressed and if we had certification from Mr. Mammone. Mr. Roberts said they do not have certification from Mr. Mammone. They will seek that out. Chairman Bethoney said Mr. Mammone just needs to say that everything in his email dated April 23 has been addressed to his satisfaction. He asked Mr. Roberts to let them know when they will receive that and then congratulated them on a great job on that; it's a project to be proud of.

Mr. Roberts said he had a conversation with Superintendent Welsh who was out of town and unable to attend. Mr. Welsh said he has had countless approaches from other school districts to tour it. Mr. McGrail said that at one time, it was supposed to be the Senior Center, but the town didn't vote for it. Mr. Bethoney said the entire team did a marvelous job.

### **337-339 Washington Street – Garnett Realty Trust, Robert Naser Trustee**

<b>Applicant:</b>	Garnett Realty Trust, LLC, Robert Naser, Trustee
<b>Project Address:</b>	337-339 Washington Street, Dedham, MA
<b>Zoning District:</b>	Central Business (CB)
<b>Representative(s):</b>	Stephen P. Rahavy, Esquire

Mr. Bethoney said this was a public hearing continued from July 25, 2019.

Mr. Naser said there were a couple of action items with the consultant--one pertains to the dumpster—that have not been resolved yet.

Mr. Rahavy said a plan was submitted, but it was rejected by the consultant so they will have to revisit it. He talked to Mike McKay earlier about the photometric lighting plan. They thought that was resolved, but it wasn't. Chairman Bethoney asked if those items were on the list on July 25 and Mr. Rahavy said yes, they date back to May 9.

Mr. Findlen said that with the photometric plan they noticed there was spillover in the westerly edge of the site. The Bylaws strictly prohibit any spillover. That was a location that we identified initially and we haven't received any resolution on the updated photometric plan to address that. The other issue was trash removal. We want to see how trash is being removed from the site. They said it was carried to the dumpster. We want to know who's going to come in and bring it out. We are asking the applicant to provide some explanation or traffic management plan to explain how that's going to happen to avoid any issues within the site. It's related to the dumpster location.

Mr. Naser said they did submit something to Mr. Findlen. He did not think it was sufficient. Mr. Naser said he'd like to present it to the Board to see if they think it's sufficient. Mr. Bethoney asked what his engineers thought.

Mr. Naser said the concern is people entering and leaving the garage. There is also concern for people cuing up at the ATM. When he talked to Traffic Engineer Ron Mueller, he said there is no issue with the ATM based on the study he did and information he's gathered on other similar banks in the area. He did a site study on a Saturday morning, which is peak hours according to the branch manager, and there was no more than one car cued up in the ATM line. This is consistent with studies that he's done at other similar sites. With regard to the traffic leaving the parking garage, he was not sure what the issue was because they were proposing that the dumpster would be rolled off from the site to the lift where it would be tipped and then rolled back. So there would never be a point at which the two lanes of traffic would be impeded.

Chairman Bethoney told him that he needed to get a memo and a plan to Mr. Findlen explaining that and have him react to that. Mr. Naser asked Mr. Findlen if what he needed was a site plan and not a written plan. Mr. Findlen said he needed a turning template that will show a vehicle coming into the site, picking up the trash and taking it away. Mr. Naser said he will have the engineers work on that and come up with a site plan for how trash will be removed. Mr. Findlen said they have plenty of examples from previous applications that they could look at.

Ms. Porter said that at the previous meeting, they discussed if there were opportunities to increase landscaping in front of the Santander building and maybe swap out a parking space in the street for more green space. There were no revisions on the last plan. Mr. Naser said they talked about it but were hesitant to give up a parking space for reasons given that evening. He did make some revisions to the landscaping to have a little pocket park for owners and tenants to access the building. That revision was made. They also discussed for owners that live there, a little vegetable or victory gardening patch in the space there. But he is still hesitant to give up that parking spot.

Ms. Porter asked if the pocket park was in the parking lot area and not the street and he confirmed it was in the back. She said there is also an opportunity to improve the street scape in front of Santander Bank. She said now it's the basic evergreen. Mr. Naser said there is a shrub that started out being 3 ft. tall and is now 12 ft. There are some flowers and grasses that are out of control. As part of a larger landscape picture, they could work to improve that and integrate the landscaping in front to be more congruent with landscaping in the back. He could ask the landscape architect to look at that.

Ms. Porter said given that when the original landscaping was done, there weren't design guidelines and now there are, this would be an opportunity to put those into play in the one place where there is frontage on Washington Street. Mr. Naser said he did have the design guidelines and believes he forwarded them to the landscape architect. He will ask him to revisit that to come up with a better plan for the landscaping in the front. Mr. Naser will read through it, too.

Mr. Rahavy said the property owner has a contractual relationship with Santander Bank so he cannot arbitrarily remove a parking spot. Mr. Naser said the lease with Santander Bank specifies a certain number of spots. Ms. Porter said okay.

Mr. Naser and Mr. Rahavy requested continuance to a date certain.

Motion: The Chair sought a motion to continue the public hearing to Oct. 10, 2019 at 7:00 pm. The motion was made by Mr. Podolski and seconded by Ms. Porter.

Vote: After no discussion, the vote was unanimous, 5-0, with the Chair voting aye.

### **160 Providence Highway – Stop & Shop**

**Applicant:** Stop & Shop  
**Project Address:** 160 Providence Highway, Dedham, MA  
**Representative:** Ken Staffer, HB

Ken Staffer with HB was there to represent Stop & Shop on a small modification to their approved site plan relative to their PeaPod program that was approved. He set up a poster. He explained the PeaPod program was a way to place a grocery order online a few days out. There are storage lockers onsite and the food is delivered to the storage lockers. The customer comes, calls the store and they bring it out to your car. Stop & Shop is working to provide online shopping at all of their stores and modifying the process slightly. Everything will now be done inside the store. Groceries will be stored in a dedicated storeroom constructed inside the store.

The site plan currently includes 4 dedicated parking spaces for the PeaPod pick-up on the left side of the building. They are looking to eliminate those. They will need 6 dedicated parking spaces in close proximity to the storeroom within the Supermarket. There is an existing door the associate would exit. They will add a curve ramp and crosswalk to bring associates safely to the new spaces.

There will be 6 dedicated parking spaces instead of 4 in front of the store, the storage lockers will be removed and a storeroom constructed inside. There will be signage associated with the parking and way finding signage so customers can find the parking quickly.

