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TOWN OF DEDHAM
ZONING BOARD OF APPEALS
DECISION



Applicant:	Dedham Wings, LLC, d/b/a Hooters
Property Address:	850 Providence Highway, Dedham, MA
Property Owner:	850 Providence Highway Associates c/o McNeil Associates
Property Owner Address:	c/o McNeil Associates, 75 McNeil Way, Suite 301, Dedham, MA
Agent/Agent Address:	Colin Parker, VP of Operations, 2189 Silas Deane Highway, Rocky Hill, CT 06067
Legal Notice:	To be allowed a waiver from the Town of Dedham Sign Code for a sign that will be higher than the existing roof line.
Section of Sign Code:	<i>Town of Dedham Sign Code Section 237-19E</i>
Zoning District, Map and Lot:	Highway Business, Map 149, Lot 1
Date of Application:	January 18, 2017
Date of Public Hearing:	March 1, 2017, March 15, 2017, April 19, 2017, and May 17, 2017
Date of Decision:	May 19, 2017
Vote:	Approved unanimously, 4-0
Voting Members:	James F. McGrail, Esq., J. Gregory Jacobsen, Scott M. Steeves, E. Patrick Maguire, MLA, RLA, CLARB, LEED AP®, Jason L. Mammone, P.E., Jessica L. Porter, Jared F. Nokes, J.D.
Date Filed with Town Clerk:	JUNE 9, 2017

The Zoning Board of Appeals (“ZBA”) of the Town of Dedham, Massachusetts held a public hearing on Wednesday, March 1, 2017, at 7:00 p.m. in the Town Office Building, 26 Bryant Street, Dedham, MA. Present were members of the ZBA, J. Gregory Jacobsen, Acting Chairman, Scott M. Steeves, E. Patrick Maguire, MLA, RLA, CLARB, LEED AP®, and Jason L. Mammone, P.E. Member James F. McGrail, Esq., was unable to attend the meeting, so Acting Chairman Jacobsen appointed Associate Member Jessica L. Porter to sit in his stead.

The hearings were duly advertised in accordance with the requirements of MGL Chapter 40A, Section 11. Legal ads were placed for two consecutive weeks in *The Dedham Times*. In addition, abutters within 300 feet of the property in question received notification of the hearings, and

notification regarding each hearing was sent to the neighboring towns (Boston, Needham, Canton, and Westwood). Copies of all plans referred to in this decision and a detailed record of the Zoning Board of Appeals proceedings are filed in the Dedham Planning Department.

At 7:00 p.m., the Chairman called for the hearing on the appeal of Dedham Wings, LLC, d/b/a Hooters, to be allowed a waiver from the Town of Dedham Sign Code as noted in the Town of Dedham Charter for a sign that will be higher than the existing roof line. The property is located at 850 Providence Highway, Dedham, MA, and is located in the Highway Business zoning district. *Town of Dedham Sign Code, Section 237-19E*

The Applicant was represented by Colin Parker, Vice President of Operations, 2189 Silas Deane Highway, Rocky Hill, Connecticut. The minutes from the hearing are the primary source of evidence and are incorporated herein by reference.

The Applicant had submitted an application for such Special Permits and/or variances on February 8, 2017. This included:

1. Zoning Board of Appeals application
2. Renderings and specifications of proposed signage

The subject property is known and numbered as 850 Providence Highway, Dedham, MA, and is shown on Dedham Assessors' Map 149, Lot 1. The GIS information indicates that the Subject Property contains 2.2 acres of land and has frontage on Providence Highway. According to the Dedham Zoning Map, the Subject Property is located in the Highway Business zoning district. Currently, the property is occupied by a restaurant and a commercial business. According to the records maintained by the Dedham Board of Assessors, the building was constructed in 2003.

The sign in question is on the front of the building. The Design Review Advisory Board approved everything except this sign. The sign facing Route 1 does not conform to the Sign Code because the roof line is the lowest point, which would then become the highest point allowable for the sign. The previous tenants, Bugaboo Creek and Summer Shack, had signs like this one. Mr. Parker was involved with signage for the Shrewsbury restaurant in 2015, which was consistent with their bylaw. This was the first time he had seen this bylaw. Dedham allows a large amount of square footage, but they did not take advantage of it all. The previous tenant had come before the ZBA as well. Mr. Maguire said this part of the Sign Code needs more direction.

