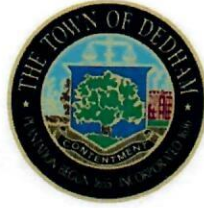


**MEMBERS**

JAMES F. McGRAIL, Esq., CHAIR  
J. GREGORY JACOBSEN, VICE CHAIR  
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.



**TOWN OF DEDHAM  
ZONING BOARD OF APPEALS  
DECISION**

DEDHAM TOWN HALL  
26 BRYANT STREET  
DEDHAM, MA 02026-4458  
PHONE 781-751-9242  
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**ADMINISTRATIVE ASSISTANT**  
SUSAN WEBSTER

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TOWN OF DEDHAM

AUG 22 2017

A.M. TOWN  
P.M. CLERK

**Applicant:**  
**Property Address:**  
**Property Owner:**  
**Property Owner Address:**

**Chick-fil-A, Inc.**  
**100-140 Providence Highway, Dedham, MA**  
Chick-fil-A, Inc.  
OSJ of Dedham, LLC, 375 Commerce Park Road, King-  
ston, RI 02852

**Legal Notice:**

The applicant seeks to be allowed a waiver from the Town of Dedham Sign Code as needed or required for three (3) free-standing signs on a lot (inclusive of two so-called menu boards), for a total sign area of free-standing signs on the lot of 300 square feet (inclusive of a free-standing pylon sign with an area of 240 square feet), to expand, modify, and change a pre-existing nonconforming free-standing pylon sign with a height of 24 feet 2 inches, and to maintain the height of said pre-existing nonconforming free-standing/pylon sign at 24 feet 2 inches.

**Section of Sign Code:**

*Town of Dedham Sign Code Sections 237-4 Definitions and interpretation, 237-9 Permits Required, 237-19 Computation of sign area and height, 237-22 Continuation of certain existing signs, 237-29 Waiver from requirements, 237-30 Waiver Criteria, Table 1 Permitted Signs By Type And District, and Table 2 Sign Dimensions and Location*

**Zoning District, Map and Lot:**

Highway Business, Map 57-4A, 4B. and 4C

**Date of Application:**

July 12, 2017

**Date of Public Hearing:**

August 16, 2017

**Date of Decision:**

- Peter A. Zahka II, Esq. 12 School Street, Dedham, MA 02026
- Scott Goodson, Chick-fil-A, Development Supervisor, Chick-fil-A Cares, P.O. Box 725489 Atlanta, GA 31139-9923

**Vote:**

4-0, unanimously approved

**Voting Members:**

James F. McGrail, Esq., J. Gregory Jacobsen, Scott M. Steeves, Jared F. Nokes, J.D.

**Date Filed with Town Clerk:            AUGUST 22, 2017**

The Zoning Board of Appeals (“ZBA”) of the Town of Dedham, Massachusetts held public hearings on August 16, 2017, in the Town Office Building, Bryant Street, Dedham, MA. Present were members of the ZBA, Chairman James F. McGrail, Esq., J. Gregory Jacobsen, and Scott M. Steeves. In the absence of Members E. Patrick Maguire, MLA, RLA, CLARB, LEED AP® and Jason L. Mammone, P.E., the Chairman appointed Associate Member Jared F. Nokes, J.D., to sit on these hearings. The hearings were duly advertised for this meeting of the ZBA in accordance with the requirements of MGL Chapter 40A, Section 11.

At 7:00 p.m., the Chairman called for the hearing on the petition of Chick-fil-A, Inc. (hereinafter referred to as “Applicant”) to be allowed such relief or waivers from the Dedham Sign Code as needed or required for three (3) free-standing signs on a lot (inclusive of two so-called menu boards), for a total sign area of free-standing signs on the lot of 300 square feet (inclusive of a free-standing pylon sign with an area of 240 square feet), to expand, modify, and change a pre-existing nonconforming free-standing pylon sign with a height of 24 feet 2 inches, and to maintain the height of said pre-existing nonconforming free-standing/pylon sign at 24 feet 2 inches. The property is located at 100-140 Providence Highway, Dedham, MA, in the Highway Business (HB) Zoning District. *Dedham Sign Code Sections 237-4, 237-9, 237-19, 237-22, 237-29, 237-30, Table 1, and Table 2*

The Applicant was represented by Peter A. Zahka, II, Esq., 12 School Street, Dedham, MA. Also present was Scott Goodson, Development Senior Supervisor for Chick-fil-A. Attorney Zahka had previously submitted plot plans (existing and proposed conditions) of the Subject Property, photographs of the existing conditions, architectural renderings, floor plans, elevation drawings, and sign renderings. The minutes from the hearing are the primary source of evidence and are incorporated herein by reference. At the hearing Applicant was afforded an opportunity to make a full presentation.