Chairman Bethoney asked how the plan impacts existing waivers on the site.

Mr. Staffer said the existing waivers relate to parking and since they will not be reducing parking, the waiver is not impacted.

Chairman Bethoney stated for the record that they are not affecting any waivers.

Ms. Porter asked about the other locations and if 6 spaces were enough for the pick-up. Mr. Staffer said they ran the numbers and it's 4-8 spaces. 6 is the number the landlord would allow. If it's successful, they may ask the landlord for more spaces, but they would have to come back to the Board.

Chairman Bethoney also asked that the record reflect that Mr. Rosenberger provided a report dated Aug. 5, 2019 that's an evaluation and summary.

Mr. Podolski said the plan describes removing the existing lockers. He asked if anything is going in place of those lockers. Mr. Staffer replied no, nothing will go there. There will just be the concrete sidewalk. If the store, in the future, would like to use that now open space for outdoor sales, they would come back for the Board's approval.

Mr. Podolski asked for clarification of the particulars of the space. Mr. Rosenberger referred to page 5 for a screenshot of the location. Part of the area is used to sell water, which was previously approved. It was updated to allow PeaPod a few years ago.

Motion: Mr. Podolski moved to deem the modification of the Stop & Shop site as insubstantial. Ms. Porter seconded. There was no discussion.

Vote: The vote was unanimous 5-0. All in favor.

Motion: Mr. Podolski moved that the modification to change pick-up spaces to 6 online pick-up spaces and to remove the existing PeaPod lockers from where they are be approved. Ms. Porter seconded. There was no discussion.

Vote: The vote was unanimous 5-0 with the Chair voting Aye.

### **55 Anna's Place – The Animal Rescue League**

**Applicant:** Animal Rescue League  
**Project Address:** 55 Anna's Place  
**Zoning District:** SRB/SRA  
**Representatives:**

- Peter Zahka, Esq.
- Chief FO
- Dr. Edward Schettina, VP of Veterinary Services, Project Manager, and Project Architect
- Mike Defina, Media Relations

Chairman Bethoney reconfirmed that the Bryant Street discussion will be tabled until a date uncertain.

He then stated this is the first public hearing for the construction of a 25,000 square foot, 2 story, multi-use building accompanied by 55 off street parking spaces, landscaping, and infrastructure in the Riverdale area of Dedham. As part of the application process, the project must be advertised, postcards mailed, a newspaper ad, adjacent properties notified, and notice of the public hearing posted. Prior to opening the public hearing, he asked that the Town Planner put on record the notifications that were made.

Mr. Rosenberger: Pursuant to Massachusetts General Laws, two legal ads were placed in the Dedham Times on Fridays: July 19, 2019 and July 26, 2019, meeting statutory requirements. Special Permit notification to abutters and abutters to abutters within 100 feet was made on July 17, 2019.

Chairman Bethoney confirmed with Mr. Rosenberger that notifications were made to adjacent towns and to the Mass. Area Planning council.

Motion: Mr. Bethoney made a motion to waive the reading of the public notice, moved by Mr. McGrail and seconded by Ms. Porter. There was no discussion.

Vote: The vote was unanimous, 5-0, and the motion carried.

Motion: The Chair sought a motion to open the public hearing regarding 55 Anna's Place, the Animal Rescue League. Mr. O'Brien moved and Mr. McGrail seconded. There was no discussion.

Vote: The vote was unanimous, 5-0, the motion carried and the hearing was open.

The Chair recognized Mr. Zahka for his opening statement.

Mr. Zahka began by saying that 5 members and the associate member will be sitting on the hearings. He continued that the applicant is the Animal Rescue League (ARL), for the record a non-profit charitable corporation that has to do with the welfare of animals and more specifically the establishment of refuges for the rescue of suffering and homeless animals. The subject property, to be clear, we've been calling for advertising purposes Anna's Place, but for notice purposes and officially, and as noted in the application it is actually 276v, 220 and 184 Pine Street, as well as 208 and 70 Jenny Lane. 55 Anna's Place is a driveway that has been given a name for E911 purposes. Let the record reflect for public notice purposes, we use the Board of Assessors map and parcel number for the subject property I just listed so the notices went to abutters and the abutters to abutters within 300 feet of those addresses.

The project is the construction of a new 2 story, 25,000 gross square foot, 17,694 net square foot multi-use administrative building, construction of a new 1 story 3,000 gross square foot, 2,708 net square foot maintenance and garage storage building, and associated parking and infrastructure. In the application, we require and requested a number of special permits. First is the use category B6 for charitable institutions. They met with the Building Commissioner on several occasions and he confirmed that the Animal Rescue League site and the activities are determined to be a charitable institution under that use category B6. That use requires a special permit which has been requested. It is noteworthy to point out that because it's a B6, most of the underlying zoning requirements don't apply. Section 6.2 of the bylaw has very specific dimension requirements for any project that falls under B6. As a general rule, most of those are much more stringent than the underlying district, and probably the most pronounced is that the underlying district would require a 25 foot set-back minimum, and a B6 project has to be 100 feet back from the frontage.

They also requested a special permit for change, extension, alteration of a pre-existing, non-conforming use of structure as a fall back to cover themselves. Over the years, there have been a number ZBA special permits that have been granted under that category. Since this use does not have the special permit originally for the charitable institution, it was considered pre-existing, nonconforming (it still is), and therefore it can be enlarged, etc., through that process. On the site, there will be a few retaining walls in excess of 4 feet. Under Section 6.52 of Dedham's bylaws, that requires a special permit and they've asked for that. Lastly, because this project is in excess of 25,000 gross sq. ft., it qualifies as a major non-residential project. It is a special permit site plan review process, the most extensive provided for under the Dedham zoning bylaw.

They have also submitted in writing a list of waivers that are required for the project. They have asked for most of these waivers to make the project better because it will be less impactful on the abutting residential neighborhood. Specifically, in lieu of pavement, they have asked that some of the parking spaces be something else like green pavers, that the aisle widths be 20 feet as opposed to

24, and the internal radii be less than 12 feet. There were pre-filing meetings and discussions. They met with the Fire Chief to go over fire and public safety issues on the site. In fact, some of the layout includes requests from the Fire Chief. As indicated, they met with the Building Commissioner primarily to confirm the use category. They had a brief conversation with McMann Associates specifically to confirm that the study area used for the traffic was appropriate. They had every intersection from Needham Pine St. to Pine Bridge and Ames. They also held 2 meetings onsite with the neighborhood, and sent out a mailing and a drop. Following those meetings, the Animal Rescue League set up a website to keep the neighborhood apprised of what was happening. They had a scoping session with the Planning Board on May 23, 2019. On July 2, they formally started the process when they submitted a complete MMP application package, including required drawings, traffic reports, fiscal analysis, impact assessment statements, and as required, the town did advertise twice in the Dedham Times, the first hearing being at least 14 days prior to this hearing. The Town, as required mailed a notice. The ARL also put the notice up on their website and at the last neighborhood meeting, collected email addresses of the abutters that were there and sent an email notifying them about tonight's meeting.

