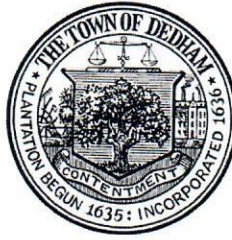


**Planning Board**

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](mailto:rmccarthy@dedham-ma.gov)



Dedham Town Hall  
26 Bryant Street  
Dedham, MA 02026-4458  
Phone 781-751-9242  
Fax 781-751-9225

**Administrative Assistant**

Susan Webster  
[swebster@dedham-ma.gov](mailto:swebster@dedham-ma.gov)

**TOWN OF DEDHAM  
PLANNING BOARD  
MEETING MINUTES**

**December 10, 2015, 7:00 p.m., Lower Conference Room**



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

**Applicant:** Manor Fields (Town of Dedham)  
**Project Address:** 450 Sprague Street, Dedham, MA  
**Zoning District:** LMB and GR  
**Representative(s):** Jim Maher, Parks and Recreation Commissioner  
**Time:** 7:01 to 7:20 p.m.

A letter was send regarding a settlement with the abutting neighbors. Mr. Maher thanked Mr. McCarthy for the extensive time he spent to come up with the conditions, all of which are agreeable to the Parks and Recreation Commission. Per Mr. Carroll's request, an 8-foot screening fence has been moved to the top of the berm, giving a final height of about 12 feet of screening. Mr. Podolski said it will not be going in until the project goes out to bid, and the plans need to be revised to reflect this. An on-site meeting will be held before the project goes out to bid. Once the funding is known, the area will be surveyed and staked so abutters can see where the access road will be. They will return to the Board after the on-site meeting to ensure that there is no change to the approved plan. Phasing the project would be more expensive. A letter was sent to abutters with the conditions of the project. Kevin Nangle, 7 Capen Lane, was satisfied with the trees, but not the whole process, and did not see the need for the access road. Mr. Steeves said there have been many meetings in which he could have said something, but he said he was not aware of the plans until a couple of years ago.

Mr. O'Brien suggested contingencies for new people who move in. Mr. Podolski agreed that any new people will need to come on board, and Mr. O'Brien suggested a package of some sort explaining what has been agreed upon. Mr. Maher said that Parks and Recreation must reach out to any new owners. The current owners of the four closest properties need to be contacted prior to that. Mr. Steeves moved to incorporate the letter sent to the Planning Board outlining the

Manor Fields buffer zone, as well as Exhibits A and B, dated December 3, 2015. Mr. O'Brien seconded the motion. The vote was unanimous at 5-0.

**Applicant:** Old Grove Partners  
**Project Address:** 216-218 Lowder Street, Dedham, MA  
**Case #:** ANR-12-15-2047  
**Zoning District:** SRA  
**Representative(s):** Robert Buckley, PLS, Principal, Beals and Thomas, 144 Turnpike Road, Southborough, MA 01772-2104  
**Time:** 7:21 to 7:24 p.m.

The applicant is seeking endorsement of an ANR, although they are not sure if anything will be built. The plan has the required frontage and area, is on a public way and has adequate access on Lowder Street. Mr. Bethoney moved endorsement, seconded by Mr. Steeves. Mr. Aldous questioned whether parcels 2A and 2B could be built on, but Mr. Buckley said they could not. The vote of the board was unanimous at 5-0. The Mylar and plans were signed.

**Applicant:** Dedham 800, LLC  
**Project Address:** 750 Providence Highway, Dedham, MA  
**Case #:** SITE-09-14-1882  
**Zoning District:** Highway Business  
**Representative(s):**

- Peter A. Zahka II, Esq., 12 School Street, Dedham, MA
- David Spiegel, owner
- Sally Michael, Esq., Saul Ewing, LLP, 131 Dartmouth Street, Suite 501, Boston, MA 02116, representing Pearl Realty

**Town Consultant:** Steven Findlen, Project Manager, McMahan Associates  
**Time:** 7:27 to 8:42 p.m.

The latest elevations were based on the Board's request to look at other examples throughout town. The Board had requested adding the intersection of Providence Highway and Eastern Avenue to the study area; McMahan Associates has reviewed this. The Board also asked for reconsideration of closure of the access road between his site and the Bed, Bath, and Beyond (BBB) site. Conservation Commission approved removal of the road and reclamation of wetlands and flood storage; the change in the access road may not meet their approval. The location of the proposed building is located in a former resource area. It is being filled in to allow the building, and would be compensated on other areas of the site.

