

**Dedham Town Hall**

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**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.**

TOWN OF DEDHAM

ZONING BOARD OF APPEALS MINUTES

Wednesday, January 18, 2017, 7:00 p.m., Lower Conference Room

Present and Voting: James F. McGrail, Esq., Chairman

J. Gregory Jacobsen, Vice Chairman

E. Patrick Maguire, MLA, RLA, CLARB, LEED AP®

Scott M. Steeves

Jason L. Mammone, P.E.

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.

NOTE:

The applicant has requested that the minutes from the hearing on 39 Washington Street be removed from the website due to personal issues included in the transcription. They are available for review in the Planning and Zoning Office.

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| Applicant: | Thomas J. Coyne, Jr. |
| Property Address: | 41 Robinwood Road, Dedham, MA |
| Case #: | VAR-11-16-2169 |
| Property Owner: | Thomas J. Coyne, Jr. et ux |
| Zoning District and Map/Lot | Single Residence B, 162/33 |
| Application Date: | November 30, 2016 |
| 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: | Thomas J. Coyne, Jr. |
| Legal Notice: | To be allowed a side yard setback of 6.5 feet instead of the allowed 10 feet, and space between buildings of 7.1 feet instead of the allowed 10 feet to construct a two-car garage for storage of antique cars |
| Section of Zoning Bylaw: | *Town of Dedham Zoning Bylaw Section 4.1 Table of Dimensional Requirements* |

Mr. Coyne would like to construct a two-car garage with dry storage in the ceiling. He will be tearing down the existing garage except for one existing wall. He will bring the garage forward five feet for the new construction. The present setback is 7.1 feet from the corner of his house to the garage, so he would need a variance for 3 feet.

Mr. Maguire asked if it would make sense to connect the house and the garage. Mr. Coyne said he has heard that if he connects the two, there will be a problem with water run-off/drainage. David Wieher, 69 Robinwood Road, spoke in favor of the petition. No one spoke in opposition. Mr. Coyne presented a list signed by neighbors in support of his petition:

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| Thomas G. Duff | 34 Robinwood Road |
| Susan and David DeStefano | 40 Robinwood Road |
| Eileen A’Hearn | 69 Robinwood Road |
| Martin O’Malley | 23 Robinwood Road |
| June Mirlocca | 28 Robinwood Road |
| Nicholas Capobianco | 35 Robinwood Road |

Mr. Maguire asked if Mr. Coyne had spoken with the Building Department, and he has. Mr. Jacobsen asked how much storage there would be. Mr. Coyne said he owns a lot of cars, and instead of storing them elsewhere, he will be putting them at his house. Upstairs will be one dry back wall, 5’ deep for the length of it for odd things. He has a shed in the back as well. There is enough height for a lift. It will not be livable space.

Mr. Jacobsen moved to approve a side yard setback of 6.5 feet instead of the allowed 10 feet, and space between buildings of 7.1 feet instead of the allowed 10 feet to construct a two-car garage for storage of antique cars. Mr. Steeves seconded the motion. The vote of the board was unanimous at 5-0.

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| Applicant: | Antonios Sakalis |
| Property Address: | 9 Washington Street, Unit 4, Dedham, MA |
| Case #: | VAR-11-16-2168 |
| Property Owner: | Antonios Sakalis, 9 Washington Street, Unit 4, Dedham, MA |
| Zoning District and Map/Lot | Local Business, 59/32/4 |
| Application Date: | November 30, 2016 |
| 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: | Kevin F. Hampe, Esq., 411 Washington Street, Dedham, MA  Antonios Sakalis, owner |
| Legal Notice: | To be allowed a Special Permit to change a nonconforming office condominium unit into a residential condominium unit in a multi-unit condominium building in the Local Business zoning district |
| Section of Zoning Bylaw: | *Town of Dedham Zoning Bylaw Section 3.3.2, 9.3.1, 9.3.2, and MGL Ch. 40A, Section 9* |

