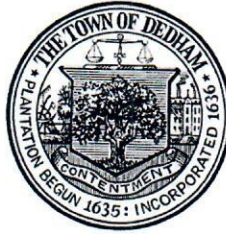


James F. McGrail, Chairman
J. Gregory Jacobsen, Vice Chairman
Scott M. Steeves
E. Patrick Maguire, MLA, RLA, CLARB, LEED AP®
Jason L. Mammone, P.E.

Associate Members
Jessica L. Porter
Jared F. Nokes, J.D.



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Susan Webster
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TOWN OF DEDHAM
ZONING BOARD OF APPEALS MINUTES
Wednesday, May 17, 2017, 7:00 p.m., Lower Conference Room



Present and Voting: James F. McGrail, Esq., Chairman
J. Gregory Jacobsen, Vice Chairman
Scott M. Steeves
E. Patrick Maguire, MLA, RLA, CLARB, LEED AP®
Jason L. Mammone, P.E.
Jessica L. Porter (only hearing for 66 Ware Street)

Staff: Susan Webster, Administrative Assistant

Mr. McGrail called the meeting to order at 7:00 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. In addition, the legal notice for each hearing was read into the record.

Applicant: Tabitha Bolden and Jonathan Karnes
Property Address: 9 Faith Hill
Case #: VAR-04-17-2226
Property Owner: Tabitha Bolden and Jonathan Karnes
Zoning District and Map/Lot: Single Residence B, Map 81, Lot 33
Application Date: April 18, 2017
Present and Voting: James F. McGrail, Esq., J. Gregory Jacobsen, Scott M. Steeves, E. Patrick Maguire, MLA, RLA, CLARB, LEED AP® Jason L. Mammone, P.E.

Representative:

- Tabitha Bolden and Jonathan Karnes, owners
- James Devine, Contractor, McKinnon Associates, 278 Washington Street, Weymouth, MA

Legal Notice: To be allowed a front yard setback of 7 feet, 8 inches instead of the required 25 feet to construct an addition to the single family dwelling.

Section of Zoning Bylaw: *Town of Dedham Zoning Bylaw Section 4.1, Table of Dimensional Requirements*

The Applicants are seeking a front yard setback of 7 feet, 8 inches instead of the required 25 feet to construct an addition to their single family dwelling. The addition will be going straight down and will be the same width as the house. Ms. Bolden's father will be moving into the addition. There will be no kitchen, so it will not be an in-law apartment. Mr. Devine, their contractor, said

they are not increasing the bedroom size, but they are removing one bedroom. There will be a bathroom off the hallway. There will be a wet bar in the family room area.

Mr. Mammone said the application states 7 feet, 8 inches, but the plan says 7.8 feet, which is in tenths. In actuality, 0.8 is 9.6 inches. He asked if this made a difference in the calculations for the addition. Mr. McGrail said the Board would work off the application, which is 7.8 inches. That allows the Board to give them the relief requested. No one spoke in favor of or in opposition to the petition.

Mr. Maguire moved to allow a front yard setback of 7' 8" instead of the required 25 feet. Mr. Jacobsen seconded the motion. The vote was unanimous at 5-0.

Applicant:	Henri Gough, d/b/a The Total Image
Property Address:	485 High Street, Dedham, MA
Case #:	VAR-04-17-2219
Property Owner:	Paul McMurtry, P.O. Box 628, Dedham, MA
Zoning District and Map/Lot	Central Business, Map 93, Lot 79
Application Date:	April 14, 2017
Present and Voting:	James F. McGrail, Esq., J. Gregory Jacobsen, Scott M. Steeves, E. Patrick Maguire, MLA, RLA, CLARB, LEED AP, [®] Jason L. Mammone, P.E.
Representative:	Henri Gough
Legal Notice:	To be allowed a waiver from the Town of Dedham Sign Code for a sign that will be is higher than the lower edge of the roof of the building.
Section of Sign Code:	<i>Town of Dedham Sign Code Section 237-29 and 237-19E</i>

Mr. Gough would like to remove his existing sign, repaint it, and put it up in the same location, which is higher than the lower edge of the roof of the building and requires a waiver from the Sign Code. The size of the sign will remain the same. He has been to the Design Review Advisory Board and received their recommendation. No one spoke in favor of or in opposition to the petition.