A new concept plan reinserts an access drive, slightly relocated and smaller (about 20 feet wide), between the two properties. Four very large culverts under the road would allow water to flow both ways; the current culvert does not work. The site otherwise remains as proposed. Waivers would be needed for two to four parking spaces that will be eliminated to allow the road to be reinserted. The ZBL requires a 2:1 replication of the flood storage. The applicant believes he can satisfy that, but would like Mr. McCarthy to work with the Commission on a plan that satisfies both boards. Other than this issue, the plan is waiverless, and Mr. Zahka asked the Board to take action on it. There would be two caveats:

1. The applicant reserves the right to return to the Planning Board with the original plan if the Conservation Commission does not like the new plan. If the initial discussions between them indicate that the Conservation Commission would seriously consider it, a

- lot of engineering work to be needs to be done, and they would re-file with the Conservation Commission as soon as possible to amend what was approved.
2. There are ongoing discussions with the abutter, Pearl Realty. The applicant reserves the right to return to the Board to modify the plan subject to Board and peer review in order to implement whatever has been agreed upon by the two owners.

Saul Ewing, LLC, attorney for Pearl Realty, wrote a letter to the Board on 12/9/15 asking that it take no action until the January 2016 meeting. Mr. Zahka said it was the applicant's intention to go forward and request a decision this evening.

Mr. Findlen said the new plan needs further engineering refinements. Traffic issues will be resolved if the access road is maintained. The plan would only require a waiver for two parking spaces, and otherwise meets all regulations. Mr. Podolski said the Board cannot approve the plan yet. If Conservation Commission is not happy with the plan, the applicant can return with the waiverless plan. Mr. Spiegel said they would attempt a modification of their approval. He believes he can meet the commission's requirements and maintain the road as shown on the plan, and feels that the commission will find the new plan acceptable.

Mr. Zahka said the plan that Conservation Commission approved goes well beyond any requirement, i.e., replication was 3:1 instead of the required 2:1, and they believe that will meet, if not exceed, all minimum requirements. The project is significantly better than what is on the ground today. It is environmentally sound and meets the State's criteria. He asked the Planning Board to meet with Conservation Commission to discuss this, as it would carry more weight. Mr. Podolski said a letter could be written to explain this. Town regulations go further than those of the State, and if they are met, they will automatically meet the State's. Mr. Bethoney asked Mr. Findlen to provide a letter to Conservation Commission discussing the importance of the access road, the function of the adjoining sites, and why the road is important from an engineering perspective. He agreed.

Discussions continue regarding the jug handle intersection, which is owned by Mr. Spiegel and Pearl Realty. Design of the roadway has been discussed for a year. Pearl is waiting for input from their tenants. The other issue is the tenancy for his new building. The access road must be fixed because it is sinking, probably due to problems with the culvert. Mr. Bethoney did not understand why the jug handle design has an impact on the Board's decision, and suggested that it be referred in the decision as "subject to." Mr. O'Brien said the intersection is dangerous, crowded, confusing, and requires modification. Mr. Spiegel said he will modify the intersection in any way suggested by the Town or engineers. Mr. Podolski said the Board could not approve a plan that does not have its access/egress in final position. The current plan shows the intersection as it is now. There is a mutual easement allowing Pearl Realty to access Mr. Spiegel's property. A new mutual easement would be necessary with a newly designed access/egress, and that is why the applicant has Caveat #1. The Board can approve the plan if it believes that the plan as presented works without modification. Mr. Zahka agreed. Mr. Findlen said the site can support the new 9,000 square feet retail business. There is impact on the jug handle intersection, but not necessarily at peak hour, and not enough to make the intersection fail. Looking at an overhead slide down to the intersection, Mr. Podolski thought two areas lined on paper could be made into islands; this would assist traffic getting in and out, and channel it to the right direction. Neither stop signs in the middle of the lot or next to a bollard when coming out in back of Best Buy makes any sense.