The Planning Board sent the application to McMann Associates for peer review. They received the initial report on July 29. There were 27 issues that were raised with the filing. They had a meeting on that and found none were earth shattering or hindering. They are in the process of preparing an appropriate response that they hope to get out next week. It appears that the application, as required, was circulated by the Planning Director to various town boards and agencies. Earlier today, they received a memo from the Dept. of Infrastructure Engineering. A quick review showed many of the same issues as in the McMann report and they will be responding to that.

That was to get some of the legal mumbo jumbo into the record. Because this is a special permit, he would like the record to reflect that the 6 members, plus, may have to excuse themselves.

Mr. Zahka apologized that Mary Nee was on vacation who is the President; she was there for the scoping session. He would like, for the record, to have Constance give a quick overview of the ARL and their plans.

Constance Debradna, Chief Financial Operating Officer of the Animal Rescue League of Boston, gave a brief overview of the organization. The Animal Rescue League is a non-profit with locations in Boston and Brewster on the Cape. Their mission is to be an unwavering champion for animals in need. They are committed to keeping them safe and healthy in habitats and homes. They are celebrating their 120<sup>th</sup> year. So for 120 years, they have responded to animals in need and to the people who care for them. They are often the first organization to respond. They have more than 540 dedicated volunteers and 100 staff members who are supporting local animals, families and neighborhoods. They provide outstanding veterinary care, adoption, and field services. And more than that, they confront the root causes of animal cruelty and neglect. They use special police investigation and advocacy to strengthen the laws that protect animals. Last year alone, they served more than 16,9000 animals in need. They may be known as a shelter, and they serve as the pound for Dedham by contract, but their programs today are increasingly focusing on prevention to keep animals in their homes where they belong and out of the shelters. Their legacy in Dedham goes back to 1907 when their founder, Anna Harris Smith, a remarkable woman, social worker and philanthropist, founded the organization. She purchased the Chamberlain Farm on Hind Street in Dedham to be a place to care for animals waiting placement and to provide a rest area for the working carriage horses in Boston. For 112 years, their Pineridge campus has served as a sanctuary for animals in need and a resource for the community. They are pleased to continue that legacy with this proposed project.

Chairman Bethoney explained to the audience that Mr. Zahka had provided an opening statement and went through all the technicalities necessary to begin the process to obtain a Special Permit. The applicant would now give a basic overview of the proposal. As they go through the review process and public hearing, each element will be handled separately: site design (lighting, parking, etc.), traffic analysis, community impact evaluation, environmental impact evaluation, etc. Tonight's public hearing is a formal introduction to the project and something that will be built upon throughout the review process. The public will have an opportunity to be heard. Each time they hold a public hearing related to this project, they will be discussing the specific components and the public will be able to comment on those specific components exclusively.

Mr. Zahka started with the existing conditions plan showing what is on the site today. The property is a 23 acre site located on Pine Street between St. Susanna's church and the Greenough school. On the opposite side is a residential neighborhood. The site has almost 1,100 feet of frontage along Pine Street. The applicant has been operating since 1907. The site is currently occupied by two animal cemeteries, one is historical. There is much more detail on this in the submitted narrative, but he wants to be clear that while the Animal Rescue League is no longer actively selling graves, there is no plan to touch the cemeteries, which is about 40% of the site. There are an existing 7 buildings on the site. The project narrative goes into the size of each one of those. The cemetery garage and caretaker's house will be demolished. Currently on the site, there are 28 paved parking spaces and 8 gravel spaces. According to the zoning map, the site is in the Single Residence A and Single Residence B zoning districts. They have not responded to the peer reviewer. It doesn't make sense to go too deep into any particular issue—even though he does want to talk to the community about fiscal impact—until they resolve the issues with the peer reviewer to see if it makes any changes to the project. Then they will come back in the next hearings to address specific topics in those meetings.

Mr. Zahka referred to a slide in his presentation showing what the site would look like. There would be a multi-use, 2 story administration building. The first floor is a little less than 10,000 net sq. ft., the second floor less than 8,000 net sq. ft. The height, measured under the Dedham zoning bylaw, is 40 ft. They sat down with Ken Cemino, the Building Commissioner as they were working on this. The setbacks from Pine Street range from 125 to 145 ft. The secondary building, which isn't getting talked about much, is a new 1 story maintenance, storage and garage building. That is 375 ft. from Pine St. The project will add 127 parking spaces so the project as presented will have 155 parking spaces. They propose that 35 be something other than pavement, like green pavers. Between the main building and Pine Street, there is a minimum of a 20 foot landscape buffer. Between Pine Street and the parking lot, fences are proposed on both sides of that. On the Pine Street side continuing with what's there now will be a Cape Cod rail fence. On the parking lot side, there is a fence proposed as well to add additional screening. All the lights are low impact, cut-off fixtures. Other than the waivers mentioned earlier for the parking provisions, this project as submitted satisfies all the Dedham zoning bylaw dimension requirements. And those requirements are the more stringent ones for the type of use.

The multi-use administration building will be used for administrative and programmatic staff training and meeting space and housing of 2 mobile surgical units. Currently on the site, ARL has 26 employees and 15 volunteers, so 41 personnel on that site. However, currently, staff from their other locations on a regular basis come to the Dedham site; they are not included in the 41. They are there 2-3 times per week. When the project's completed, assigned to Dedham will be 71 personnel: 56 full time equivalent employees and 15 volunteers. For purposes of the traffic study and any other analysis, they assumed going from 41 to 71, although on any given day there were more than 41, but that gave a conservative analysis as they went through. Most of the administrative staff work on site from 9:00-5:00. The shelter operates 7:30 am-7:30 pm with 6 people. They come in at 7:00 am.

