

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



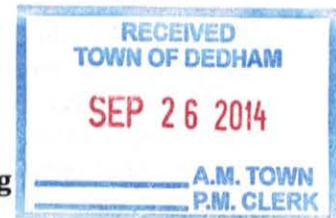
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TOWN OF DEDHAM
COMMONWEALTH OF MASSACHUSETTS

PLANNING BOARD MEETING MINUTES
Lower Conference Room, Town Office Building
Thursday, June 26, 2014, 7:00 p.m.



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

Mr. Podolski called the meeting to order at 7:02 p.m. The plans, documents, studies, etc. referred to are incorporated as part of the public record and are on file in the Planning and Zoning office.

Applicant:	Dedham Land Company, LLC (previously Dennis Toth)
Project Address:	148 Schoolmaster Lane, Dedham, MA
Property Owner:	Dedham Land Company, LLC
Property Owner Address:	678 Depot Street, Easton, MA 02334
Case #:	ANR-10-13-1746
Zoning District:	Single Residence A
Representative(s):	Thomas J. Recuperero, Esq., 1185 Turnpike Street, Stoughton, MA Al Endriunas, developer

Prior to the beginning of the meeting, Mr. Podolski noted that Mr. Bethoney is recusing himself from this meeting because the agency at which he works has a professional relationship with Giorgio Petruzzello and Supreme Development, which is building homes on Schoolmaster Lane. He was not present in the building, and has not attended any of the previous meetings regarding this application. He is therefore not voting on any decision.

residents of Schoolmaster Lane. Input was taken from nearly every resident present, as noted in the ten pages of minutes. The applicant was again told that the roadway must be 20 feet and a consensus was reached regarding the width and the shoulders on either side. The applicant said he would do what it takes. David Tobin, Esq., attorney for abutter James Halpin, advised the Board that he did not think there was any evidence to support the ANR unless the road was 20 feet. He advised denying it and warned against possible litigation. The Board advised the applicant that the last thing it wanted to do was to approve the ANR and then end up in litigation.

April 3, 2014

Between that meeting and this meeting, Mr. Tobin submitted a letter outlining many of the objections that his client had and the statutory requirements for an ANR plan. Mr. Podolski and Mr. McCarthy sent a letter to the applicant advising him that the Board would try to move on the ANR plan so it could be submitted to Land Court for recording. At the meeting on April 3, 2014, a lot of input from the neighbors was received. Toward the end of that meeting, Mr. Podolski, as chairman, said that the Board would either approve the ANR or not. He sought a motion to approve the plan, saying a 20 foot layout was adequate access for four lots. The lots have sufficient frontage and area. Mr. Steeves made the motion with a modification of requiring 20 feet of asphalt on the road. Mr. O'Brien seconded the motion, and the Board voted 4-0, saying the decision would be signed at that meeting subject to the applicant submitting plans to that effect. Mr. Podolski noted that these have never been received by the Board. He notified everyone at the hearing, through a written statement, that the Board would only move forward with the 20 foot plan if and when there was sufficient protection by covenant and/or whatever else it would take. During this entire process, the applicant, to his credit, had been working with Mr. Podolski and Mr. McCarthy on covenants that were much designed like the covenants for the subdivision up Schoolmaster Lane. With regard to these, the Board worked to try to make sure that there was safe access to the new four lots. For whatever reason, any request for extension after April 15, 2014, was never received.

April 22, 2014

The Board received a public record request from David Hern, Esq., an attorney representing David Allen, a resident on Schoolmaster Lane. Mr. Podolski spoke with Mr. Hern about what he was seeking, and Mr. Hern bluntly told him that the Board would never get an ANR plan approved with covenants and conditions. Mr. Podolski sought counsel with Town Counsel, who advised the Board that it could only approve or deny an ANR plan, and that the Board could not condition it. The Board knew that, but it had never had it before.

May 13, 2014

The Board was forced to tell the applicant that it could not condition their ANR plan. The letter was delivered to the applicant.

Mr. Recupero said that the court found that the long winding road was bad but manageable. This is the same thing as Schoolmaster Lane. He also cited *Sturdy v. the Planning Board of Hingham* as another big case.