Mr. Bethoney asked if the building could be made smaller. Mr. Spiegel said it could, but rebuilding a road, wetlands, culverts, and electric charging stations have to be justified financially. Mr. Zahka had pushed Mr. Spiegel to go with the waiverless plan, but he disagreed. Mr. Spiegel did not mind returning to the Conservation Commission with the new plan. Mr. O'Brien said that as long as the traffic consultant says there will be no serious impact, he was ready to vote. Mr. Findlen said that there could be improvements, but he has not yet met with Pearl Realty, on whose site most of the problem exists. Mr. Zahka said that the parties will come to an agreement and return sooner rather than later, and the plan can be modified without a major site plan review. Both Mr. Aldous and Mr. Steeves agreed that it will work, although Mr. Steeves would prefer that the building be smaller, feeling it would work better. Mr. Zahka assured the Board that if the current size does not work, but does work if the building is smaller, that is what will be built.

Ms. Michael agreed with much of what was said, but felt it was premature to ask for a vote on a plan in which the driveway is still being negotiated. She asked for more information regarding the traffic study, which was done with the access road closed; it has been studied with the road open in the past. Her concern is the impact on the Pearl property and traffic coming from an added building now that the access road is open. She questioned the notion of a roadway parallel to Providence Highway. An e-mail from Mr. Almeida to Mr. Zahka said "basically this parallel road consists of the rear access road through the Best Buy and BJs site and out the former Lechmere Road to Eastern Avenue." She reiterated that Lechmere Road is not a road; it is an easement to which Pearl Realty has the right for the benefit of only BJs and Best Buy. No one else has the right to use it as a road, and that is why they want the driveway redesigned. This would prevent a right turn and cut through.

Mr. Bethoney asked when she could have the intersection redesigned and submitted to the Board for review and approval, as it cannot hold up an applicant because an abutter feels no level of urgency on a re-design. Action has to be taken at some reasonable point and time. Mr. Spiegel has committed to building it and paying for it once it is designed to a mutually agreed level and approved by the Board. She said they would need a few more weeks, which is why she asked that a decision be delayed. Mr. O'Brien said the road is being compromised, and needs to be done right now. He did not think adding the new building complicates the matter at all. If the building is not built, it will still need to be constructed. Ms. Michael said that only the agreement on the driveway re-design is to be included in any condition. Mr. Zahka said the re-design cannot be a condition because the Planning Board needs to approve it. If it does not pass muster with them and the peer reviewer, it will not be approved.

The applicant filed the application nearly a year ago, and a primary issue has been the access between Mr. Spiegel's two properties. Mr. Zahka said that a re-design of the jug handle could be done so cars could go from BBB to the TGI Friday's site, and take a left only, prohibiting any traffic flowing through the abutter's property. Lechmere Road and the parallel road have been in the Town's Master Plan. The Master Plan recognized that it is on private property, but envisioned the so-called parallel road. There is a potential one that would not let cars cross at all; in that case, the connector road between Mr. Spiegel's two properties becomes a moot point. Mr. Steeves said that, in the Master Plan, the access road was put in as a service road for the buildings themselves and their customers. The purpose was to keep cars off Providence Highway, and that is what it has done.