The site is only open to the public from 1:00-6:30 pm, 6 days/week (closed to the public on Mondays). He brought this up because the whole analysis, for traffic, etc. treats this building as an office building, but it's not your typical office building. When they ran the numbers from ITE, it overstates. They did a very conservative analysis. The administrative building will also be utilized 3-4 times/year for meetings of all actual staff, about 120 people and 3-4 times per year for donor meeting to thank donors. That will be approximately 50 people.

This project does not change the animal care taking place on site. Currently, the ARL is licensed for 25 dogs. It acts as the center for the Town of Dedham. If the Dedham Animal Control Officer brings in dogs, they count toward the 25. That number is not changing. The number of animals on site is remaining constant. The building is an administrative and programmatic space. They do have a large meeting room which they will use, when available, to train animals as the space currently being used for that purpose is cramped.

He then moved to the next slide which presented drawings of the building from different viewpoints. One showed trees when they're planted and then after they've grown. He said the Board asked during the scoping session about the building height. From the zoning perspective, the height is 40 ft. which meets the zoning requirement. Per the Board's request, the slide showed how it would look depending on where you are standing on the street. Suzanne would have more details at a future meeting, but they wanted to show the Board to respond to their requests.

Suzanne Shaw, MBS Architects, introduced herself and said she put the illustration together to answer questions from the scoping session. The building is broken out into 4 blocks. Starting with Block D(?) and taking a dimension to the peak of the building from the ground in the front on the south side is 40 ft. At the eaves of the building, the height of the wall is 24' 2". If you're standing at the center of Pine Street which is a little bit lower, the height is 46' 6". However, that is taken 142 feet back from the base of the building to the edge of the property. The middle block, B, is 37' 10" from the ground to the roof. And at the Pine Street edge, it's 45' 5", 141 ft. from the edge of the building to the edge of the property. Block A is 29' 7" to the peak of the roof and 16' 9" at the wall. At Pine Street, it's 37' 1" from the peak of the roof to the middle of Pine Street and that's back 164 feet from the Pine Street edge.

Mr. Zahka explained that this was Part 1 and they will have more detail as to what one sees from Pine Street, across the street, etc., at future meetings.

Lastly, they submitted a full community and fiscal impact report assessment that included a report by Mark Fugere who did a fiscal analysis. The ARL is a tax-exempt entity and doesn't pay real estate taxes. Certain charities enjoy tax exemption because they are stepping in and doing functions that would otherwise have to be done by the government. Protection and care of suffering and homeless animals would fall into that category. He cited the Dover case to be clear that a special permit granting authority cannot require any tax-exempt entity to waive its tax exemption. There can be no conditions set on any special permit and the variance (in the Dover case) should be granted or not granted regardless of tax-exempt status. The exemption is a matter outside the special permit granting authority's jurisdiction. He talked to some individuals on the Board of Assessors and asked if Dedham had any formal Pilots (payment in lieu of taxes). They confirmed they are unaware of any formal Pilots in the Town of Dedham. They did say 2 tax exempt entities voluntarily make payments to the town. They were not sure how the amounts are determined or the payment cycle, but they have been paying for a few years. However, both of those entities, while tax exempt, essentially make money. One rents its facilities as its primary function and gets revenue from that.



The other, in the medical field, went from tax paying to non-tax paying due to merging with an entity that is tax-exempt. A non-residential, tax exempt entity does not make the same money for the town. He doesn't know how you put a price on what they're doing in terms of their charitable endeavor. If the ARL wasn't there, the Town would have to pick up that slack and he doesn't know what that value is. Any inquiries to the Town of Dedham as a result of this project is more than offset by the benefits of the ARL being in the Town of Dedham. Fugere did a fiscal impact and he said buildings don't cost the town anything. It's the people in the buildings that cost the town, either by fire, medical issues, traffic generated, wear and tear on town roads. He pulled the fire and police records for the last 2 years on Pine Street and most of the fire department calls were not in the vicinity of the Animal Rescue League. The police calls mostly involved the animal rescue officer who was coordinating with ARL over something that was happening. There was maybe one where the police or fire department had to go to the ARL for an issue there. Fugere says the new building will cost the town, primarily in police and fire, \$3,000/year. That's an incremental cost; they didn't do the whole site. He said it's primarily due to the increase in personnel. The building permit fee alone to the Town of Dedham they estimate will be \$150-\$187,000. Yes, every building does it, but no one can deny that building permit fees in this town are a money maker. As good of a job that the Building Department will do in reviewing this project, they will not be spending \$150-187,000 to do that review. So there is money made there, granted as a one-time thing.

The report has a whole analysis of the number of animals and dogs that the ARL has handled in the Town of Dedham--over the last few years, over 3,000 in strays, adoptions, and surrenders. They have not been a quiet, non-participant. They have for years participated in Dedham by making presentations at elementary schools and holding job fairs at the high school, Flag Day Parade, all as a nonprofit. They are creating in Riverdale a new building that has prime meeting space, which the Riverdale area does not have. When the meeting room is not being used by ARL, it would be available to the neighborhood if desired. They have no intention to lease or rent any space to a third party. There will be no weddings, etc.

That is the presentation and they hoped to go more in-depth in future meetings. He suggested the next meeting cover civil, landscape, building design, and architecture with traffic and parking at a subsequent meeting.

Mr. Bethoney concurred and asked him to schedule that with Mr. Rosenberger. He asked Mr. Zahka if he believed the benefits to the Town of Dedham outweighed the negatives of the project to which Mr. Zahka responded, absolutely. He said it was easy because they are already there.

Mr. Podolski asked if they could superimpose the new building onto the present site as he was having difficulty determining where it will be. He wants to know where it sits in relation to what's there now.

Mr. Zahka said they submitted 100 sheets of the plan and the Existing Conditions Plan is in there. They will superimpose the building as requested. It does not go into the cemetery area as feared.

Mr. Bethoney asked that the map have no contour lines. He continued that he'd like the record to reflect 2 letters received by the Planning Board: a letter dated August 6, 2019 from Ms. Anne Frasca, 22 Aspen Court who is opposed. This will be provided to the Applicant and he requested that they respond to her comments. The letter talks about ledge blasting, traffic, noise, building design, headlights, etc. He said at the last meeting on May 23, there was discussion that the ARL hold a meeting with residents to discuss the proposal and hear residents' concerns so that prior to any formal filing, those concerns could be considered. He read her letter where she contended that no one reached out

to the community and that showed that the willingness to be a good neighbor is not present. He asked Mr. Zahka if, as mutually agreed upon, that happened?