He brought the plan to illustrate exactly what they are talking about in this case. There are several properties allowed by an ANR, which he pointed out. He said that in his Certificate of Action, there is nothing in it that mentions inadequate access. There are conditions that presumably connote that access could be improved. Another area represents the 85 Schoolmaster Lane area, and another represents the four lots across the street. The denial of the plan for lack of adequate access is saying is that those four lots suddenly make access down that street illusory, meaning impassable. This is what the case law says in the Ball case. That case was about access that was inaccessible, illusory (a copy of this case is in the Applicant's folder). Mr. Recupero said he would think the Town of Dedham has a duty under Ch. 41, § 81Y (a copy of this section is in the Applicant's folder) to go back and fix that. However, that is not what the Applicant is asking. Mr. Recupero said all they are asking is equal treatment.

Mr. Podolski asked Mr. Recupero if he thought the Town has a duty to fix a private way. Mr. Recupero said yes, if it is illusory, if one cannot get a car down there, which is the standard. He said that if the vote of the Board is going to be to deny it for adequate access, it is saying that the standard is that it is illusory. He would contend that, just on the basis of what is known to happen on the ground, that flies in the face of reason. He said they always came before the Board and said they would do whatever they wanted. In this case, it was a 20 foot travel way. The only question was what they were paving. Mr. Podolski said they had an agreement on the 20 foot road. Mr. Recupero did say this was not their preference, but to get things done and be expedient, they agreed. However, he said this got them negative results. He said that case law for constructive approval is not a discretionary act. He said that if they missed a deadline, he is sure he would have gotten an e-mail or call to start again.

Mr. Podolski said it is not so much about the constructive approval; it is more that the Board ended up in litigation over this. Mr. Recupero said that, if this was an administrative act, it is not discretionary, so there are two options: (1) the Planning Board can endorse the plan or (2) the clerk can. In either case, they will have to sue to get that. He suggested that the one thing to do would be to follow what case law says and do an administrative act now and deliver the plan.

Mr. Podolski asked if anyone else would like to speak. No one did. Mr. O'Brien asked if a Town had the right to try to create some uniformity in its ultimate vision for area and the future. He said that any decision would be made on some sort of uniform criteria, which holds some sort of weight. Mr. Podolski thought this was a good point. Mr. Aldous said he has heard plenty. Mr. Steeves agreed with Mr. Podolski's earlier statement about the efforts the Board took to move forward. He said the Board has been doing this street for ten years, trying to appease everyone it possibly can. In trying to do that, the Board looks like it is the bad guy. It would have been much nicer if the Board had received the extension. They were waiting for the set of plans. He said that in his tenure on the Board, no one has been approved without a set of plans. He did not think this was the time to do that. He said the Board could not prove something without a plan. He said the Board has done everything it could possibly do to make the plan work.

Mr. Podolski then sought a motion with the following statement:

Schoolmaster Lane is a road of variable width, no greater than 16 feet at any point, and perhaps even less wide at other points. The Dedham Fire Chief has advised that the road is inadequate for access by public safety vehicles unless widened to at least 20 feet throughout its entire length. There is no secondary access to the proposed four lots that would be available should the road be blocked for any reason, including emergency requiring an ambulance or fire truck. There are no turn off or pull off areas shown on the plan sufficient to allow for safe access and egress by residents or guests on the lane should the road become impassable. It is therefore determined that Schoolmaster Lane has insufficient width, grade, and construction to serve the needs of the traffic to these four lots. The plan shows a subdivision of land because Schoolmaster Lane, all of which fronts these four lots, fails to meet the standard for ANR endorsement. For these reasons, the plan of land request submitted for approval not required is denied.

Mr. Steeves so moved the motion, seconded by Mr. Aldous. The vote was unanimous at 4-0. The meeting ended at 7:30 p.m.

At 7:30 p.m., Mr. Bethoney joined the board and led the meeting in the Pledge of Allegiance.

Applicant:	Michael Tallon, 126 Day Street, Jamaica Plain, MA
Project Address:	624 High Street, Dedham, MA
Property Owner:	Hermann Dexter Lodge #133 IOOF
Property Owner Address:	624 High Street, Dedham, MA
Case #:	SITE-07-14-1869 - SCOPING SESSION
Zoning District:	Central Business/Historic District
Representative(s):	Michael Tallon, 126 Day Street, Jamaica Plain, MA Gary Glusgol, Esq., 170 Puritan Road, Swampscott, MA

The Applicant came for an informal scoping session regarding turning the vacating Country Store in the Oddfellows Building into a restaurant/tavern. The Zoning Board of Appeals approved a Special Permit for the use on June 18, 2014, and it is expected that the Applicant will file a formal Planning Board application for the July 17, 2014, meeting. The application will be for an increase in the overall required parking as it relates to the Central Business district. There will potentially be shared parking involved.