Ms. Michael said she gave the Board the conditions upon which Pearl is willing to move forward. Mr. Podolski asked if there are any conditions on what tenants can be used in his buildings, and she said there are. Mr. Steeves said it is beyond the scope of the Board to deal with Pearl controlling Mr. Spiegel's property or vice versa. Mr. Podolski said he would not agree to that because they are trying to control his use of his property. Ms. Michael had said the only issue was the re-design of the intersection; however, it is not the only issue. The outstanding issue related to the plan is the re-design of the intersection; she agreed that there is no agreement on the re-design, only a very rough sketch. She agreed that it is not the only issue, and she had given a list of conditions, and this was part of the agreement.

Mr. Bethoney said the Board had requested that nothing but site design be discussed. The other issues are between Mr. Spiegel and Pearl. He asked Ms. Michael how far along they are. She said discussions are ongoing, and no conclusion has been reached. Leaving the road open is contrary to what she had been told and contrary to the two traffic studies. This impacts the traffic, which is the concern. Mr. Bethoney asked if she believes that the likelihood of the intersection being impacted more is less likely now that the road is open and the clientele of the new building have another way to leave the site onto Providence Highway. Only common sense can tell her that the traffic, without the traffic study, will be less of an impact at the jug handle with another exit and entrance by the access road. She said the concern is that there is traffic flowing from Mr. Spiegel's parcel onto the Pearl parcel and cutting through. Mr. Bethoney asked what that had to do with the roadway. She said that Mr. Spiegel had told her numerous times that closing the access road would cut down the number of cars cutting through. Mr. Bethoney did not buy that, and that is why the Board pushed to keep the access road open. She said that the plans are different and the numbers are not as presented.

Mr. Steeves said it is none of the Board's business who the tenants of the new building will be; the Board deals with traffic and safety. There would now be another way for emergency vehicles to get into the property. He questioned why the Board should listen to Ms. Michael's concern of what will be in the building. He advised her to return to the Board with a plan for safety, parking, and the road. Ms. Michael again said they are working on a re-design. Mr. Steeves said she should not return to the Board and say they are working on it; she should return with what they will do about it. Mr. Spiegel does not care what is on Pearl's property, and Pearl should not care what he has on his property. She is to return to the Board with only parking and safety.

Mr. Bethoney suggested that the Board wait to vote. Mr. Findlen should look at the impact of the road and do a revised evaluation with the road back in. He agreed that the traffic study did not contemplate the road being there, and it should. Mr. Findlen should be given the re-design well before the next meeting. If they fail to do that, he will vote for approval at that time. Mr. O'Brien was fine with waiting until the next meeting, but said there was a study of the road in the past. He will make his decision based on his understanding of what the road conditions will be. He believed that this is nothing but a stalling tactic. Mr. Bethoney moved to continue the meeting to 1/14/16, seconded by Mr. Steeves, voted unanimously 5-0. Mr. Zahka will commence meetings with the Conservation Commission.

<b>Applicant:</b>	<b>Marbridge, LLC, c/o Marwick, LLC</b>
<b>Project Address:</b>	<b>270-280 Bridge Street, Dedham, MA</b>
<b>Case #:</b>	<b>SITE-11-15-2040</b>
<b>Zoning District:</b>	General Residence and LMA
<b>Representative(s):</b>	Peter A. Zahka II, Esq., 12 School Street, Dedham, MA

**Time:** 8:43 to 8:45 p.m.

There have been no changes to the plan. The only change is that they are showing a corrected parking plan that originally showed 190 spaces. The site is required to have 195 spaces. They are requesting a minor modification to correct that. The first floor warehouse will be changed to day care. The five parking spaces were kept. Under the new bylaw, the Board took its initial vote at the last meeting, and the applicant returned tonight for the approval vote. Mr. Bethoney moved approval of the plan as submitted, seconded by Mr. Aldous, voted unanimously 5-0.

**Applicant:** R K Associates, Inc.  
**Project Address:** 450 Providence Highway, Dedham, MA  
**Case #:** SITE-01-14-1776  
**Zoning District:** Highway Business  
**Representative(s):** Peter A. Zahka II, Esq., 12 School Street, Dedham, MA  
**Time:** 8:46 to 8:48 p.m.