Mr. Steeves moved to allow a waiver from the Town of Dedham Sign Code for a sign that will be is higher than the lower edge of the roof of the building. Mr. Jacobsen seconded the motion. The vote was unanimous at 5-0.

Applicant:	Christine Ryan for Oakdale Square Alliance
Property Address:	7 Sanderson Avenue, Dedham, MA
Case #:	VAR-04-17-2221
Property Owner:	77 Cedar Street, LLC, 23 DeFrancesco Circle, Needham, MA 02492-4433
Zoning District and Map/Lot	Local Business, Map 127, Lot 33
Application Date:	April 14, 2017
Present and Voting:	James F. McGrail, Esq., J. Gregory Jacobsen, Scott M. Steeves, E. Patrick Maguire, MLA, RLA, CLARB, LEED AP, [®] Jason L. Mammone, P.E.

Representative: Christine Ryan, 57 Oakdale Avenue, Dedham, MA
Legal Notice: To be allowed a waiver from the Town of Dedham Sign Code for a public art mural on the wall of Tedeschi's (soon to be 7-Eleven) that will be greater than 10% of wall area.
Section of Sign Code: *Town of Dedham Sign Code Section 237, Table 2 and Section 237-19*

Ms. Ryan represented Oakdale Square Alliance regarding a mural that was painted on the wall of Tedeschi's (soon to be 7-Eleven) in Oakdale Square. It has been present for over a year. It is intended to celebrate the Oakdale neighborhood, and is sponsored by the neighborhood. Consultation with the Building Inspector determined that it is technically a sign. She has gone before the Design Review Advisory Board, who recommended the sign.

Mr. Maguire and Mr. Jacobsen both liked the mural. Mr. Jacobsen did not understand why, since the mural has been up for at least a year, it suddenly needed to come to the ZBA. Ms. Sullivan said that the conversion of Tedeschi's to a 7-Eleven triggered discussion with the Town. There was a discussion about what constituted public art. Planning Director Richard McCarthy is aware that guidelines for public art are necessary since there are no rules and regulations. Ms. Sullivan needs ZBA approval so Ziad Griege, who owns Tedeschi's, can put up his new 7-Eleven sign. No one spoke in favor of or in opposition to the petition.

Mr. Maguire said the Board needs to be sure that the decision is worded in such a way that the building is not given huge additional signage. If it suddenly says 7-Eleven and not Oakdale Square, it will be a sign, and the Board needs to make sure that does not happen. Mr. McGrail said the request is for a public art mural on the wall. The condition can be that there is no commercial relationship. Currently, it says *Welcome to Oakdale Square*, and has no commercial connotation.

Mr. Steeves moved to approve a waiver from the Town of Dedham Sign Code for a public art mural on the wall of Tedeschi's (soon to be 7-Eleven) that will read *Welcome to Oakdale Square* only with no commercial relationship whatsoever that will be greater than 10% of wall area. Mr. Jacobsen seconded the motion. The vote was unanimous at 5-0.

Applicant: Olga Magomedova
Property Address: 66 Ware Street, Dedham, MA
Case #: VAR-04-17-2224
Property Owner: Olga Magomedova
Zoning District and Map/Lot: Single Residence B, Map 61, Lot 25
Application Date: April 14, 2017
Present and Voting: James F. McGrail, Esq., J. Gregory Jacobsen, Scott M. Steeves, E. Patrick Maguire, MLA, RLA, CLARB, LEED AP,[®] Jessica L. Porter
Representative: Kevin F. Hampe, Esq., 411 Washington Street, Dedham, MA
Legal Notice: Olga Magomedova
 To be allowed a Special Permit to convert a single family dwelling with an in-law apartment to a two-family dwelling.
Section of Zoning Bylaw: *Town of Dedham Zoning Bylaw Section 7-2, 9-3, and MGLA Ch. 40A, Section 9*

It is to be noted that Member Jason L. Mammone, P.E., recused himself from the hearing due to the fact that his parents live across the street from the Applicant. Chairman McGrail appointed Associate Member Jessica L. Porter to sit in his stead.

