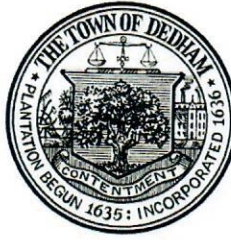


Planning Board

Michael A. Podolski, Esq., Chair
John R. Bethoney, Vice Chair
Robert D. Aldous, Clerk
Ralph I. Steeves
James E. O'Brien IV

Planning Director

Richard J. McCarthy Jr.
rmccarthy@dedham-ma.gov



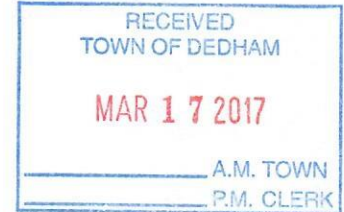
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**TOWN OF DEDHAM
PLANNING BOARD
MEETING MINUTES**

October 1, 2015, 7 p.m., Lower Conference Room



Present: Michael A. Podolski, Esq., Chair
John R. Bethoney, Vice Chair
Robert D. Aldous, Clerk
Ralph I. Steeves
James E. O'Brien IV
Richard J. McCarthy, Jr., Planning Director

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

PUBLIC HEARING

Applicant: Petruzzello Properties
Project Address: 346-350 Washington Street, Dedham, MA
Case #: *SITE-04-15-1958*
Zoning District: Single Residence A
Representative(s):
• Peter A. Zahka II, Esq., 12 School Street, Dedham, MA 02026
• Matthew Smith, Norwood Engineering Co., Inc., 1410 Route One, Norwood, MA 02026
• Kenneth Cram, P.E., Traffic Engineer, Bayside Engineering, Inc., 600 Unicorn Park, #17, Woburn, MA 01801
• Michael McKay, AIA, 35 Bryant Street, Dedham, MA
Town Consultant: Steven Findlen, Project Manager, McMahon Associates

Prior to the beginning of the meeting, Mr. Bethoney made the statement that he is recusing himself from this meeting. He explained that the agency at which he works has a professional relationship with the Applicant. He left the hearing room at 7:09 p.m. and did not participate in any part of this meeting or consideration of the proposal. Mr. Steeves moved to open the Public Hearing, seconded by Mr. O'Brien, voted unanimously 4-0. Mr. Steeves moved to waive the reading of the public notice, seconded by Mr. O'Brien, voted unanimously 4-0.

There are no remaining issues. Norwood Engineering confirmed the location of the property line. A shadow study was done because an abutter was concerned about shade affecting his garden.

Nothing can be done about the shade, and moving the building has little to no impact on shadows. The applicant will install a wood fence along the property line per the abutter's request; he had wanted cypress trees planted on the property, but there is a major drain line that prohibited that. The building is 5-7 feet from the property line, and per the ZBL, there are no dimensional requirements in Central Business, and the building could be built up to the property line. The applicant is therefore in compliance. Mr. Zahka explained the original proposal and the need for wider sidewalks on Washington Street. The project is not being submitted for certification, but because a lot of the building requirements are per the Stretch Code, a lot of LEED items are automatically done. The design and materials of the building were discussed with Mr. McKay (full brick, dark stone, and light stone).

Mr. Zahka requested two waivers:

1. Waiver for driveway radii. Jason Mammone, P.E., Director of Engineering, and the Department of Public Works requested that the applicant follow the design for Dedham Square, i.e., radii with a straighter angle and not rounded.
2. They were requested to pipe a significant amount of stormwater captured from the area behind Center Deli and Deli After Dark. A pipe was installed through the building, which is why cypress trees cannot be planted. The existing parking spaces that overhang the area were pulled back and converted to compact spaces.

The applicant is providing 74 spaces; the current requirement for the existing building (first floor only) would be well over 140 spaces. There are currently 23 on site. Under the ZBL, parking is done on a shared basis because it is mixed use. The bylaw does not require provision of any parking for the subsidiary, but parking for commercial is required. If the entire first floor is commercial (but not a restaurant), the requirement is for 32 spaces. If it is a restaurant, 69 spaces are required. The Board raised a concern about a restaurant going there. For instance, residents of 420 Washington Street vacate the underground parking during the day, and businesses park there. Every business there closes by 5 p.m., the workers leave, and the spaces are then open for the residents.