The revised site plan was submitted at the last meeting with two changes: at the request of the Building Commissioner, a handicapped parking space was added, and the parking requirements table was corrected to show the historical use of the second floor as office. The Board voted to dispense with peer review. The parking requirement is 264 spaces, but the Board incorporated the previously granted variance to have 175 spaces. The other two waivers remain. Mr. Bethoney moved to approve the plan as presented, seconded by Mr. Aldous, voted unanimously 5-0.

Mr. Podolski announced that **Recycling Solutions, LLC, 5 Incinerator Road** was moved to January 14, 2016.

### **Old/New Business**

Glynne Kalil, 115 Garfield Road, came to discuss problems she is having with a neighbor, who is parking his very large construction trucks, i.e., cherry pickers and log chippers, on his property. She has been told that her home is a residential area, not zoned for business. He has been threatening, and she has picture of him showing his guns, and giving her the finger. He said "all the Selectmen are in my back pocket, and nothing is going to happen."

He has 3 Rottweilers who frighten her, and 25 chickens. She has asked the neighbor to stop using the log chippers due to the noise, which he has done because it is very dangerous. The vehicles are registered in New Hampshire, but his business is in Dedham. Ms. Kalil is trying to sell her house and lost a sale because the potential buyer was concerned about her children's safety. The neighbor made an egress onto Greenhood Street to get his trucks to the back of his property. Mr. Kern told her there is no law in Dedham for someone to have to go to the Planning Board to make an egress from the street into their yard even though there is a driveway. He has not gotten a curb cut permit, and Mr. Kern said he does not need one. He spoke with her in the hallway, and he said that it has always worked out best when you work it out with the neighbors. He said when you go to the Town, it never works out for you and it never works out for the neighbor. Ms. Kalil said she was told by a neighbor that no one would do anything to him. The neighbor told her to call "f-ng Sgt. Buckley." She explained the situation to him, and Sgt. Buckley was confused that someone would say that. Her neighbor also said he has "

Mr. Podolski was horrified by the pictures. The Planning Board is only regulatory; it only applies the ZBL but it has no enforcement authority. Enforcement is the job of the Building Department, and he did not understand why nothing has been done. She has consulted an attorney, but he told her that it would cost \$2,500 to start the process. Mr. Podolski suggested that she meet with Mr. Kern and Town Counsel. Mr. Kern agreed to meet with her and Mr. Cimeno, but when she came to the meeting, he said he was too busy, did not have time to meet with her, and Mr. Cimeno was not going to be there anyway. Mr. Podolski said he meant a meeting with Mr. Kern and Town Counsel. She should put all of this in writing. She sent a letter yesterday to Mr. Kern with a copy to Mr. Cimeno. Mr. Podolski advised her to send that letter to Kopelman and Paige, Town Counsel, explaining that she believes that certain officials are not doing their jobs, and that she wants to take legal action. Ms. Kalil said she does not want to get anyone in trouble. Mr. Steeves said her property should not be a "toilet." Mr. O'Brien said Town Counsel needs to be made aware of the problems and numerous attempts for help without adequate response. She should tell Town Counsel that she is hesitant to bring her own litigation, and would much rather speak with them first. This should bring attention to the issue. Mr. Podolski said she should contact another attorney who would not charge so much. Mr. O'Brien said that Town Counsel will take this seriously because they do not want the Town to be sued. Mr. Podolski said that someone is being allowed to run a commercial enterprise next to her home in a residential district. This is a Building Department enforcement issue. Mr. Aldous will speak with two of the selectmen personally.

**Master Plan Implementation Committee Re-configuration:** Mr. O'Brien made a motion to accept the recommendations of W. Shaw McDermott, Chairman of the MPIC to reduce the members of the committee from the existing 10 members to 9 members, seconded by Mr. Aldous, vote unanimously 5-0.

Mr. Bethoney moved to adjourn, seconded by Mr. Steeves, and voted unanimously 5-0.

Respectfully submitted,

  
Robert D. Aldous, Clerk