The Subject Property, owned by OSJ of Dedham, LLC, is shown on Dedham Assessors Map 57, Lots 4A, 4B, and 4C, contains approximately 227,541 square feet of land and has approximately 814 feet of frontage on Providence Highway. The Subject Property is currently occupied by an

approximate 37,000 square foot commercial building utilized for an Ocean State Job Lot (hereinafter referred to as "OSJL"). In addition, the Applicant is currently constructing an approximate 5,100 square foot Chick-fil-A restaurant with a drive-thru at the Subject Property. OSJL has an existing free-standing sign on the Subject Property with a sign area of approximately 125 square feet and a height of approximately 24 feet 2 inches. The Subject Property is located in the Highway Business (HB) Zoning District.

Table 2 of the Dedham Sign Code provides that lots in the HB Zoning District are allowed one (1) free-standing sign with a maximum sign area of 100 square feet and height of 20 feet. As noted above, the Applicant proposes three (3) free-standing signs on a lot (inclusive of two so-called menu boards) and a total sign area of free-standing signs on the lot of 300 square feet (inclusive of a free-standing pylon sign with an area of 240 square feet). Inasmuch as the existing OSJL free-standing sign has an area of 125 square feet and a height of 24 feet 2 inches, the same is considered pre-existing nonconforming. The Applicant also seeks to expand, modify, and change this pre-existing nonconforming free-standing pylon sign. Basically, the Applicant proposes a combined OSJL and Chick-fil-A sign utilizing the existing sign poles which will have an area of 240 square feet and maintain the existing height of 24 feet 2 inches. There will also be brick-like base around the sign poles.

Sections 237-29 and 237-30 of the Dedham Sign Code authorize and empower the ZBA to grant waivers to the provisions of the Dedham Sign Code. Relative to the relief requested from the provisions of the Dedham Sign Code, the Applicant submits that it has satisfied the procedural and substantive criteria and requirements of said Sections 237-29 and 237-30 of the Dedham Sign Code. With respect to the procedural requirements, the Applicant submitted appropriate documentation to the Design Review Advisory Board (DRAB). Prior to appearing before the ZBA, the Applicant appeared before DRAB to discuss the requested waivers or relief. At this meeting, DRAB voted to approve and recommend the Applicant's request for the relief or waivers from the Dedham Sign Code.

With respect to the substantive requirements, said Section 237-30 provides that the ZBA may grant relief or waivers if the same "are warranted owing to any circumstances including (a) that

literal compliance... is not practical or is unfeasible or (b) that such relief or waivers are recommended by the Design Review Advisory Board.” As indicated above, DRAB is recommending such relief or waiver.

It should be noted that the Applicant previously appeared before the ZBA in January 2016 requesting similar waivers and relief from the Dedham Sign Code (as well as special permits for the proposed restaurant use and for fences and/or walls in excess of 6 feet in height). The ZBA granted the request relief and waivers from the Dedham Sign Code. *See ZBA Case # VAR-12-15-2054*. At that time, however, it was erroneously represented that the existing free-standing sign had a height of 20 feet. The Applicant has submitted the present application upon discovering that the height was in fact 24 feet 2 inches. It should also be noted that the Applicant had initially proposed a separate free-standing sign for the Chick-fil-A. The request for the “combined” sign with OSJL is based upon previous recommendations by DRAB and the ZBA.

No one appeared in opposition to the requested waivers and/or relief from the Dedham Sign Code.

Upon a motion duly made by Scott M. Steeves and seconded by J. Gregory Jacobsen, the ZBA voted unanimously (4-0) to grant and approve such relief and/or waivers from the provisions of the Dedham Sign Code as necessary or required to allow (a) for three (3) free-standing signs on a lot (inclusive of two so-called menu boards), (b) for a total sign area of free-standing signs on the lot of 300 square feet (inclusive of a free-standing pylon sign with an area of 240 square feet), and (c) for the expansion, modification, and change of a pre-existing nonconforming free-standing pylon sign with an existing height of 24 feet 2 inches and an area of 125 feet; and (d) for the maintenance of the height of said pre-existing nonconforming free-standing/pylon sign at 24 feet 2 inches and expansion to an area of 240 square feet at 100-140 Providence Highway. In granting this relief, the ZBA finds (1) that Applicant has satisfied the procedural requirements set forth in the Dedham Sign Code, (2) that the relief is recommended by DRAB, (3) that the relief is warranted due other “circumstances” (as described above), and (4) that the same may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Sign Code.

Dated: August 16, 2017

James F. McGrail  
James F. McGrail, Esq.

J. Gregory Jacobsen  
J. Gregory Jacobsen

Scott M. Steeves  
Scott M. Steeves

Jared F. Nokes  
Jared F. Nokes, J.D.

Attested by:

Susan N. Webster  
Susan N. Webster, Administrative Assistant