Mr. Hampe, on behalf of Mrs. Magomedova, requested a Special Permit to convert a single family dwelling with an in-law apartment into a two-family dwelling. Under Section 7.2 of the Zoning Bylaw, there are three conditions that must be met and with which the Applicant complies:

1. Such house is located on a lot which has an area at least 50 percent larger than required for the construction of a single family home in that district.
2. No exterior enlargement is made which together with any changes made during the preceding five years increase the cubic content of the house by 20 percent or more.
3. No exterior change is made which, in the opinion of the Board of Appeals, alters the single family character of the dwelling.

The current dwelling was built in 1946 and renovated in 1985 with a one-story addition with an in-law apartment that had a living room, kitchen, and bathroom. Mr. Hampe attached copies of those building permits. In 2003, the Applicant, who bought the property in 2001, added a second floor over the one-story existing in-law apartment. The Assessors for the Town have been assessing the property as a two-family since the addition with the in-law apartment was built. The property is located on a 20,820 square foot lot in the Single Residence B zoning district. To be a buildable lot, a property needs 12,500 square feet. This means that the Applicant has more than 50% of what is needed. The house meets all other setbacks and coverage for the zoning district. The property is occupied by the Applicant, her son, and his girlfriend. There is adequate parking for four vehicles, or up to six if they are tandem parked.

The original house is on the right side of the dwelling (as noted in the Assessors Database), and has two floors. The first floor has an open dining room, kitchen, living room, and bathroom, and the second floor has three bedrooms and a bathroom. The existing in-law apartment is on the left. The first floor has a kitchen, dining room, and bedroom on the first floor. The second floor has a living room, computer room, and bathroom. The attic includes a large open room, which is used as a bedroom and for storage. In order to rent this out as a two-family, the Applicant would need to block off an exit between the two units, and add a doorway to the side where the in-law apartment is so the people using the rental property would have their own direct access to their unit. There are no plans to expand the exterior of the building. The Applicant has not, in the last five years, added any additional cubic feet to the structure. He believed that she has complied with all the requirements of the Town of Dedham Zoning Bylaw, and requested that the Board grant a Special Permit to convert the dwelling from a single family dwelling with an in-law apartment to a two-family dwelling.

Mr. Hampe visited the site today. There was a truck in front of the property, which has been there for a while. This truck is her son's and had been bought at an auction. On the way back from the auction, the transmission totally blew out. As a result the truck has been there for a couple of months. It is the Applicant's intent to have it towed to a junk yard for salvage purposes. Mr. Hampe is aware that he gave the Board a plot plan from 1993. He said the structure is exactly the same as it was in 1993. He said he would be more than willing to provide an updated plot plan with a surveyor's stamp as required by the Board. Again, nothing has changed in the outside structure.

Ms. Porter asked where 64 Ware Street was. Mr. Hampe said the Assessors show only 66 Ware Street. She said it was hard for her to imagine that there could be enough tandem parking for six cars. Mr. Hampe said there are three spots across, at least, and then cars would park behind them. He said a fourth car could go behind whoever else was in the unit. Ms. Porter said there have been some complaints about the property. Given that Town Meeting debated lodging houses, she is curious as to how the change would limit the Building Department if it was ever rented to four people. If the Applicant was to take on multiple tenants, she wondered if changing it to a two-family restricts the Town's ability to handle that under the new Lodging House definition, allowing the Town more authority with the existing definition. Mr. Hampe said the definition right now is for four or more unrelated people in a house. This would be a two-family, and she would be able to have this on both sides. If she rented it out to a family on the second side, each unit would be separate. Ms. Porter wondered if the Town would have more authority to intervene if the applicant was to rent out to four unrelated people, as it is now, than if the Board granted the Special Permit and it was considered a two-family. Mr. Hampe said that, right now, it is a single family dwelling with an in-law apartment. The in-law apartment is for people related to the owner. As it stands now, the applicant could have up to three unrelated people living there. Ms. Porter asked whether, if it is converted to a two-family, she could have up to seven; Mr. Hampe said six or seven. His interpretation is that the bylaw applies to each unit, not the whole structure.