Mr. Zahka said they had 2 neighborhood meetings prior to May 23 as cited and set up a web site. He does not recall them saying they would hold additional meetings.

Mr. Bethoney pressed as to why they would discuss the ARL holding another meeting, and he could check the minutes, after the May 23 meeting to discuss neighborhood concerns?

Mr. Zahka said it may have been suggested, but he doesn't recall ever intending to hold another meeting. He had talked to individuals and said he would set them up with meetings regarding particular issues, but never heard back from them. Also, on the website is the email address for questions or concerns and they have received no comments.

Mr. Bethoney asked, as a courtesy, that he or the Applicant please write back to both of them. They have some questions that are not legal issues, but about property use and what it will be in the future. He is giving them the chance to respond because this is the commentary he will hear throughout the public hearing process. He should prepare himself as the Applicant to respond adequately and appropriately. He mentioned the letter from Anne Frasca and an email from Evangelina Chavez, 267 Pine Street. He put both letters on the record and asked Mr. Zahka to address them.

Chairman Bethoney asked if anyone present wished to be heard regarding the overall project?

**Anthony DiBeneditto**  
**15 Stivaletta Drive**

Mr. DiBeneditto said he knows the cemetery has an old and new section. He has adopted tons of cats over 35 years as strays, etc. so he's not against animals. When he looks at the far left section where the existing cemetery is which will not be expanded, he sees that the ARL is going to put in all this parking for a couple times a year as overflow. It's not needed Monday through Friday. There will be fences, etc. The Stivaletta development is a nice quiet section of town except for Nobles which has been there forever. His concern is that their needs have already changed. They no longer need a cemetery.

Mr. Bethoney asked the ARL if that was true.

The woman responded that they are not selling any new plots. They are honoring the open plots that they have. Anyone who owns a plot, those will remain. The cemetery will continue acting, but they are not selling any new plots.

Mr. DiBeneditto continued that what they need now is parking. They have a huge section of land. If they only need it a couple of times a year, why would they put it in the middle of the existing cemetery. 30% of the plot in that section will be parking. Put it out back. Why out front?

Mr. Bethoney asked if that was his biggest contention.

Mr. DiBeneditto replied that with the building itself, they are within their rights. They're not looking for a special permit for an oversized building. Companies make all these promises and they only need this. They are a nonprofit and can virtually do whatever they want. They may come back and say their needs are now this. But the residents that are there, they are the ones that live with it. He hears the dogs all the time. He's never written a complaint because he understands they are doing a

good thing. The poor dogs would probably be dead if they were left on the street. All he's saying is if they claim they only need the parking a few times a year, put it out back.

Mr. Bethoney asked if the parking proposed was overflow, used everyday, was their validity to Mr. DiBeneditto's charge? Mr. Zahka agreed they had more parking than they needed daily. He corrected that the parking was not in the cemetery. They are not encroaching on the area designated as a cemetery. They showed an area of 35 overflow parking spaces (in green) which they suggested to be non-pavement.

Is the overflow parking a necessity for the building size and use or operation? Mr. Zahka replied it is a combination of zoning bylaw. It is very close to regulation now. He recognizes they don't need the spaces every day. Therefore, they are proposing 35 of those spaces be green like grass (to not look like a parking lot), but of stable material that can be parked on. That was the intent of the waiver request to make some of the parking not asphalt. Someone said if they removed the 35 spaces, that would leave 120 parking spaces and 127 are required.

Mr. Bethoney asked if the ARL could do with 120 spaces? He said think about it now, as the community has spoken and they will need to respond. Mr. Zahka said the answer is yes, which is why they proposed 120 paves spaces and 35 of some other material. 90% of the time, 120 spaces will be fine. They need the additional parking for the all staff meetings. Mr. DiBeneditto said anyone unfamiliar with the property, driving by, isn't going to know there are two sections of the cemetery. 25 to 35 spaces in the middle of the cemetery?

Mr. Zahka said when the building is superimposed, you will see exactly where the parking is.

Mr. McGrail asked if there were another location for parking? Mr. Zahka said no. There was a Master Plan done of all the ARL's in terms of their needs today and in the future. This project is addressing the foreseeable future. The site has a major slope in the terrain. Considerable time was spent determining where the building and parking would go. They presented some of that at the scoping session and will go much more in depth in the civil and site planning meeting, but the answer is no. Given the layout of the property and to minimize blasting, this is the optimum layout for everybody.

Dr. Edward Schettina, VP of Animal Welfare. The cemetery up front, if you were to drive by on Pine Street, you will see 2 different sections. The part closest to Pine Street is the flat section and you will not see anything from the street. The upright section is in the back. You will not see anything up front that is the flat section and there is a huge section in the middle where there is nothing.

Mr. Bethoney said the Board members would drive by.

**Stephanie Carter**  
**227 Pine Street**

This issue is really important to me and our neighborhood. She shares all of Ms. Frasca's concerns for the neighborhood and herself. She is an abutter to the property. She's lived there 20 years. She is directly across from the proposed building and the bulk of the asphalt parking. She has supported ARL for 20 years. She supported their mission and directly by fostering and adopting animals from them. She bears them no ill will. She was recently asked if she supported the project and she said she didn't know. However, based on what she heard tonight, she cannot support it as proposed. They did have a meeting at Anna's Place in April and saw this proposal. She came to the scoping session on May 23<sup>rd</sup> and saw this proposal. She is here tonight and this is the third time looking at

the same proposal. Nothing has changed. Several neighborhood concerns were brought up at the two meetings: a second entrance was proposed and Mr. Baldwin said he could take it out. It's still there. Ms. Porter, on May 23<sup>rd</sup>, asked if for the 3 or 4 times a year when they need extra parking, they could park at St. Suzanna's or Nobles or were there situations where they could park at the Riverdale School and have a shuttle. But nothing changed. All the spots are still there and will be seen from every window in her house and from her neighbor's houses as well. Mr. Podolski said it's a densely populated neighborhood (Pine St., Riverdale, Aspen Court, etc.) and that ARL needs to reach out to the neighborhood regarding concerns; nothing was done. And tonight was the same proposal that was presented in April. She has little faith that this organization will address the concerns of the community. She hasn't seen any good faith efforts yet--a lot of talk, but no walk. She's seen a lot of high paid experts with Boston addresses and a high paid attorney. She would like to support the project, but she's very concerned that they will see no effort to address neighborhood concerns. Unless or until she sees any effort, the Board is her elected officials and of the other citizens there and she asked them to refrain from voting or vote it down until they see some progress on addressing neighborhood concerns.