Mr. Maguire said the pylon sign has been the same for quite some time. The location is in an obvious place for a sign. He wondered if a compromise could be reached because no matter what business is there, this is the appropriate place for a sign, but it would not comply with the ZBL. The Board sees similar petitions throughout the year, and he thinks the Sign Code should be modified for this condition. Mr. Parker said that if they had squared off the building, the sign could be moved to the left and not require relief. The roofline would be much higher and would satisfy the Sign Code, but this would cost about \$60,000, and they are trying to avoid spending that much. The sign could be moved over to the left without ZBA approval, but it would require removal of the awning and a smaller sign. He noted that the owl would not be on the wall sign. There is a monument/directional sign at 75 McNeil Way, and the existing two-sided pylon sign.

The Hooters sign on the pylon is the same size as the Summer Shack sign. Mr. Maguire suggested reducing the square footage of the pylon sign, or make it a more attractive, appropriate sign. He

called it a monstrosity and “frankly horrible,” and wondered if it could be made better. In addition, Legacy Place has a pylon sign very close to this one. Mr. Parker said the tenants do not have much control over the sign. The pylon pre-dated the Legacy Place sign, which is of similar size, but had to be moved because Legacy Place’s sign was right in front of it; this cost \$100,000. He said the pylon sign is integral to his business, and at the rent they are paying (almost \$300,000 a year), they expect to be able to use it. Mr. Steeves agreed with Mr. Maguire about working on the existing pylon sign.

Mr. Maguire suggested that Mr. Parker speak with the landlord about doing something with the pylon sign to improve it. Considering what the rent is for a year, some accommodations on the sign would be well worth the landlord’s trouble. He also asked that the landlord come to the next meeting; Ms. Webster will write him a letter. Mr. Parker said the pylon sign serves a far greater purpose to them than the building sign, but the building sign has an important purpose as well. The reason there is such mystique and concern among residents, which he felt is unfounded, is because of the name. They want to do everything they can to take full advantage of what they are allowed to do.

Ms. Porter agreed with Mr. Maguire and Mr. Steeves about the size of the pylon. She said it would be hard to set a precedent in approving this, particularly because the Applicant does not need the sign facing Providence Highway as a directional aid. Even if the Board granted the wall sign, it would start at more than five feet above the roofline. She wondered if the sign could be at the bottom of the roofline or moved over. She said she received at least eleven e-mails from people against the petition. She did not know if it was the name, the concept, or something else that sparked this. A lot of the Town was very vocal in opposition to the restaurant, and it has not been a successful location for restaurants to date. She said she would prefer that the building be used in a different, better way. She said that granting variances and keeping “huge, ugly signs” when it is not necessarily the best use of the space is hard. Mr. Parker said that the State court determined that it is an existing use; however, he is not here to talk about the use. The Board had already granted it previously. He hoped that it would do so again and not because of the name.

Mr. Maguire that he hoped that they will be successful because the Town would benefit. However, he is offended by the pylon sign. In the past, there was an attempt to combine the Legacy Place sign and this pylon sign, but it was unsuccessful. There have been a number of signs along Route 1 that have gradually changed for the better. Mr. Steeves agreed and said there is a much better way than this pylon sign. Mr. Mammone asked Mr. Parker whether the sign would be put somewhere else if the Board did not grant the waiver and efforts to work with the landlord were in vain. He said that by right, it can be put somewhere else, and asked if Hooters would put up a new one instead. Mr. Parker said they would not do that out of spite. One of the signs will go up, regardless of the decision. Hooters is very amenable to working this out.

Michael Cocchi, 188 Walnut Street, agreed that this is not the forum to discuss whether Hooters should come to Dedham, although he noted that a petition signed by over 500 residents was submitted in opposition to Hooters. Despite this and the Board of Selectmen’s efforts, Hooters pursued the matter with the State, which overturned the issue. To hear about these signs and to hear Hooters asking for a waiver to increase or add to what is already a fairly unattractive situation on Route 1 is particularly troubling to him. From a purely aesthetic standpoint, he asked the Board not to grant the petition, noting that the Board is under no obligation to grant a waiver to a company that really has not heard the message that the Town tried to prevent it coming to

town. It is not the right fit for Dedham for a lot of reasons, but asked the Board to consider denying the waiver.