Mr. Hampe gave a history of the building, known as 5-9 Washington Street Condominiums. It had come before the ZBA on two prior occasions; those decisions are in the file. It was built in 1990 in the Local Business zone, and was developed into mixed use condominiums in 1995. There were two commercial units and two residential units. Between 1995 and 2006, two additional residential units were installed in the building; Michael Podolski, Esq., came before the ZBA at that time to obtain a Special Permit to allow these. With granting of the Special Permit, there were four residential units and two commercial units. This is not allowed in Local Business because only two residential units are allowed. In 2009, another unit came before the Board to be changed to a fifth residential unit, leaving only one commercial unit owned by Mr. Sakalis. The Applicant had the building under lease a few years ago, but the lease terminated. Over the last four years, he has been attempting to lease the unit as commercial without success. There are considerable back taxes owed on the unit, and he is under a financial burden with this. He has worked out a payment plan with the Treasurer. It is hoped that the Board will grant the Special Permit to convert the commercial unit to a residential unit, which will be consistent with the rest of the units in the building. It would also be consistent with the neighborhood, which is almost completely residential. All the unit owners of the condominium complex are in agreement with this plan. Mr. McGrail noted that the only issue is the taxes. These will be paid off once the unit is sold. The Town would be protected by putting a lien on the property in the event that payments are delinquent.

Mr. Steeves moved to approve the Special Permit to change a nonconforming office condominium unit known as 9 Washington Street, Unit 4, into a residential condominium unit in a multi-unit condominium building in the Local Business zoning district, seconded by Mr. Jacobsen. The vote was unanimous at 5-0.

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| Applicant: | Ella’s Gas of Dedham, Inc. |
| Property Address: | 22 Bridge Street, Dedham, MA |
| Case #: | VAR-11-16-2165  VAR-11-16-2170 |
| Property Owner: | Elie on Bridge Street, LLC, 97 New Haven Street, West Roxbury, MA |
| Zoning District and Map/Lot | General Business, 14/51 |
| Application Date: | November 18, 2016, November 29, 2016 |
| 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.  Elie Lakkis, Owner  Bob Thompson, Jim Did It Sign Co., 10 Draper Street, #11, Woburn, MA 01801 |
| Legal Notice: | 1. To be allowed a waiver from the Town of Dedham Sign Code for internal LED illumination on both sides of the free-standing sign, side yard setback of 3’6” instead of the required 5’, total height of free-standing sign of 20’ instead of the allowed 8,’ free-standing sign area of 37.5 square feet instead of the allowed 20 square feet, total amount of sign area of 177.5 square feet instead of the allowed 136 square feet. 2. To be allowed a Special Permit as necessary to allow the addition of a third gasoline fuel dispenser at a pre-existing nonconforming gasoline service station (i.e., a Special Permit for change, extension, and alteration of a pre-existing nonconforming use and structure) |
| Section of Sign Code/Zoning Bylaw: | 1. *Town of Dedham Sign Code Section 237-18E, Table 2 Sign Dimensions and Location* 2. *Town of Dedham Zoning Bylaw Sections 3.1.3, 3.3.2, 3.3.3, 9.2.2, 9.3, 10, and Table 1* |

These are two separate applications, but are being heard as one. The gas station, which is in the General Business zoning district and is a pre-existing nonconforming use, is located on 10,900 square feet of land with 136 feet of frontage on Bridge Street. It has been a service station since 1952, and has two gasoline pumps. The land was originally zoned Business, which allowed service stations, and they at some point it was changed to residential. In the General Business zone, a Special Permit is required for a gasoline service station, so this is considered a pre-existing nonconforming use. It was before the ZBA in 1992 for approval of the canopy.

1. Signage: There is an existing pole with an old sign. The Applicant wants to use this for a new sign. Internal illumination of the entire sign was proposed, but the Design Review Advisory Board suggested external illumination of the upper part of the sign with gooseneck lighting to be consistent with the area. Mr. McGrail asked what DRAB’s concern was with internal illumination, as he preferred this. DRAB felt that the gooseneck lamps would be more in line with the restaurant next door, as well as the other businesses. However, photographs showed that this is not correct and in fact, they are all internally illuminated. He said Mr. Lakkis’ preference is for all internal illumination. The pole sign is 20 feet above grade, 3’6” from the side line, internally illuminated, and has a total area of 37.5 feet. This the relief needed. Everything else, including total amount of signage, complies. Mr. Maguire wanted something nicer done with the pole, although the Board cannot require the Applicant to do anything unless it is a condition. Mr. Lakkis agreed, and Mr. McGrail said this will be done. Robert Aldous, 63 Pine Street, spoke in favor of the petition, saying that the property has been a gas station since before most of the Board was born. The Applicant has spent a lot of money rebuilding it, and Mr. Aldous asked the board to do anything it could to help him.

Mr. Steeves moved to approve a waiver from the Town of Dedham Sign Code for internal LED illumination on both sides of the free-standing sign, side yard setback of 3’6” instead of the required 5’, total height of free-standing sign of 20’ instead of the allowed 8,’ and free-standing sign area of 37.5 square feet instead of the allowed 20 square feet, with the condition that a box is built around the free-standing sign pole. Mr. Jacobsen seconded the motion, and the vote of the Board was unanimous at 5-0.