A liquor license has been transferred to the Petruzzello group, who hopes to have an upscale 3,000 square foot restaurant on site with seating for no more than 100. Mr. Zahka proposed a condition for the Certificate of Action that no occupancy permit is allowed for the restaurant until the applicant returns to the Planning Board with a very detailed parking arrangement. They are investigating expanding off-site municipal parking at Harris Bridge in the Downtown Crossing area. If a restaurant goes in, they would need 69 parking spaces, and they have 74. The applicant is providing more off street parking than required. If it is a commercial business, parking numbers double. Of the available spaces, 28 will be compact spaces.

The applicant will post "No Left Turn onto Washington Street signs during rush hour because of concerns about people blocking the street after pulling out of the garage. Cars coming out of Harris Street would have to turn right and head down to Dedham Crossing. The applicant will work with the State regarding the light at the Marine Rotary, and will make a contribution to the town for additional studies at the Ames Street/Court Street/High Street intersection. The Planning Board will have the right at any time to implement the "No Left Turn" signs. The grading of intersections was explained; Mr. Findlen, who was hired by the Board to perform peer review at the expense of the Applicant, agreed with the assessments.

Issues regarding traffic assessment, environmental impact (other than shadowing on one neighbor's garden), stormwater, and community fiscal impact were discussed. If approved, the project will bring significantly more revenue to the Town. All traffic standards have been met. It is possible that a portion (5%) of the apartments will need to be made affordable. The Planning Director and other officials monitor the 40B level of affordability. The applicant started to look into this, but determined that in a property of this size, there is technically no applicability to a 60-unit project from an affordability aspect. However, he has committed and will provide a written agreement, if approved, that between now and before the last three apartments (which would be 5%) are leased, he will report to the Board on what venues might be available for the Board to make three apartments in the building so-called affordable. This will lessen any impact on a 40B determination for the town. Zoning enforcement rights are lost when 40B projects come to town.

Public Comments

Michael Butler, Selectman, 163 Mt. Vernon Street, said the traffic is the way it is because an attempt was made a year ago to restrict parking in front of the Court; the next step would be to eliminate spaces. If they were removed and there was a dedicated right lane for Ames Street, a lot of morning congestion would be eliminated. He thought the issue was unsolvable.

Mr. Butler said that the Town has been short-changed in past projects because the back of a building had lesser quality materials. Mr. McKay said the rear will have full brick that matches the front, and there will be stucco on the Washington Street elevation adjacent to the former D.A.'s office. Mr. Butler dissatisfied with that. The Planning Board does not technically have the authority to tell applicants what is to be put on the exterior of buildings. They have some authority over material, but what goes on the building ends up with DRAB. The project goes before them on 10/7/15. The applicant has a positive track record of using quality materials on his projects, but is happy to listen to comments or suggestions. Mr. Podolski suggested that Mr. Butler attend a meeting.

Mr. Butler asked if the grade could be referenced from Harris Street/Washington Street instead of as proposed. How grade is measured was discussed. If an entire story is taken off the building, the project will fail economically. Mr. Butler said the roof mechanical units in the back left corner are screened with metal screening that appears to extend above the decorative work by about five feet. He has received complaints about not being able to see the Courthouse from Route One. He said the Board has the opportunity to choose another point at which measurements can be taken, and asked the Board to consider that.

Mr. Butler discussed the precedence that this building would have, and how every parcel in the Square could not, in the future, have a four-story building. This changes economics. If four-story buildings are allowed throughout the Square, there is no more historic Dedham Square. He said a step back needs to be taken after this to determine what really makes sense for the community, and a balance needs to be struck between development and tax revenue. Mr. McKay said it may be a four-story building, but it is almost the exact same size as 420 Washington Street, which is a three-story building that is only a foot-and-a-half shorter, but has higher ceilings. He presented a chart of comparisons and photographs of various buildings. He said the Mocha Java building was an inspiration for the design of this building.