Mr. Maguire asked if he had written a letter in opposition, and Mr. Cocchi said he had not since he was coming to the meeting. Mr. Maguire thanked him for coming, and said he wished that the people who wrote letters actually came to the meeting. He said that if it was so important to people, they should follow the postings for the ZBA. Signage issues come up all the time. If people are concerned about this because it is Hooters, he thought it shallow to write a letter if they were not concerned when it was Summer Shack or Doctors Express. If they want to be involved, they should be involved; do not write the letter and not show up to the meeting, or come just for things that provoke outrage. People should come just for things that do not get them outraged, but for issues about which they are concerned. Mr. Cocchi said he would imagine that a lot of people may not have come because of other issues. He blamed the website for not being clear about when things are happening. Ms. Webster explained how to use the website. He said it has gotten better, but it had not be entirely transparent for a long time. He said he feels strongly about the entire aesthetics of that area, but admitted that he has a particular issue with the brand. He began to explain the sexism and prejudicial aspects, but Mr. Jacobsen stopped him, saying that this is not the point, and only signs are being discussed. Mr. Maguire said that was exactly his point: it is shallow to come in opposition to this if people are not willing to come and be opposed to similar things. Mr. Jacobsen said that Hooters, as a matter of right, can still put up the sign if it is reduced.

Allison Staton, 30 Woodleigh Road, had sent a letter to the Board in opposition of the waiver. She finds Hooters offensive as a woman and as the mother of a 12-year-old girl. She asked what kind of message the Town is sending that this kind of sign is what she will see, and what it says about the Town that allows a business that takes advantage of women's bodies to make a profit. She respectfully asked that the Board not grant the waiver.

Roberta Lawlor, 145 Walnut Street, agreed with what had been said. She said the height requirement is there for a reason. If the sign is starting at five feet above, she would think there has to be a really compelling reason for the waiver. They signed the lease and made an agreement to pay rent, and she suspected that they looked into the requirements for signage when they entered into the agreement. She said there is an existing "somewhat ugly" sign, and asked if they could do it in another place, perhaps at the roofline or below. She said that if it has to cost more money, they should have gone into the agreement with eyes wide open. She has not heard anything compelling in them coming in at this stage and wanting a height waiver. She asked the Board not to grant the waiver.

Clarissa Robyn, 278 Whiting Avenue, agreed with everything that had been said. She did not hear a compelling enough reason to grant the waiver. She understood that it was granted for Summer Shack, and agreed that the ZBL needed to be researched and changed. However, she was part of the group, over 500 residents, who were in opposition to this establishment. She does not want these types of establishments coming in to Town and influencing her son in the wrong way. She acknowledged that it is over and done with, and understood that it was going to open. She did not think that the Applicant should be given extra exceptions for the wall sign because they are in it to make money. She said they should have looked into the signage before signing the lease. She said that most of the Town is not for Hooters being here, and she said that no exception should be made for a bigger and higher sign to attract more people.

Mr. Maguire said that this hearing has nothing to do with the pylon sign, and they do not need approval to do that. His point is that if they are going to do the wall sign, they should also try to fix the pylon. Mr. Parker clarified his statement that Hooters is in this to make money. He said this is obvious. He was trying to be honest with Mr. Maguire about advocating reduction of the size of the wall sign. With intense competition in the market, they are trying to work within their margin. It is an expensive property. They did not think it would take this long to open the restaurant, and there were a lot of things to work through to get to the State level, who decided about the use. As a result, several months of rent were added to the project in which they could not do anything. He wondered if there would be ten or eleven letters in opposition if it was a different restaurant, and believed it comes down to the name. They are actually looking for a reduction in the height of the wall sign compared to Summer Shack. Ms. Porter said it looks like larger square footage, and Mr. Parker said it might be; their designer did not do an analysis on the Summer Shack sign. Ms. Porter then asked if the owl could be taken off the sign, and Mr. Parker said he supposed it could, but it would require the franchise to look at the branding components to the sign package.

Mr. Parker summarized by saying that Hooters is before the ZBA for a waiver for the wall sign because it is above the roofline. He noted that Doctors Express, the first hearing of the evening, also had this issue and was approved. Mr. Maguire, without saying he would be okay with the sign, said that if it was not internally illuminated orange, if it was a nonilluminated sign that was down-lit, it would be a big improvement.