Mr. Podolski asked her if she could hear dogs barking, to which she responded yes. He addressed the ARL and said if you can afford to put up a 25,000 square foot building, you can put sound proof acoustics in the dog area so people don't have to hear barking 24/7.

Ms. Carter said the training area may be used for dog training. When it comes to details, will that room be soundproofed? Will we then hear barking during training across the street and not just up on the hill? She adores dogs and the barking doesn't actually bother her, but she knows it bothers most others.

**Ernie Sanchez**  
**267 Pine Street**

Mr. Bethoney stated that the Board members had received his wife Evangelina's letter and read it.

Looking at the drawings, he asked everyone to think about the parking lot inside the cemetery as it is now co-existing with the cemetery so it is a change of use. There is a road that accesses the existing cemetery that is being expanded into that parking lot. 150 spaces are being proposed. They're contending they're going from 41 to 71 employees. How do you verify that is how many they have now and that will be the limit to their number? And what is the discrepancy with the 71 employees and 160 parking spaces. This is a compound. It has sections, buildings sporadically placed everywhere. When he reads some of the minutes from the past from the Planning Board, when you granted them their permit, you were always specific about how many parking spaces and it was always a porous surface, gravel. It's hard to imagine that all the paving is going to be conducted for all those spaces. When you think about this project, they had no choice but to pick this site. They have a very rough terrain on their property. This is basically the cemetery. All of that in the proposed with the building is part of that cemetery.

Mr. Bethoney asked if that was a bad thing? Mr. Sanchez replied that the point is that they are limited in space. There is not one inch left in the place. Behind the buildings you have a wall, which is not accurately depicted in the rendering. There is a sheer wall of ledge right behind the building. If it counts for set back, he's not sure, but there is no ability for a fire truck to go back there even. As far as the 140 for the frontage, I don't see how that adds up to 140. How did they measure that? Is it normal to the street or did they do it at an angle to give them the extra because when you add the up the numbers here, it doesn't add up to 140. They are at the front of the street. They compare themselves to Nobles, but you don't see Nobles from the street; you don't see their cars from Pine Street.

Everything here is right on Pine Street. That building is humongous, 28,000 sq. ft. You compare that to a residential comparison you get 2,500 no matter what the lot size is. A 25,000 sq. ft. commercial building and 155 parking is a large project. Is that the intent, to try to compromise on a smaller size building? Why didn't they consider building up where the barn area is? They have the room, not going into the old cemetery. All of those spots up there are gravel. I have records of minutes from the past that the Board members have always contended for that to be porous for drainage purposes. I think that they were limited for space and it is my opinion that they should not be granted this permit.

They actually just recently improved on that property. In 2015, they did *major* construction. Did they not foresee this coming? Very recently, after the passing of the caretaker, that building was converted into offices and 10 parking spaces popped up right in front of the house. Next thing, they had lights shining into their living room. There used to be a beautiful flower garden there when the caretaker was there. Trying to get the history of where these parking spaces came from is kind of difficult. Is it in the archives of the Planning Board because everything goes through there? I would urge the Board to try to get a history of what they've asked for parking, here and there and piecemeal. In the existing drawing, they are not showing the parking lot that I'm talking about. There is like a 10 parking lot gravel road right next to the house. It's not anywhere on the drawings. And the letter speaks for itself. They say they take care of animals. Is that an overflow thing? When the town runs out of kennels, do they go to them and ask for 1 or 2 spaces?

Mr. Bethoney asked what the relationship was with the town. Dr. Schettina answered that the Town of Dedham does not have a kennel. The Town of Dedham contracts with the ARL to be their kennel. Every single stray animal that is captured or found by the Control Officer is brought to the ARL kennel and they hold the animal, typically a dog, until the owner is able to reclaim it typically within 24 hours. Stray cats. Any stray animal that the control officer finds is brought to them. Mr. Bethoney asked what "contracted" meant. Dr. Schettina said the town pays ARL a fee to have space for them. They were using another facility that turned out to not be great for the animals, so the Town reached out to them to have them be the contractor to hold the animals. The Town of Dedham is the only town that has a contract with the ARL for stray animals.

Mr. Bethoney asked if the Town of Dedham were the only people that paid ARL for services there? Does the ARL provide services to any other town or entity? Dr. Schettina said, no, just the Town of Dedham. And the local people.

Mr. Sanchez said it was his understanding that there are different vets in the town that have kennels that provide shelter for the town. Mr. Bethoney said they didn't know. Mr. Sanchez said when they talk about numbers of how many dogs they help adopt, he could not afford to adopt any animals from them. It is quite expensive. They make money on that.

Mr. Zahka said he thought that was inaccurate. Every place has its own price point, but they are a rescue league. They are very reasonable when it comes to adoption.

Mr. Bethoney addressed Mr. Sanchez saying he had given him a lot of latitude. He would like him to direct his comments specifically to the project itself. Mr. Sanchez responded that he imagined they are missing a few of their building code requirements on setbacks from the rear?

Mr. Bethoney replied that the applicant, which will be verified by a peer consultant, contends in his opening statement that they meet all of the setback requirements. The Board will not just take that as a fact. The Town, at the expense of the applicant, hires a peer review consulting firm to review all

of the plans and proposals from lighting, landscaping, parking, building design, access, handicap accessibility, egress, etc. for literal compliance. They let the Board know if what the applicant has stated is accurate. Mr. Sanchez questioned how the Board knows and that is how. They also assist in making the project, based on public input, a better project in the end.

Mr. Sanchez said that in 2015, they proposed to rebuild their shelter. From what he gathers, they didn't meet a lot of the requirements, but they were granted to go ahead. Mr. Bethoney said probably...that he didn't remember. Mr. Sanchez continued that here they were, a few years later, and they are proposing a massive project like this. It just seems that if the Board members were hesitant somewhat to give them their permit the last time, how could they make such a big leap for such a project? In comparison, it is a big discrepancy from what they have and what they're trying to get. This would be their headquarters. They're designing to bring their headquarters to this space and that is the only space they have to build that building.

**Mr. Greg Armstrong**  
**35 Vine Rock Street**

Mr. Armstrong said this is the first time he'd seen pictures of it and it looks huge. It looks better than he thought it was going to. Still, he is opposed to anything. Traffic sucks on Pine Street. Dogs barking all the time. He lives 2/10 of a mile away and he hears them. He likes dogs, too, but dogs barking all day long and they are a long way from his house. Anything that expands *anything* in his neighborhood, he's against.