The applicant has the old DA building under agreement, and is scheduled to close on it next week conditional on the approval of this proposal. This would not be a mixed use building. James Maher, Parks and Recreation Commission, asked the Board to consider mitigation and a recreational component. Rep. Paul McMurry understood the concerns but supported the proposal and commended the Board on its diligence. He said that the Board would need to re-evaluate Central Business zoning and its impact on the downtown with regard to building height and setbacks. He said the applicant does give back to the community.

Mr. Steeves moved to close the public hearing, seconded by Mr. Aldous, voted unanimously 4-0. Mr. Aldous moved to approve the application for a major nonresidential Special Permit as presented, seconded by Mr. Steeves, voted unanimously 4-0. Mr. Steeves moved to approve waivers for the radius and compact cars, seconded by Mr. Aldous, voted unanimously 4-0. Mr. Steeves moved to approve the height of the building to be measured from Washington Street, seconded by Mr. Aldous, voted unanimously 4-0.

The Board took a ten minute break and resumed at 8:44 p.m.

Applicant:	Dedham 800, LLC
Project Address:	750 Providence Highway, Dedham, MA
Case #:	SITE-09-14-1882
Zoning District:	Highway Business
Representative(s):	<ul style="list-style-type: none">• Peter A. Zahka II, Esq., 12 School Street, Dedham, MA• Matt Smith, P.E., Norwood Engineering Co., Inc., 1410 Route One, Norwood, MA 02062• Kenneth Cram, P.E., Traffic Engineer, Bayside Engineering, Inc., 600 Unicorn Park, #17, Woburn, MA 01801• Elliott Ravech, David Spiegel's representative (Mr. Spiegel was out of town)• Alan Almeida, Esq., Connor and Hilliard, PC, 1450 Main Street, Suite 7, Walpole, MA 02081• Peter Brooks, Esq., and Sally Michael, Esq., Saul Ewing, LLP, 131 Dartmouth Street, Suite 501, Boston, MA 02116, representing Pearl Realty
Town Consultant:	Steven Findlen, Project Manager, McMahon Associates

The applicant is here for major site plan review for a proposed 9,350 square foot, one-story retail building. A scoping session was held on 9/11/14 and the application submitted on 9/16/14. McMahon Associates noted 17 outstanding issues during peer review, but only two are outstanding: relocation of a stop sign and request for more information on delivery operations. The ZBA approved a Special Permit for work in the Flood Plain Overlay District. The Conservation Commission issued an order of conditions, and they will be going to DRAB for the architectural aspects.

There 146 parking spaces on the site, which includes a 7,000 square foot TGI Fridays. There are significant wetlands to the rear of the property. There is 863 feet of frontage on Providence Highway. Some areas are in the Flood Plain Overlay District, and some in the Aquifer Protection Overlay District, although no work is proposed there. There is no direct access via a curb cut from Providence Highway. The main entrance is at the lights by the Best Buy property, and there is an access road connecting to the Bed, Bath and Beyond site; the Best buy property will not change.

The applicant proposes elimination of the access road and filling it in to replicate wetlands. The parking lot would be reconfigured with islands, rain gardens, and over 20% landscaping. They propose 176 parking spaces (174 required). The project satisfies all ZBL requirements except for a loading bay/berth, which will be added. This would be a waiverless plan. There will be electric car charging stations; these cannot be considered parking spaces. The building will have a green roof with plantings. With elimination of the access road, flood storage volume increases by over 26 cubic feet, wetlands increase by almost 9,000 square feet, and there is an increase of 600-700 square feet of land under water. There will be major improvement of water quality with upgrade of the existing drainage system. Wetland habitat will be improved.