After very lengthy discussion, Mr. Steeves moved to continue the hearing to March 15, 2017, and to request that the landlord be present for this. Ms. Porter seconded the motion. The vote was unanimous at 5-0. Ms. Porter will not be available for that meeting, so Ms. Webster will send the minutes and the application to Chairman McGrail so he will be up to speed on it.

The Zoning Board of Appeals ("ZBA") of the Town of Dedham, Massachusetts held a public hearing on Wednesday, March 15, 2017, at 7:00 p.m. in the Town Office Building, 26 Bryant Street, Dedham, MA. Present were members of the Zoning Board of Appeals, James F. McGrail, Esq., Chairman, J. Gregory Jacobsen, Vice Chairman, Scott M. Steeves, and Jason L. Mammone, P.E. Member E. Patrick Maguire, MLA, RLA, CLARB, LEED AP® was unable to attend the meeting, so Chairman McGrail appointed Associate Member Jared F. Nokes, J.D., to sit in his stead. Mr. McGrail announced that the continuation of the hearing for Dedham Wings, LLC (Hooters), 850 Providence Highway was cancelled. The representative, Colin Parker, was stuck in New York, and could not attend the meeting. A letter was received from Edward Richardson, Esq., explaining the delay and requesting a continuation. This will be heard on April 19, 2017.

The Zoning Board of Appeals ("ZBA") of the Town of Dedham, Massachusetts held a public hearing on Wednesday, April 19, 2017, at 7:00 p.m. in the Town Office Building, 26 Bryant Street, Dedham, MA. Present were members of the Zoning Board of Appeals, James F. McGrail, Esq., Chairman, J. Gregory Jacobsen, Vice Chairman, Scott M. Steeves, and Jason L. Mammone, P.E. Member E. Patrick Maguire, MLA, RLA, CLARB, LEED AP® was unable to attend the meeting, so Chairman McGrail appointed Associate Member Jessica L. Porter to sit in his stead.

Mr. McGrail called for the hearing on Dedham Wings, LLC, 850 Providence Highway, Dedham, MA, but no one was present for the meeting. He said that the Board would hear any comments from

the members or the audience. Those present in the audience included Allison Staton, 30 Woodleigh Road, Georgiana Woods, 4 College Place, Mary Jane Parnell, 20 Church Street, and Jean Zeiler, 59 Woodleigh Road.

Ms. Staton wondered what it meant if the Applicant is not at this meeting. Mr. McGrail said that the Board typically would continue it to the next meeting, which would be May 17, 2017. He explained that the Applicant was at the first meeting, then sent a letter for the next continuation requesting another continuation because their representative was stuck in traffic in New York during a snowstorm. That hearing was continued to tonight. Ms. Webster said she had notified the representative of this meeting. There has been no information on why he was not present tonight. Ms. Staton said she was present to officially oppose the waiver. Mr. McGrail was aware of the controversy of this entity, and said the Board has received a number of e-mails, phone calls, and encounters while walking down the street. He said everyone knows where the Town of Dedham stands in this regard.

Ms. Zeiler asked why the Summer Shack sign was still on the building. She said it seemed like it should be gone by now. The Town of Dedham Sign Code states the following:

Section 237-24 Removal of sign when business is discontinued.

A sign permit shall lapse and become void when there has been a discontinuance of the activities, business, goods or services described on the sign. The owner shall remove a sign within 30 days of discontinuance of the activities, business, goods or services described on the sign. A Freestanding Pre-existing Non-conforming Sign structure shall be removed after three-hundred and sixty five days have elapsed where all signage on said structure has been or is required to be removed for discontinuance of the activities, business, goods or services.

Mr. McGrail said the sign should be blank right now. The Building Department has jurisdiction over this, and should tell them that it should be either covered or taken down. The space itself is owned by the landlord, so Hooters can go in and take that space on the pylon. With regard to Hooters' petition for signage, this is only for the signs on the building itself. The issue is the sign that will be higher than the roofline. The roofline is very low there. They propose replacing the Summer Shack signs with Hooters signs in the same locations. Ms. Staton asked if there is any requirement that Hooters should use the Applicant's name on the sign. The applicant is Dedham Wings, and maybe this should be used instead of Hooters. Mr. McGrail did not think so.