Mr. Tallon has plans to turn the space into a modern, upscale tavern/pub/restaurant. The concept is food-driven with complementary beer, wine, and cocktails. It will not be a bar per se. They would be serving lunch, dinner, and late night dinner. He plans on 49-50 seats in total, 17 of which will be barstools. There will be no live music.

Mr. Bethoney asked Mr. Tallon if he is familiar with compliance regulations in the Zoning Bylaw, and if he had discussed this with Mr. McCarthy. Mr. McCarthy said he has talked with him and will file an application for minor site plan approval with a waiver request for the

number of spaces for off-street parking. It exceeds what is presently on the property because of the change of use. The restaurant will be on the street level only. The Oddfellows will remain upstairs. He said there are other elements, including loading and noise, which will be conditions of the approval. The air-conditioning is operational. There is no architect or engineer yet. The only façade changes will be for glass work and the woodwork holding the glass in place, as it is decayed. There will be no outside seating. Mr. Tallon has owned/operated businesses in the past, including Kendall Café in Cambridge and Townsend Restaurant in Hyde Park, both of which are closed. He would be the owner of the proposed tavern. The building will also contain a business called The Nest. There is an alleyway measuring 16 feet to the side of the Nest that goes with the property; this will be the loading area. There would be no street deliveries. The alleyway will be accessible to both the tavern and The Nest. It is currently overgrown and will be cleaned up. The rear of the building would be shared by both businesses and have full access to the driveway. The concept of the tavern would be similar to Townsend Restaurant, but not as upscale. It would be approximately 2,000 square feet, of which one-third would be the kitchen. He explained the signage that he would use. The owner of the Oddfellows Building was not present for this meeting.

Karen O'Connell, Esq., Director of Economic Development, had a meeting with Norfolk County Director, Dan Matthews, State Representative Paul McMurtry, and Amy Haelsen, Executive Director of Dedham Square Circle regarding possibly using the county-owned parking lot in the rear of the former Christian Science Church after hours. She said the County said it would work with Mr. Tallon to accommodate this, and invited him to meet with the County Commissioners to discuss this in more detail. This discussion would include insurance policy among other things. She said that this would be a good economic investment for Dedham Square. Mr. Aldous said he would want a written, signed document from the County if they give permission to use the lot. Ms. O'Connell said there would be a licensing agreement between the County and the applicant. Fred Civian, 24 Spruce Street, commented that he hoped that this was the first of several restaurants for Dedham Square.

Mr. Bethoney told the applicant to work with Mr. McCarthy on filing the applicant and to return when ready. The scoping session ended at 7:50 p.m.

Applicant:	Kelly Clerkin, Trustee of Wilson Mountain Realty Trust, 383 Westfield Street, Dedham, MA
Project Address:	383 Westfield Street, Dedham, MA
Property Owner	Kelly Clerkin, Trustee of Wilson Mountain Realty Trust
Property Owner Address:	383 Westfield Street, Dedham, MA
Case #:	SITE-02-14-1790
Zoning District:	Single Residence A, Map 85, Lot 6
Representative(s):	Kelly Clerkin, Trustee of Wilson Mountain Realty Trust Peter A. Zahka II, Esq., 12 School Street, Dedham, MA Scott Henderson, McKenzie Engineering

Mr. Zahka noted that an application for site plan review was filed in February and has been peer reviewed by McMahan Associates. Initially there were eight issues, of which at least half were resolved initially. As of this evening, all items have been resolved per a letter dat-

ed June 26, 2014. As requested, based on conversations with the Fire Department, the plans were revised to show a minimum driveway width of 20 feet. A letter dated June 23, 2014, from Acting Chief William Spillane, said he is okay with this, and the turnaround is fine for the apparatus. A road grade of 15% was also acceptable to the Fire Department. The only other issue is the comments from the Town Engineering Department. He said that 99% of those really relate to stormwater management and drainage. The project is now before the Conservation Commission. The stormwater management permit will be incorporated in the decision, which will hopefully be approved at the next meeting. Mr. Zahka said he believed that the Applicant has addressed all the comments and concerns of the Board, the peer review, the Town Planner, and the Town Engineer. He therefore asked the Board for approval of the site plan subject to the incorporation of the standard conditions and the stormwater management permit. He will also furnish a draft Certificate of Action for the Board's review.