Mr. Steeves believed the access road was necessary to make the parking lot work. He asked how fire apparatus would reach the site, and was told that access would be via the Best Buy area. This will be addressed with the traffic report. Mr. Bethoney and Mr. O'Brien agreed with Mr. Steeves. In approving the Bed, Bath and Beyond (BBB) site, the addition of Massage Envy and the Krispy Kreme, and ultimately the large addition to the building, the Board was told repeatedly how lucky it was to have a connecting road to facilitate access, egress, maneuverability, and access for first responders. He asked why this is no longer important, and what impact there would be on the proposed site, the stores on the BBB site, and Dunkin' Donuts. These are two separate site plans, both serviced by the access road. It also provides access to TGI Fridays, BJ's, Best Buy, and even Papa Gino's. A previous Master Plan talked about a dual roadway parallel to Providence Highway. Mr. Zahka said there is no project if the access road is not closed, as there is water in part of the area. They need to reclaim at a ratio of 2:1 to Conservation Commission's approval to put a building on the site. There are 140 spaces for TGI Fridays, so they are adding only 32 spaces for the proposed building.

Mr. Cram explained his traffic analysis, new counts, and the levels of service. Mr. Findlen agreed that his numbers are accurate, but suggested expanding the study area. During peak hours on Saturday, approximately 45 cars use the access road. Weekday data shows 221 cars going southbound and 190 going northbound. Cars also go out Lechmere Road to Eastern Avenue. These vehicles would be re-routed somewhere else without any negative impact on any intersection or roadway network. For more specific information, please see Mr. Cram's traffic study. It was noted that Lechmere Road has speed bumps to slow traffic down. Pearl Realty, the property owner, came before the Board saying there was a traffic issue, and requested speed bumps and other traffic control. The point is that the site intersections work. The question raised is well beyond 500 feet from the project site, as noted in the Zoning Bylaw; this was discussed in detail. Mr. Findlen agreed that this would be a good idea. Mr. Ravech will talk with the tenants at the BBB site about closing the access road. Mr. Steeves wanted to know where the water will go in filling in the land, including water coming off Washington Street across Route 1. Mr. Smith would be able to give him the answer, but had left the meeting previously for a meeting with the Conservation Commission.

Mr. Brooks said that Lechmere Road is used by a large volume of vehicles as a cut-through to get to Eastern Avenue; however, this is a private driveway, not a public way. Pearl Realty's property ends at the back of BJ's, but they have an exclusive right to the easement on Lechmere Road for only them and their customers. People who use this road are trespassing by using an easement to which they have no right. Whether the Applicant has the right to use it is a legal matter. There is also a cross easement agreement between the Applicant and Pearl Realty; the location was not properly identified for the record. The Applicant does not have the right to use the jug handle at all, and the proposal will make a difficult situation worse. More traffic analysis is needed for

pedestrian and vehicular safety on Lechmere Road because it is not a safe situation. He suggested re-design of the intersection to make it impossible for cars to make a right turn. Norwood Engineering gave a design to Mr. Spiegel showing extension of an island to prevent right turns from his property around the back of Best Buy, forcing traffic to the left; this is a larger issue that needs to be addressed. Mr. Brooks said that they have been trying to come to an agreement with the Applicant for nearly a year, and may need to take further steps to do so.

Mr. Bethoney asked why Pearl Realty did not block the Lechmere road completely. Best Buy, does not have exclusive rights to the easement, but they allow Best Buy to use it. Mr. Brooks said that two to three thousand people a day use the road as a cut through; these are not invitees of Best Buy or BJs. Mr. Bethoney said that is Pearl Realty's problem, not the Applicant's, and they need to propose a solution to the Board. He was not interested in the legal implications between parties, only the implications of the proposal on the Applicant's property. Mr. Brooks disagreed and said the burden to fix the problem is the Applicant's and his proposal exacerbates the issue; cars coming out of their property are their problem. Mr. Bethoney said that people cutting through Lechmere Road have nothing to do with the proposal. Mr. Podolski said that Town Counsel may need to be consulted.