Mr. McGrail said the Dedham Sign Code really needs to be revamped. The Board will to end the meeting tonight by making a formal request to the Planning Department and the Building Department to undertake a formal review of the Dedham Sign Code. Ms. Staton asked if Town Meeting would have a say on this, and Mr. McGrail said it would vote on the changes that are requested. He said it would have no impact on the Hooters' application. Ms. Webster said that Richard McCarthy, the planning director, is in the process of reviewing the Sign Code. Mr. McGrail said he wanted to be sure that the Zoning Board of Appeals is on record as supporting this, and making sure Mr. McCarthy understood their stance.

Summer Shack did not come before the ZBA, and no one raised any objection to their sign. Hooters is asking to do the same thing. The ZBA does not deny applicants and then get sued, expending money from tax resources on an inevitable verdict. He said it does not make sense to do that. He also said there is nothing the Board can do about Hooters coming to town. He said they will make them come back and listen to the Board. The best the Board can do this evening is to continue it until the next meeting in May. Ms. Staton said, as a tax paying resident of the Town, she firmly believed that it would be money well spent for the Town to fight (*unintelligible*). She said that sometimes making a statement and losing a fight is better than not even trying. At an earlier presentation, she heard the representative say they were losing money by paying rent on space that they could not use yet; she said the Town should let them continue to lose money.

Ms. Porter said that the Board encouraged the representative to leave and think about ways that they could improve the signage, i.e., lighting, making the pedestal sign smaller, change the form of illumination or size of the sign they are requesting for the building, or remove the owl. This was the reason for the initial continuation, and this is the reason for this continuation. Mr. McGrail said that is why they want to meet with them again. He said he did not think they would be able to deny the sign, but he hoped that the Board would have an impact on the end product.

Ms. Staton thanked the Board for allowing them to speak. He also noted that Margaret Adams, 255 East Street, sent another e-mail expressing her opposition. Mr. McGrail said the hearing will be continued to May 17, 2017, at approximately 7:30 p.m. Mr. Steeves moved to continue the hearing to that date, seconded by Ms. Porter, and voted unanimously at 5-0.

The Zoning Board of Appeals (“ZBA”) of the Town of Dedham, Massachusetts held a public hearing on Wednesday, May 17, 2017, at 7:00 p.m. in the Town Office Building, 26 Bryant Street, Dedham, MA. Present were members of the Zoning Board of Appeals, James F. McGrail, Esq., Chairman, J. Gregory Jacobsen, Vice Chairman, and Jason L. Mammone, P.E. Member Scott M. Steeves and Associate Member Jessica L. Porter recused themselves from this hearing due to the fact that they had signed a petition against Dedham Wings, LLC, d/b/a Hooters, opening their restaurant in Dedham. There were only four voting members for this hearing, and Mr. McGrail informed Mr. Parker that he would need a unanimous vote for approval. Mr. Parker was given the opportunity to continue the hearing until June 21, 2017. He asked about the appeal process, which would be that the decision could be appealed immediately at Superior Court, but he chose to continue.

Mr. McGrail asked if the new sign would be bigger than that of Summer Shack, and Mr. Parker said it would not. The plans for the new sign were based on the previous sign, and the only modifications were replacement of the broken clips and ballasts. They did not upgrade the sign to LED. If by any chance it has been increased in size, it will be made smaller. He said that he is only asking for a waiver from the Sign Code be a sign higher than the existing roofline.

Mr. McGrail said that Hooters’ concept and name are offensive to many people, and not many restaurants come to town as a matter of right that provoke petitions in opposition. He then asked if, apart from the roof line issue, it made sense that the letters are twice or three times the size that what Summer Shack had; he did not think it did. He pointed out the side of the building, which has an owl and a sign, and compared it to the Summer Shack sign. The Hooters signage is larger and more pronounced. Mr. Parker said they are using less that what is allowed for the space. Mr. McGrail asked if he would be willing to get rid of the owl and make the letters smaller and less pronounced. Mr. Parker said that some people want to regulate commercial speech for