Mr. Maguire asked if there are other two-family houses in the neighborhood. Mr. Hampe said the neighborhood is mostly single family dwellings. There are one or two two-families, but most are single family. He said the two families are closer to Whitehall Street. Mr. Maguire asked if these were recent Special Permits. Mr. Hampe did not know. He said they are older structures that have probably been in existence for a while.

Audience

Danny Rico, 62 Ware Street, was in opposition. Ware Street is a dead end with multiple single family dwellings. There are children up and down the street. The increased traffic causes concerns for safety, and the street cannot support the increase. There are drop offs from Uber and taxis late at night, and he cannot sleep on his porch because of the noise, which is not respectful of the neighbors. He believes there is some type of rental operation occurring, although he does not know what it is, and people come and go at all hours. The location is a dumping ground for trash, i.e., refrigerators, sofa, TV, and dishwashers, raising health concerns. There is work going on in the house late at night. The applicant pays no attention to maintenance of the property, and there is a long police log. Dorothy Boulanger, 122 Ware Street, provided a letter in opposition, and said this will devastate the neighborhood. Kathy Seaman, 84 Ware Street, was in opposition when she learned it will be permanent. Mary Lou Mammoni, 63 Ware Street, was in opposition, saying the applicant rented the in-law apartment for years. She said that people are working in the apartment now, but she does not know if they are allowed to do that. Virginia Swanson, 81 Ware Street, was in opposition. James Curley, 55 Ware Street, was in opposition, saying the road is like a highway at night. There was a truck leaking oil on the street a couple of months ago. He called the police, and it is gone now. Al Cedrone, 93 Ware Street, was in opposition. Harvey DeGrandis, 71 Ware Street, agreed with the neighbors. Peter McManus, 42 Ware Street, was opposed only to the effect that there may be an unrelated person at the house.

Mr. Hampe contended that the applicant has complied with all the Zoning Bylaw requirements and conditions. Mr. McGrail suggested that this be tabled until June 21, 2017, and make a decision at that time. The neighbors were invited to attend, but Mr. McGrail said the Board had heard them loud and clear. The Board needs to review the information before making a decision that is fair to the neighbors and the applicant.

Mr. Mammone rejoined the Board for the remainder of the evening's hearings.

Applicant:	Deborah Helen
Property Address:	6 Joyce Lane, Dedham, MA
Case #:	VAR-04-17-2225
Property Owner:	Deborah Helen
Zoning District and Map/Lot	General Business, Map 95, Lot 77/2
Application Date:	April 18, 2017
Present and Voting:	James F. McGrail, Esq., J. Gregory Jacobsen, Scott M. Steeves, E. Patrick Maguire, MLA, RLA, CLARB, LEED AP, [®] Jason L. Mammone, P.E.
Representative:	Peter A. Zahka II, Esq., 12 School Street, Dedham, MA
Legal Notice:	Deborah Helen To be allowed such Special Permits and/or variances as required to extend, alter, and change a nonconforming structure and use on a nonconforming lot to wit: a second floor addition to an existing residential dwelling with a side yard setback of 5.2 feet on a lot with 9,160 square feet of land and 12 feet of frontage on a right of way/easement and occupied by two residential dwellings.
Section of Zoning Bylaw:	<i>Town of Dedham Zoning Bylaw Sections 3.3, 4.1, 4.7, 9.2, 9.3, Table 1, and Table 2</i>

The subject property is a very unique piece of property in that it is pre-existing nonconforming. It is in the General Business zoning district. There are two single family residential structures that have gone through the condominium process, making each house a separate condo unit. It is to be noted that under the Town of Dedham Zoning Bylaw, if a residential property is in the General Business zone, the General Residence dimensional Zoning Bylaw is followed. Mr. Zahka was unable to convince Building Commissioner Kenneth Cimeno that this did not need to go before the ZBA. The property is non-conforming in the sense that, under the Zoning Bylaw, there should be one dwelling unit per lot. Ms. Helen's property is unique because Joyce Lane is a glorified right of way. Mr. Cimeno determined that the frontage, if there is any, is about 12 feet wide. As a result, he determined that there are three side lines and no frontline. Mr. Zahka pointed this out on the map. No dimensional requirements are being increased. The current house has a dormer, and she would like to expand it over the existing footprint for purposes of adding a bathroom. Given the pre-existing nonconforming nature, she was required to come to the ZBA for a Special Permit. Her direct abutter, Denise Kelly, was present for this hearing in support of Ms. She also furnished a petition signed by direct abutters in support of her request:

Denise Kelly, 4 Joyce Lane
Lisa Hill, 195 High Street
Daniel Gabriel, 203 High Street

Lisa Suprilus, 14 Felix Street

Mr. Mammone asked about the abutter on High Street, and whether he is okay with the driveway. Mr. Zahka said the driveway has always been there. The easement only goes up to Ms. Helen's property. There have been no issues. She and Ms. Kelly pay to have the area plowed.

Mr. Steeves moved to approve the Special Permit to extend, alter, and change a nonconforming structure and use on a nonconforming lot to wit: a second floor addition to an existing residential dwelling with a side yard setback of 5.2 feet on a lot with 9,160 square feet of land and 12 feet of frontage on a right of way/easement and occupied by two residential dwellings. Mr. Jacobsen seconded the motion. The vote of the Board was unanimous at 5-0.

Applicant:	Dedham Wings, LLC
Property Address:	850 Providence Highway, Dedham, MA
Case #:	VAR-01-17-2182
Property Owner:	850 Providence Highway Associates, c/o McNeil Associates, 75 McNeil Way, Suite 301, Dedham, MA
Zoning District and Map/Lot	Highway Business, Map 149, Lot 1
Application Date:	January 18, 2017
Present and Voting:	James F. McGrail, Esq., J. Gregory Jacobsen, E. Patrick Maguire, MLA, RLA, CLARB, LEED AP® Jason L. Mammone, P.E., Jessica L. Porter
Representative:	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>

It is to be noted that 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 Cinema 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.

Mr. Maguire moved that Dedham Wings, LLC, d/b/a Hooters, be allowed a waiver from the Town of Dedham Sign Code for a sign that will be higher than the existing roofline, and 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. Mr. Mammone seconded the motion. The vote was unanimous at 4-0.

Discussion about Sign Code

Mr. McGrail said that the Board has reached out to review the Dedham Sign Code, and he was not sure what the response was. His suggestion was that the Board get proactive. He asked Mr. Maguire and Ms. Porter to either collaborate on or individually review the Sign Code, and report back to the Board as to changes they would recommend. He felt that waiting for responses would be like running on a treadmill. Both agreed to do this, and Mr. Steeves also offered to assist. The Board had wanted to work with the Building Department, DRAB, and anyone that Planning Director Richard McCarthy deemed necessary to try to begin a discussion on changes. He said that when one talks to the Building Department, they say the Sign Code has to change, and when one talks to Mr. McCarthy, he has frustration with it, as does DRAB, and the ZBA. Mr. McCarthy sent him an e-mail yesterday which said:

I discussed with DRAB at their last meeting forming a committee to review Sign Code changes. There wasn't a burning interest in forming a committee [note: the ZBA did not ask for a committee]. If you want to assign one or two members to sit down and meet to review the Sign Code for possible changes, that would work as well.

Mr. McGrail said they were not looking for a whole formal committee process. The Board is just looking for people to say "here's what I have." He thought it would be faster and smarter if Ms. Porter and Mr. Maguire worked together or independently to try to come up with suggestions that the Board can review and then the Board can then make a formal recommendation to Mr. McCarthy, the Board of Selectmen, the Planning Board, and the Building Department enumerating the proposed changes. It would then need to go to Town Meeting. Mr. McGrail said it would be great to have it ready for the next Town Meeting, but he wants to be sure that it is shared with the other boards before doing that. If the other boards do not want to engage, then the ZBA will do it. Any suggestions would be merged into those with which the Board can be united. These can be sent to Ms. Webster, who would print them up for the Board.

Review of Minutes

Mr. Jacobsen moved to approve the minutes of April 19, 2017, seconded by Mr. Steeves, and voted unanimously 5-0.

Mr. Mammone moved to adjourn, seconded by Mr. Jacobsen, and voted unanimously. The meeting ended at 8:45 p.m.

Respectfully submitted,



Susan Webster
Administrative Assistant