Mr. McCarthy noted that the Applicant will need Board of Health approval of the sanitation. Mr. Aldous asked how many parking spaces there would be. Mr. Henderson said there would be twelve, all indoor. The vegetation at the entrance of the driveway will be "Aldous height," and allow vehicles to see clearly.

Mr. Steeves made a motion to approve the site plan with typical conditions as outlined by Mr. McCarthy and Mr. Zahka, including such conditions as approval by the Board of Health for waste services. The motion was seconded by Mr. Aldous. The vote was unanimous at 5-0. The meeting ended at 8:01 p.m.

<p>Applicant: Project Address: Property Owner: Property Owner Address:</p> <p>Case #: Zoning District: Representative(s):</p>	<p>The Davis Companies 180-240 Rustcraft Road, Dedham, MA Div Comm Rustcraft c/o The Davis Companies, 125 High Street, 21st Floor, Boston, MA 02110</p> <p>SCOPING SESSION ONLY</p> <p>RDO District Enrique Bellido, Senior VP of Development, Davis Companies Peter A. Zahka II, Esq. Rick Kershaw, Project Manager, the Davis Companies Josh Sterling, Senior Project Manager, Bohler Engineering, 352 Turnpike Road, Suite 201, Southborough, MA 01772 Tony Dinardo, Civil Engineer, Bohler Engineering</p>
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Mr. Bellido gave a brief background on the Davis Companies. He cited the obsolescence of the Rustcraft Building and the height of the warehouse as not being desirable to future tenants. As a result, his company would like to redevelop the east side of the building. There have been a couple of expressions of interest, with one tenant looking to relocate to the Route 128 area. The plan is to demolish the two-story brick structure, but keep the warehouse portion. The slab, foundation, steel columns, beams, and roof deck will remain. There would be an entirely new façade on all sides. A parking aisle would be created between the

old west side and the new east side to create a separation between the buildings. The west side would remain as it currently is. The east side would be a multi-tenant office, flexible building. They hope to get feedback from the Board about the proposal and anything they should consider to enhance the proposal when they submit a formal application.

Mr. Zahka said that there was a parking plan approved in 1997 for 1,100-1,200 spaces. The property is in the RDO zoning district. Setbacks will be difficult because it is in the SRB zoning district across the street; the RDO district stops at the edge of the property. The lot will be redesigned as much as possible to the standards of the Zoning Bylaw, and they will ask for the same waivers that are on the existing plan for the west side. The only real change is the elimination of a few parking spaces. They do not know the floor plan for the bank, but they are working with them to determine floor area, as this determines the floor area ratio and the parking numbers. A waiver of 100-150 parking spaces would be necessary.

They will lose about 220,000 square feet of office use by demolishing the east side, and rebuild it to about 140,000 square feet. Rows of parking would be added between the two buildings. It will look like two separate buildings that function as separate buildings, but for practical purposes, there will be the same parking. The use will not change. There will be open courtyards in the middle. Aisle widths will satisfy the Zoning Bylaw. The building has to be 40 feet off the RDO zoning line, and this new building would be 90 feet off it. They will be asking the Board to allow parking to be within 40 feet. Landscaping will remain the same with new landscaping with a 20 foot buffer in front of the new building. This will be submitted as a single site plan. A lot of the waivers will be related to existing conditions on the east side. Davis Companies would ultimately like to divide the lot with a 24' roadway between the buildings. There would be a recorded reciprocal parking and access agreement to allow the property to function as a single property. They may need to address this with the Zoning Board of Appeals after site plan approval. Another necessary waiver would be for a five-foot landscape aisle between the buildings. Mr. Zahka believes that the site as a whole satisfies the internal landscaping requirements.

The last waiver to be discussed is for the traffic report. The project will trigger site plan review and major site plan review. The difference between a major site plan review and a site plan review is the requirement for a traffic report, and they will request a waiver for this. The peer consultant will review for parking and compliance with the zoning requirements, as well as for appropriate access, safety of the drive aisles, etc. Mr. Zahka is not sure what an additional traffic report on Rustcraft Road would generate for a building that is being shrunk. He asked for the Board's consideration on that waiver.