an activity that is not illegal. He said it is a restaurant going into a space that was a restaurant previously, and it is not illegal. Mr. McGrail asked if he would admit that the Summer Shack sign is much smaller than the Hooters sign. Mr. Parker did not know the square footage. He said he would be willing to meet the Board half-way in compromise. There will be a sign on the front of the building, and it will end up in the space shown on the renderings. Despite the objections, despite the provocativeness that some people might find in the word and the sign, it is under the allowable size, and it will be on the front of the building. Mr. McGrail said he was not suggesting that he cannot, as of right, put something on the front of the building. What he was saying was that, if he knows the provocative nature of this, he wondered why he would not work with the Board to make it less provocative. Mr. Parker said he asked if there was a way to meet half-way, and he would be willing to do that.

Mr. McGrail asked if he would be willing to get rid of the owl. Mr. Parker said, in his experience talking with Hooters and people who knew and disliked the brand, the owl softens it up. Mr. McGrail again asked if he would get rid of the owl. Mr. Parker asked if this would allow them to have the sign in front. Mr. McGrail said his position is that he does not want the Hooters sign in the front to be any bigger than the Summer Shack sign. The letters were much smaller than what is being proposed. On the side, he would like the owl removed and the sign be smaller to a more manageable scale. These were his comments. Mr. Jacobsen sympathized with Mr. McGrail regarding the owl. He understood that it is a corporate image, but he said that, as currently proposed, he could not support it.

Mr. Parker again stated that this is a violation of commercial speech, and he has seen other appeals in which applicants have asked for and granted the same relief from the Sign Code. He understood the intent of the Sign Code, but some buildings were designed long ago and got caught in between. He mentioned the first tenant, Bugaboo Creek, and Mr. McGrail said there is quite a contrast between them and Hooters. He further said that Mr. Parker lives in Queens, NY, and this is Dedham; Mr. Parker corrected him and said he lives in Massachusetts, not Queens. Mr. McGrail said that he has not met one resident who is in favor of Hooters coming to Dedham. He said he is not saying that this is an illegal establishment. However, from a corporate perspective, forgetting commercial speech, Hooters needs to be sensitive to the fact that the overwhelming population in this community is against Hooters coming to Dedham.

Mr. Parker said that, regardless of whether the Sign Code needs to be adjusted, Summer Shack and Bugaboo Creek put signs up. Mr. McGrail agreed with that, but what is proposed, forgetting the commercial aspect of it, is bigger and bolder than those two entities. He thought that Mr. Parker might want to not do anything more than what they did, and maybe do something less. From Mr. McGrail's perspective, that is not about commercial speech or who anyone feels about Hooters; it tells him that, as a corporate citizen coming to Dedham, Hooters really does not have a concern for what the neighbors think, and wants to do what it wants regardless. Mr. Parker appreciated that. He said the signage was designed without the particular area of the Sign Code in mind. He said it is a balanced size sign for the space and it is in a natural space where signs previously existed. He agreed that the sign should have perhaps been softened up to make it more appealing, but he is willing to reduce the size of the sign, perhaps with a quid pro quo. Mr. McGrail asked what the quid pro quo was. He said there was no quid pro quo for him, saying that if he met someone in Dedham Square on Saturday morning, and that person commented on the Board voting to allow signage for Hooters, he could explain that they came to the ZBA, and the ZBA got them to reduce their signage significantly. He said that everyone in Town seems to be complaining about it, and advised Mr. Parker that they may want to re-think the softening thing

from a corporate point of view because it is just not working. He said the Board did ask that the sign they put up not contain the owl, and now that is what is up there. He said that it sounds like Hooters wants to do whatever it wants. Mr. Parker said the ZBA did not dictate (*unintelligible*), and Mr. McGrail agreed, saying he knew Mr. Parker could do it as a matter of right. However, he thought that someone at a previous meeting said they do not want to see the owl.

Mr. Parker said he believed that the Board and he were on different pages. Mr. McGrail agreed. Mr. Parker said that if the owl creates this much concern, but could not complete his thought because Mr. McGrail interrupted, saying the whole thing creates a lot of concern. He said that for some people, the owl is (*unintelligible*). Mr. Parker said they have done their job if people are talking about it.