Mr. Podolski asked if the intended site of the building will require blasting.

Someone replied no. There is ledge to be removed. It is expected to be a small amount on the Halramp. They do not intend to be blasting.

Mr. Bethoney referred to Ms. Frasca's letter that mentioned blasting and traffic impacts. She asked when the traffic study will be done and if it takes into account school related traffic. She mentioned the noise and if there will be intensity of use of the kennels? Will that increase the potential for noise? She talks about the building design and the lack of getting together since the last Board meeting. Mr. Chavez summarized his wife's letter.

Ms. Porter asked for the online audience, the web page to sign up for alerts. An ARL member stated they can link right from the home page of ARLBoston.org: our vision for the future and Dedham campus. Mr. Bethoney asked if they were planning to move their headquarters to Dedham and she said yes, that they would like to with this project. Mr. Bethoney stated for the record that this would be ARL's administrative headquarters.

Chairman Bethoney asked when the next meeting was to be. Mr. Zahka said before he answered that, there were a lot of questions raised tonight that he feels will be addressed at the next presentation in terms of the site. With superimposing the building, they will see that it's not on the cemetery as stated. For those who did attend the neighborhood meetings or the scoping session, they went in depth and they will do it again as to why the building is located where it is located, why the parking is where it is, the site in terms of its terrain and topography, as well as the function of the site, keeping the animal activities in the back where it's more appropriate. They think it makes most sense to save parking and traffic together for the last meeting. At the next meeting, they will do civil, landscaping, architecture, how the building was sited and designed. They will show how they measured the straight line to Pine St. and the reason they used 125-145 ft., depending on where you measure

the building, but in all cases greater than 100 ft. The next meeting is September 12 and will concentrate on everything but parking. Fiscal community impact was tonight and the Board has the full report.

Mr. Zahka said the specifics of the Animal Rescue League charging the Town of Dedham is well spelled out in the fiscal analysis. What the town of Dedham is being charged to have the ARL coordinate with the community and the Animal Officer of the Town of Dedham is about half of what any other town is paying that hosts their own kennels. It is a significant savings. There should be no surprises.

Mr. Findlen asked some logistical questions pertaining to the next meeting and Chairman Bethoney asked him to introduce himself and explain his role and the process.

Mr. Steve Findlen is a Senior Project Manager with McMann & Associates which was retained by the Planning Board to do a major site plan review for this project, the fee for which is paid by the applicant. They look at the plans submitted to the town on behalf of the applicant to make sure everything proposed is in compliance with the town's zoning bylaws. They received the initial package from the Applicant, went through the site plans, the traffic study that was submitted, and developed a list of issues associated with this submission. Out of the 27 issues, 19 have to do with site plan itself: the snow storage, landscaping, lighting, traffic signage, circulation, site distance, etc. In addition, they have 8 comments related to the traffic study itself, mostly with how the study was put together. They talked to the Applicant previously and settled on a study area. The Applicant has prepared the study to cover the 9 defined locations. McMann knows what's required in a traffic study and look at it to make sure it's up to snuff and complies with the zoning bylaws. That's what's been submitted to the Applicant. McMann will review their responses and send another letter back which will also go to the Planning Board. They are working to resolve the initial 27 issues down to zero. They try to develop a plan working with Applicant that works best for the site and the town.

Chairman Bethoney asked if the Applicant believes they have adequately addressed the concerns the neighbors have expressed since the project was introduced.

Mr. Zahka answered. They are aware of the comments and taken very good notes. They were hoping that many would be addressed during this process. He spoke with a gentleman who lives across the street and said that they would meet with him to find out what he's looking for. He asked him for something concrete. His client will meet with him and try to address his concerns.

Chairman Bethoney asked if the Applicant would still be willing to meet directly with the folks there tonight with specific concerns.

Dr. Schettina said there are certain people that had questions that they reached out to and gave them their business cards. There were certain questions around lights that I listened to. ARL provided their contact information and asked them to contact them. To this date, they have received no contact from anyone. He would encourage people to reach out to them and on the website, email questions and they can meet with them.

Mr. Zahka said they thought it would be more effective to have smaller meetings than another neighborhood meeting. Certain people took over those meetings and they weren't able to address the concerns of say someone who lives directly across the street versus someone who lives 3 streets over.

Chairman Bethoney suggested that the Applicant get more people on board by meeting with them to address or allay their concerns.

Mr. Zahka said they believe this project meets all of the statutory requirements. They clearly want to continue to work with the neighbors. The Doctor will hand out his cards again, but they were not accomplishing anything in a large setting.

Mr. McGrail said handing out your card is great, but there are people here. Meet outside after the meeting and schedule a meeting now. Never mind handing out your card. The Chair agreed, asked them to do that, and halted discussion on that topic.

Chairman Bethoney said they had heard the concerns of the people there tonight. He said for them to speak to Ms. Frasca and anyone else who has shown concern. He doesn't want to hear anyone say that no one has considered their concerns, even if ARL considers them and there is nothing they can do about them.

Mr. Zakha said he'd be glad to meet with any reasonable person to which Mr. Bethoney said don't qualify it.

Motion: The Chair sought a motion to continue the public hearing to Sept. 12, 2019 at 7 pm. A Board member moved, seconded by Ms. Porter. No discussion.

Vote: The vote was unanimous, 5-0.

### **Town Planner Update and Dedham 2030 Master Plan Committee**

Motion: The Chair said next on the agenda was the Dedham Square Study and Dedham 2030 Master Plan and he sought a motion to table that to the next meeting. The motion was made and seconded.

Vote: The vote was unanimous, 5-0.

### **26 Bryant Street – Town of Dedham**

Mr. Bethoney said Nancy Baker and the Applicant for 26 Bryant Street have received the mark-ups on the Certificate of Action. She has asked the he, as Chair, and Mr. Podolski, as Vice Chair, get together with them for a working session on Monday, 4:00 pm, at Town Hall. She asked that they table the issue of 26 Bryant Street and continue that until another date. She's asking to get together prior to Sept. 12, if we get the Certificate of Action mutually agreed upon, to just take action on that Certificate. He asked the Board if they could get together the beginning of the week after next for 15 minutes to vote on the Certificate. Certainly, Board members will have it for a good week before voting on it. After unsuccessful brief discussion pertaining to scheduling, Chairman Bethoney stated that it was the opinion of the Town Council that even though this is not a public hearing, it needs to be continued to a date certain tonight. He has been advised by Betsy Lane that the continuation of a public hearing needs to be to a date certain. Once that public hearing is closed, then the public meeting, the public deliberation portion, does not have to be done to a date certain, but she recommends it.