1. Gas Pump: The Building Department says that adding a third fuel dispenser is expansion/alternation of a pre-existing use. There had been four dispensers in the past, and having a third pump would allow for more efficiency and getting in and out faster. This would allow the station to serve six cars instead of four.

Mr. Jacobsen moved to allow a Special Permit as necessary to allow addition of a third gasoline fuel dispenser at a pre-existing nonconforming gasoline service station (i.e., a Special Permit for change, extension, and alteration of a pre-existing nonconforming use and structure). Mr. Steeves seconded the motion, and the vote of the Board was unanimous at 5-0.

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| Applicant: | Andrew Spognardi and Mary Davis |
| Property Address: | 42 Manning Road, Dedham, MA |
| Case #: | VAR-12-16-2172 |
| Property Owner: | Andrew E. Spognardi, Jr. et ux and Kevin C. Davis et ux |
| Zoning District and Map/Lot | Single Residence B, 147/51 |
| Application Date: | December 8, 2016 |
| 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: | None |
| Legal Notice: | To be allowed a Special Permit for an existing accessory dwelling unit that has lapsed. |
| Section of Zoning Bylaw: | *Town of Dedham Zoning Bylaw Section 7.7 Special Residential Regulations, Section 9.3.5 Special Permits Conditions* |

This Applicant did not come to the meeting. Ms. Webster will be in touch with them to reschedule their petition. Mr. Steeves moved to continue this hearing until February 15, 2017, seconded by Mr. Maguire, and the vote of the Board was unanimous at 5-0.

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| Applicant: | Mattress Firm |
| Property Address: | 385 Providence Highway, Dedham, MA |
| Case #: | VAR-12-16-2173 |
| Property Owner: | Julie A. Hanna |
| Zoning District and Map/Lot | Central Business, 92/55 |
| Application Date: | December 12, 2016 |
| 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: | Jesse Ramsperger, Pro Sign Service, 110 Forge River Parkway, Raynham, MA 02767 |
| Legal Notice: | To be allowed a waiver from the Town of Dedham Sign Code for internal illumination of wall sign. |
| Section of Sign Code: | *Town of Dedham Sign Code Section 237-18* |

Mr. McGrail told Mr. Ramsperger that, in the future, a representative of the company should accompany him to Zoning Board of Appeals meetings. The company is changing its name from Sleepy’s to Mattress Firm. They would like to illuminate the sign internally. The color scheme is very similar, white on a black background. The square footage of the sign is well within the requirements of the Zoning Bylaw. Mr. McGrail said the sign can be kept on until one hour after closing. Mr. Steeves moved to allow a waiver from the Town of Dedham Sign Code for internal illumination of wall sign at 385 Providence Highway, with the condition that the lights be turned off one hour after closing. Mr. Jacobsen seconded the motion. The vote of the Board was unanimous at 5-0.

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| Applicant: | Arthur Lutschaunig |
| Property Address: | 7 Prospect Street, Dedham, MA |
| Case #: | VAR-12-16-1274 |
| Property Owner: | Arthur Lutschaunig, 7 Prospect Street, Dedham, MA |
| Zoning District and Map/Lot | Single Residence B, 122/11 |
| Application Date: | December 12, 2016 |
| 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: | Arthur Lutschaunig |
| Legal Notice: | To be allowed a five foot rear yard setback instead of the required 20 feet to construct a two-story building (garage with second floor storage). |
| Section of Zoning Bylaw: | *Town of Dedham Zoning Bylaw Section 4.1, Table of Dimensional Requirements, Footnote 5* |

Mr. Lutschaunig would like to build an attached garage with a small storage space above it. It will not be living space. It will meet the end of the existing driveway on the Willow Street side and connect with the house on the side. He has talked with a couple of neighbors who seem to be fine with this. It will fit with the character of the house architecturally. There will be a cupola with a weathervane, but as long as this does not exceed the allowed height, it will be fine. No one spoke in favor or in opposition to the petition.

Mr. Steeves moved to allow a five foot rear yard setback instead of the required 20 feet to construct a two-story building (garage with second floor storage). Mr. Jacobsen seconded the motion. The vote of the Board was unanimous at 5-0.

Review of Minutes

Mr. Jacobsen moved to approve the minutes of November 16, 2016, and December 14, 2016, seconded by Mr. Steeves. The vote of the Board was unanimous.

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

Respectfully submitted,

Susan Webster

Administrative Assistant

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