Mr. Parker would like the Board to vote on whether the sign will be allowed. If not, they will proceed with the total allowable signs in a space that is allowed within the Sign Code. Mr. Jacobsen asked who made the decision to put the "Now Hiring" signs above the roofline. Mr. Parker said it was the operations team, of which he is in charge. Mr. Jacobsen asked why he allowed them to go up. Mr. Parker said it is part of the application process, and any business owner would tell them that is what is needed to be done in order to attract people. They applied for the proper permit for the banner.

Mr. McGrail noted that at the last couple of meetings, there were a number of people present who were opposed to Hooters. A number of e-mails and letters have been received as well. He suggested that, even though there are only four people in the room, it does not accurately reflect all the prior attendance and correspondence received by the Board. Michael Cocchi, 188 Walnut Street, asked whether there is an independent or official assessment of the signage to make sure that whatever is put up is within guidelines. Mr. McGrail said they have provided dimensions for what is being proposed. When he goes for his building permit, they will have to work within the confines of the dimensions that they provided as part of their plans. They are seeking relief because the way the building was constructed, the roofline is very low, and the front sign for which he is seeking relief is above the existing roofline. The other signs are conforming and can be done as a matter of right. It is to be noted that locations were pointed to, but not identified for the record. This was discussed in detail. They will put the front sign up where they can, given the limitations of the building, and go from there.

Scott Steeves (a board member who recused himself from this hearing), 39 Winthrop Street, applauded Mr. McGrail for trying to steer Mr. Parker in the direction that so many people in the Town would like him to go. He said it seemed simple to him that, if he wanted to work with the Town, he could take the sign and shrink it down and take the owl eyes off. This would make everyone happy and would not be a bit deal. He was surprised that Mr. Parker took such a strong position that this would be deal-breaker. He asked him to reconsider this. Mr. Parker said he misspoke by saying quid pro quo, and said he was only responding to what was suggested in terms of a global solution. He is open to that, and wanted to know how to get to the point of ZBA approval for the sign in its proposed position.

Mr. McGrail said he needed four votes; Mr. Jacobsen said he would not approve it, so that is trouble. He said there are two ways that this can go: (1) the Board can vote no, which will meet approval from most of the Town; or (2) Mr. Parker and the Board can try to work with him. Mr. Parker noted Hooters' corporate citizenship in that they donated money to the officer at Showcase Cin-

ema who has a fund raiser and donating prizes and Red Sox tickets at a golf tournament as requested by the School Resource Officer. He said that Hooters never says no, and no one should be embarrassed to ask a company for something for charity. Mr. McGrail said he is not aware of Hooters' charitable donations. He said that this is not the issue. The other side of this is that, regardless of what they give in money, some people in Town are offended. Mr. Parker said they deserve some credit for what they do charitably, saying they are not the "big, bad monster."

Jessica Porter (a board member opposed to Hooters) said that what the Board is asking is what it asks of every company on Route One. BJs has met with neighbors at the request of the ZBA and the Board of Selectmen for signage issues and how they affect neighbors. Pep Boys has worked with neighbors about its signage and lighting. *Much of what she said could not be understood because she was sitting in a back row very far from the microphone.* Mr. Parker did not know of any abutters who came forward, but he said he was just as concerned with higher priorities as anyone else. He said he honestly wants to be a good neighbor. Mr. McGrail said that everyone drives on Route One by the restaurant, and everyone is an abutter.

The Board prides itself on trying to work with applicants in a manner that does not threaten the Town and waste Town resources on things like court appeals. It works with all applicants. Signage is a big issue in Dedham, regardless of who it is. The Sign Code is flawed and a history of poor signage decisions for which the Board is trying to make up every time an applicant comes before it. Mr. Jacobsen said he would listen and possibly change his mind, as did the rest of the Board.

Mr. McGrail asked how much smaller the sign could be made, and if it could be made to the scale of Summer Shack. Mr. Parker said the rendering is being represented as being to scale. Right now the sign is 33.0 square feet. He said that they are proposing significantly less than what they are allowed by right. Based on the frontage, they are allowed 190 square feet, and they are asking for 33 square feet. Mr. Maguire asked, if the Board rejected the proposal, if he would take the exact amount shown on the plans or the full 180 square feet. Mr. Parker said they would bring the sign to the side, get his permits, and erect the sign by right and with no say from the ZBA. He said they would make it balanced to the size it needs to be, which would be 20 square feet. Mr. McGrail again said they should get rid of the owl or decrease its size. There would be no other stipulation otherwise. The ZBA decision would bind them on the size.