Ms. Porter asked about the new suggestion on the COA and asked if that would be discussed substantively because she's not totally aligned with it. Mr. Bethoney said they would talk about it, then



the Planning Board members would get a version and then they would have the opportunity to respond. Ms. Porter said since the two of you are representing the board preliminarily on Monday...Mr. Bethoney said to send him something and he would share it with everyone.

Motion: After more scheduling discussion, the Chair sought a motion to continue 26 Bryant Street to August 20, 2019 at 4 pm at Town Hall. The motion was made and seconded with no discussion.

Vote: Unanimous, 5-0, excluding Mr. McGrail.

Chairman Bethoney then ran through agenda items and said they would talk about the 2030 Master Plan for the next agenda as they may want the Selectmen to make their appointments first.

Ms. Porter asked if the Board wanted to reach out to the Selectmen to let them know they would like them to make their appointments first. Mr. Bethoney said he already had. Mr. Rosenberger said he'd made an official email request from Nancy on every Board and that they continue to ask.

### **Old Business/New Business**

Mr. Bethoney asked if they could, through the Board's budget, have bottles of water available for the Planning Board members at the desk at each meeting.

He then asked Mr. Rosenberger, before he continues on his matrix, to ask Town Council if the prohibition of a firearms store is actually legal. Because if it's not, the Board should make the public aware it is not a consideration because it is a 2<sup>nd</sup> Amendment right—if that's the case. Mr. Rosenberger said he'd be happy to find out to what extent the Board can regulate this and potentially prohibit it anywhere. Mr. Bethoney said they would then continue developing the matrix and continue the discussion.

Mr. McGrail said he didn't understand the problem. This is a democracy. He didn't understand what the issue is. Chairman Bethoney said he wasn't saying he didn't want it to be considered.

Mr. McGrail said he was being facetious. We are all on the same team here. There are different cultures in this country and there is the Constitution. This is very similar and we shouldn't make any recommendations to anybody until we get good legal foundation and opinion on this. It's very similar to the adult use situation.

Mr. Bethoney said Mr. Rosenberger had it in his 4<sup>th</sup> matrix and got applause. He is just requesting that they not consider total prohibition unless it's legal.

Mr. McGrail said they should get from counsel what they can consider before they consider it.

Mr. Rosenberger said time was of the essence as Town Meeting is prospectively Nov. 18. Mr. Bethoney said they understand, but that whatever they do has to be legal. Mr. Rosenberger concurred, but reminded them of the tough timeline and to act accordingly.

Mr. McGrail said they were not reinventing the wheel. Dedham is not the first town to deal with it and it's a Constitutional issue. He didn't think it would take Kopelman & Paige a week to give them an answer.

Mr. Bethoney said they could give an answer over the phone and provide a memorandum to back up the statement. The Board is not going to propose to the Town anything that will not pass muster with the Attorney General.

Mr. Podolski said he would like to see the opinion and Mr. Rosenberger said certainly.

Ms. Porter asked given the precedent of AAA and Dick's lease. Dick's under this definition when it was selling guns would not have qualified as a firearms store. Mr. Rosenberger said they had no definition. Did she mean now? Ms. Porter said he proposed a potential definition which was: Any federally licensed firearms dealer where the primary business or commercial enterprise conducted on the premises is the purchase or sale of firearms with or without the sale of ammunition and/or firearms accessories. Dick's is an interesting case because they voluntarily chose to stop selling guns after mass shootings.

Mr. Rosenberger said it was their opinion that it was a money-based PR decision, not at all stores.

Ms. Porter said this definition would not preclude a store like Dick's from selling firearms. She didn't think anyone would say the primary business of Dick's was selling firearms. Mr. Rosenberger said agreed.

Mr. McGrail said the bottom line on all of this is the Board has to do this right. Kopelman & Paige has to assign an attorney to work on this. It has to be all encompassing and broad and address multiple scenarios. If it doesn't, we're going to have the same problem as with the guy who had pieces. None of the members on this Board are capable of this. We're not Constitutional experts. And it has to be a balance of constitutional and zoning combined.

Ms. Porter said she agreed. To confirm that if the Town adopted this definition, a store like Dick's. There isn't a precedent. The Board isn't saying Dick's can have it and now they can't. Under this definition, Dick's could still sell firearms. She asked about the AAA police supplier and was told that they do sell to the public.

Mr. Rosenberger said he understood that they want to make sure they catch everything. Mr. McGrail said whatever they did in the past is still in the present. Ms. Porter said she was not suggesting that they would be trying to close them down. Right now, there is precedent for 2 stores selling firearms in the Highway District. Mr. Rosenberger said both previously.

Mr. McGrail said once you establish new bylaws, going forward everyone has to abide by that. AAA and Dicks would be grandfathered. If they chose to stop and then come back, they would be under the new bylaw. Precedent doesn't really come into play.

Ms. Porter said if they thought to keep firearms from being sold at all, this definition would be insufficient. Mr. Steeves agreed and said that it was his point. This needs to be fully vetted to encompass a lot of different options and the Board can only decide that this is what they want to see based upon input. They need someone from a Constitutional and zoning viewpoint.

Mr. McGrail said some people will still say then let it go to the Supreme Court. Total prohibition and let it go to the Supreme Court.

Ms. Porter said she's been on the other side of the table: Spector Pipeline she lead the charge. People get activated by issues they are passionate about. It's the first time working with Town Government. They don't really know how it works, that Town Meeting is a legislative body. She has empathy for those who are frustrated.

A Board member said people need to be mindful of laws and protecting taxpayer dollars and to not create a dynamic where you spend \$100,000 to defend an undefendable position. He wants that gun store out of Buzzy Street. He does think they need to create a dynamic like with the adult use overlay and create a firearms use overlay district in Dedham to keep these things in certain areas.

Chairman Bethoney said he's only going to support an overlay use district.

Mr. McGrail brought up cultural differences within the country surround guns.

### **Adjourn**

Motion: Chairman Bethoney sought a motion to adjourn. Mr. Steeves made the motion, seconded.

Vote: The vote was unanimous, 5-0.