In closing, Mr. Zahka requested the Board's input in terms of the direction they should take, whether the concept makes sense to them in terms of getting a full site plan review, knowing that they want to divide the property and will need a secondary waiver. They would go to the Zoning Board of Appeals, if necessary, for floor area ratio. They would then return to the Planning Board for a formal Form A to divide the property.

The Board felt that doing a traffic study is necessary and would be of benefit for the applicant as well as the town. The building has not been in complete use, so there is no way of knowing exactly what the traffic will be. Mr. Bellido said that they intend to bring the east side of the building into complete compliance with the Zoning Bylaw, other than the waivers

that would be requested. They will request waivers for the existing conditions on the west side. Mr. Bethoney said they should think about looking at the entire site; this would be a great opportunity to upgrade it significantly. The Board will also review the façade and design. The pillars and the steeple would be removed. Mr. O'Brien noted that the building has been a landmark, and this would be a significant change. Mr. Zahka stated that the applicant would need a landscape waiver if the project was to go forward. If this was not granted, the project would not happen.

The Board as a whole has no issue with the proposal. Mr. Zahka said they will revisit the west side of the building as well. This discussion ended at 8:45 p.m.

OLD/NEW BUSINESS

Review of Certificates of Action

- **Ursuline Academy:** Mr. Podolski made a motion to approve the Certificate of Action, seconded by Mr. Steeves. The vote was unanimous. The decision will be scanned and sent to Peter A. Zahka II, Esq.
- **NIP Owner, 480 Sprague Street:** The normal conditions will be added to the Certificate of Action. Mr. made a motion to approve the Certificate of Action, seconded by Mr. Steeves. The vote was unanimous. The decision will be scanned and sent to Peter A. Zahka II, Esq.
- **RK Associates, 450 Providence Highway:** The plan is baseline as on the ground. Mr. Steeves made a motion to approve the Certificate of Action, seconded by Mr. Podolski. The vote was unanimous. The waivers will be added to the plan.
- **Amira Abdal-Khallaq, 284 Washington Street:** The Applicant needs to address Engineering's comments, and there are no plans yet. Mr. Podolski needs to look at this. Mr. Steeves made a motion to approve the Certificate of Action subject to Mr. Podolski's review. Mr. Aldous seconded the motion. The vote was unanimous.
- **Brothers Roast Beef, 356 Bridge Street:** The Board just received this Certificate of Action. This will be reviewed and will be ready to sign at the next meeting on July 17, 2014

McMahon Associates: Review of Off-Street Parking Regulations: Mr. McCarthy gave this to the Board for review. He explained the track changes that were made. McMahon will come in to review this with the Board.

360 Washington Street: This project is on hold for the present time. The building owner is trying to get one of the larger tenants from the Ames Schoolhouse to move to this building.

Al Priore, 910 Providence Highway: Mr. Priore withdrew his plan without prejudice.

Meeting with Secretary of Transportation: The secretary visited on June 12, 2014, and toured Providence Highway. He was told of the theft of the statue. The plan is to mimic the greenway down Providence Highway.

Rustcraft Road Kiss-and-Drop: Jason Mammone, P.E. is working on the preliminary plans. The Secretary of Transportation is discussing an easement so the Town can operate the drop-off area.

Italian-American Citizens Club: Mr. McCarthy said his sense is the Board thought the lot was to be paved, not stone dust, which the Applicant wants. In addition, paving will require stormwater management. Mr. Podolski said that what the Applicant wants does not make sense. He thought they were going to leave the parking lot dirt. He suggested they go to the Conservation Commission and ask for a waiver. Mr. McCarthy agreed that the plan is poor, and there is not enough information on the plan, i.e., landscaping, etc. Mr. McCarthy said that Building Commissioner Kenneth Cimeno wants board clarification. Mr. Bethoney said that the Board thought the parking lot was going to be paved because the Applicant did not show otherwise.

Mr. Podolski made a motion to adjourn, seconded by Mr. Steeves.3` The vote was unanimous at 5-0. The meeting ended at 9:02 p.m.

Respectfully submitted,



Robert D. Aldous

Clerk

Town of Dedham Planning Board