As for the owl, Mr. Parker said they pay 80% royalty on this, and they are required to have it as a trademark. This would go for any other animal, cat, dog, etc., that they used as a corporate sign. He said he would agree to reduction in the size of the owl and the front signage, but he could not accept elimination of the owl in favor of a 20 square foot sign in front. They would proceed as planned otherwise. Mr. Maguire asked about reducing all the signs as a matter of consistency, making signs on all sides 24.6 square feet and the owl 30 square feet. Mr. Parker said he did not what the stage was of the production of the signs; they may already be produced. Mr. McGrail asked if he wanted to make a deal, because he was confused as to what Mr. Parker wanted to do. Mr. Parker said there would be a sign on the front of the building, and asked that it be 33 square feet in an appropriate position. Mr. McGrail said this would not happen. Mr. Parker then proposed 20 square feet in front and a reduction in the size of the owl, saying this was all he could offer.

Mr. McGrail said he wanted him to come back with *(could not be heard due to a vehicle outside the conference room)*. Mr. Parker replied that the restaurant would be open by the next meeting, and they will proceed with the other sign. Mr. Jacobsen said the Board should try that. Mr. Maguire said that if the Board rejects this, the Town may end up with something worse than what

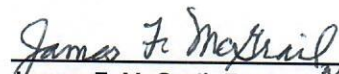
is proposed. Mr. Parker said they will have the owl, the north elevation sign, etc., anyway. Mr. McGrail said that other than reducing the owl, they will not do much else. There was considerable further discussion. Mr. Maguire said that if the Board says no, there is nothing to prevent him from putting up more signs to maximize the amount of square footage allowed by right, and it could be a lot worse than what is proposed, which is far less than what they are requesting. They are going in the right direction by saying that they will make the front sign no larger than 20 square feet, and reducing the owl from 47.25 square feet to 35 square feet, which will probably end up being 3' x 5.' If the Board denies him, there will be a full sized sign. Mr. Parker said he did not want to force the Board into a corner, but he felt that the 10 square foot reduction in the front and the reduction on the side is what they can do. He said they are trying to run a business and be successful despite some peoples' hope that they are not successful.

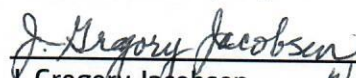
Mr. McGrail asked if Ms. Porter and Mr. Steeves understood and accepted what Mr. Maguire said. Mr. Maguire said if the Board sent them out with a no, the owl will go up as proposed by right. He said there can either be an owl that is smaller, or they will go with the larger one. Both Ms. Porter and Mr. Steeves understood and accepted the change, as did the rest of the Board. The proposed sign on the south elevation over the main door is proposed to be 11' 4.25," which is 24.6 square feet, and about 10 feet wide. The applicant will reduce it to 20 square feet. The original owl as proposed was going to be 47.25 square feet, and the new owl will now be no larger than 32 square feet, which is about 4' x 8.' Mr. McGrail asked the status of the construction of the owl, and Mr. Parker said that all of the exterior is produced and waiting for installation. Mr. Maguire said it will have to go on another Hooters somewhere else.

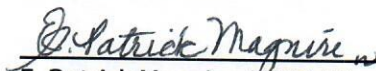
Upon motion being duly made by E. Patrick Maguire, MLA, RLA, CLARB, LEED AP® and seconded by Jason L. Mammone, P.E., the ZBA voted 4-0 to grant a waiver from the Town of Dedham Sign Code as noted in the Town of Dedham Charter for a sign that will be higher than the existing roofline, that the front sign noted on plans dated 12/16/16, shall be no larger than 20 square feet, and that the owl sign on the south elevation shall be no larger than 32 square feet.

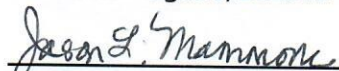
Dated: May 17, 2017

Attest by the Zoning Board of Appeals

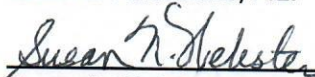

James F. McGrail, Esq.


J. Gregory Jacobsen


E. Patrick Maguire, LEED AP


Jason L. Mammone, P.E.

Attest by the Administrative Assistant


Susan N. Webster