Mr. Zahka did not want to discuss the legal issues. They have the counts of the number of people who are leaving the site today, including those from the BBB site who exit through Lechmere Road. By shutting off that access way and adding a 9,000 square foot building, the traffic numbers do not essentially change. After consultation with Mr. McCarthy, he understood that trying to get the traffic to go left is fine; however, it is not on the Applicant's site, and the work would trigger site plan review of the Pearl Realty property. The Board would need to waive site plan review on the BJs site; otherwise, implementation of the proposal cannot go forward. Mr. Podolski cautioned Mr. Brooks that if the abutting site is changed in any way, it triggers full site plan review, which his client may not want. Mr. Brooks said it is the applicant's responsibility to secure approvals to do that. Mr. Podolski said it cannot be done on someone else's property. Mr. O'Brien said this is the best time to fix the issues. The area needs to be made safer, and another study may be needed. Mr. Podolski said that if this is the case, the applicant cannot start the project because it would not make it safer.

Mr. Findlen asked the Applicant to put all the traffic out the Best Buy driveway and remove it from Eastern Avenue traffic. Looking at the peak hour on midday Saturday, if everyone takes a left, the road goes from D to E. Mr. Bethoney asked the Board if it would agree to waive any requirements for site plan review and compliance with today's regulations for the BJs property if Pearl Realty was willing to allow work on their property, at the expense of the applicant, to make the intersection work better than it does today. He suggested that the two abutters work it out and return to the Board with an agreement. He did not think the intersection had a major impact on the function of the site other than the access and egress.

Alan Almeida, Esq., agreed that about the legal aspects of the easement and said the rights that people do or do not have is a legal matter and not to be decided by the Board. The issue is whether of the project makes traffic worse or not is a factual one. There is evidence from the traffic study that the project, although not ideal, does not make anything worse. Mr. Spiegel is always willing to work with his neighbors to find agreement, but the abutters wanted more than that, i.e., the right to restrict what the applicant can do on his property, the right to limit the size of future buildings, and the right to have a veto right over what kind of restaurant can go on the site. He said this is not an issue for the Board and has nothing to do with the safety of traffic and

traffic flow. The fact that there has not been any agreement has less to do with traffic than the ancillary issues they are trying to force on the applicant. He said they are willing to meet to sort out the parking issue.

Mr. Bethoney requested that the Board discuss whether it would be willing to waive requirements under the bylaw for site plan review, specifically for the upgrade of the intersection at TGI Friday's where it meets the jug handle, and to ask the applicant and his neighbor to sort it out and return at a later date. He reserved the right to continue to review the project, and did not say he will approve it. The Board agreed, saying it was a unique opportunity to fix the situation. Mr. Podolski asked if they would be willing to work out the intersection with the understanding that they will not be subject to a full site plan review on the Pearl property. Marla Robinson, manager of Pearl Realty, said they are willing to work with Mr. Spiegel. She said they are concerned about the size of the building and the tenants as well as safety. Mr. Podolski asked that they report back on their progress.

Mr. Zahka asked for clarification, saying that he understood that when the intersection went from D to E, it was when they took all the traffic, including that from TGI Friday's, and had it turn left. He said he did not think 100% of the traffic would go right or left. He asked that the meeting be continued to 10/8/15 to review architecture, receive responses, and determine where the water is going. Mr. Findlen has offered his services to come up with a solution. His concern was about any changes to the access road that may require looking at previous projects, i.e., Dunkin' Donuts, because he is concerned about the levels of service. Mr. Steeves said it should go back to Krispy Kreme. The road was put in for fire trucks, etc., to access the site. Eastern Avenue/Providence Highway traffic will also be studied. Mr. Aldous asked for a study to see how many parking spaces would be lost and whether there would be enough room for the road. Replication of wetlands was discussed.

Old/New Business

Mr. Bethoney moved to approve the location of General Dynamic's dumpster, seconded by Mr. Steeves, voted unanimously 5-0. Mr. O'Brien noted that there is tree flooding and blocked drainage where the pond used to be. Mr. McCarthy said the trees are supposed to be under water per the design as approved by the Conservation Commission. The Board wants a written comment from them on how it is supposed to be working.

Mr. Bethoney moved to adjourn, seconded by Mr. Steeves, voted unanimously. End 10:28 p.m.

Respectfully submitted,


Robert D. Aldous, Clerk