

**TOWN OF DEDHAM**  
COMMONWEALTH OF MASSACHUSETTS

James F. McGrail, Chairman  
J. Gregory Jacobsen, Vice Chairman  
Scott M. Steeves  
E. Patrick Maguire, MLA, RLA, CLARB, LEED AP®  
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Jessica L. Porter  
Jared F. Nokes, J.D.

**ZONING BOARD OF APPEALS  
DECISION**

<b>Applicant:</b>	<b>Whole Foods Market</b>
<b>Property Address:</b>	<b>300 Legacy Place, Dedham, MA</b>
<b>Property Owner:</b>	Legacy Place, LLC, c/o WS Asset Management, Inc.
<b>Property Owner Address:</b>	33 Boylston Street, Suite 3000, Chestnut Hill, MA 02467
<b>Legal Notice:</b>	The applicant seeks to be allowed a Special Permit house a temporary trailer behind Whole Foods Market from November 17, 2017, to November 27, 2017, for storage during the holiday season.
<b>Section of Zoning Bylaw:</b>	<i>Town of Dedham Zoning Bylaw Section 3.2.1 Trailers</i>
<b>Zoning District, Map and Lot:</b>	Research, Development, and Office, Map 162, Lot 1
<b>Date of Application:</b>	October 13, 2017
<b>Date of Public Hearing:</b>	November 15, 2017
<b>Date of Decision:</b>	November 15, 2017
<b>Vote:</b>	Unanimous approval, 5-0
<b>Voting Members:</b>	James F. McGrail, Esq., J. Gregory Jacobsen, Scott M. Steeves, E. Patrick Maguire, MLA, RLA, CLARB, LEED AP®, Jessica L. Porter
<b>Date Filed with Town Clerk:</b>	December 14, 2017

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CLERKS OFFICE  
TOWN OF DEDHAM

The Zoning Board of Appeals ("ZBA") of the Town of Dedham, Massachusetts held a public hearing on Wednesday, November 15, 2017, at 7:05 p.m. in the Town Office Building, 26 Bryant Street, Dedham, MA. Present were members of the ZBA, Chairman James F. McGrail, Esq., J. Gregory Jacobsen, Scott M. Steeves, and E. Patrick Maguire, MLA, RLA, CLARB, LEED AP®. Member Jason L. Mammone, P.E., was unable to attend the meeting, so Chairman McGrail appointed Associate Member Jessica L. Porter to sit in his stead.

The hearings were duly advertised for two consecutive weeks in the *Dedham Times* in accordance with the requirements of MGL Chapter 40A, Section 11 and the Town of Dedham Zoning Bylaw. Notices of the hearing were sent to abutters within 300 feet of the property in question on October 20, 2017, and October 27, 2017. Notification of the hearing was sent to the neighboring towns, Boston, Needham, Canton, and Westwood). Copies of all plans referred to in this decision and a detailed record of the Zoning Board of Appeals proceedings are filed in the Dedham Planning Department.

At 7:05 p.m., the Chairman called for the hearing on the petition of Whole Foods Market to be allowed a Special Permit to house a temporary trailer behind Whole Foods Market from November 17, 2017, to November 27, 2017. The property is located at 300 Legacy Place, Dedham, MA, and is located in the Research, Development, and Office zoning district. *Town of Dedham Zoning Bylaw Section 3.2.1 Trailers*

The minutes from the hearing are the primary source of evidence and are incorporated herein by reference.

The Applicant had submitted an application for a Special Permit on October 13, 2015. This included:

1. Zoning Board of Appeals application
2. Letter of permission from Beth Winbourne, General Manager, Legacy Place, 680 Legacy Placer, Dedham, MA
3. Photographs of proposed trailer

The subject property is known and numbered as Legacy Place, Dedham, MA, and is shown on Dedham Assessors' Map 162, Lot 1. The site contains approximately 17.4 acres of land. Whole Foods, a supermarket, is part of this shopping/lifestyle center and has no frontage on any street. According to the records maintained by the Dedham Board of Assessors, the property contains a shopping/lifestyle center that was constructed in 2009. According to the Dedham Zoning Map, the Subject Property is located in the Research, Development, and Office zoning district.

Each year, Whole Foods has a trailer behind the building for storage of holiday goods for Thanksgiving. The trailer is only needed for eleven days, from November 17, 2017, to November 27, 2017. No one in the audience spoke in favor of or against this petition.

The Dedham Zoning Board of Appeals (ZBA) is authorized and empowered to grant requested relief under a number of provisions of the Dedham Zoning By-Law. Sections 3.3.2 and 3.3.3 of the Dedham Zoning By-Law provide that the ZBA may grant special permits to change, alter, extend, or reconstruct nonconforming uses and structures, respectively. Per said Sections 3.3.2 and 3.3.3, the ZBA “may award a special permit . . . if it determines that [the proposed change, alteration, extension, or reconstruction] shall not be substantially more detrimental than the existing nonconforming [use or structure] to the neighborhood.” Furthermore, with respect to nonconforming single and two family residential structures, Section 3.3.5 of the Dedham Zoning By-Law provides, in pertinent part, that if “the nonconforming nature of such structure shall be increased by the proposed reconstruction, extension, alteration or change, the Board of Appeals may, by Special Permit, allow such reconstruction, extension, alteration, or change where it determines the proposed modification will not be substantially more detrimental than the existing nonconforming structure to the neighborhood.”

In acting upon requests for Special Permits, the ZBA is guided by Section 9.3.2 of the Dedham Zoning By-Law which provides that:

“Special permits shall be granted by the Special Permit Granting Authority, unless otherwise specified herein, only upon its written determination that the adverse effects of the proposed use will not outweigh its beneficial impacts to the town or the neighborhood, in view of the particular characteristics of the site, and of the proposal in relation to that site. In addition to any specific factors that may be set forth in this By-Law, the determination shall include consideration of each of the following:

1. Social, economic, or community needs which are served by the proposal
2. Traffic flow and safety, including parking and loading
3. Adequacy of utilities and other public services
4. Neighborhood character and social structures
5. Impacts on the natural environment”
6. Potential fiscal impact, including impact on town services, tax base, and employment

In addition, pursuant to the authority granted under Section 9.2.2 of the Dedham Zoning By-Law, the ZBA has the power “to hear and decide appeals or petitions for variances from the terms of this By-Law, with respect to particular land or structures as set forth in G.L. c. 40A, § 10.” Section 10 of Chapter 40A of the General Laws of Massachusetts states that a variance may be granted if:

“Owing to circumstances relating to soil conditions, shape, or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of the ordinance or by-law would involve substantial hardship, financial or otherwise, to the petitioner or appellant and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of such ordinance or by-law.”

The Applicant respectfully submits that the requirements and criteria for the issuance of the requested special permits and variances are satisfied. Specifically, the Applicant’s proposed changes, alterations, extension, and reconstruction of the nonconforming structures and uses is not substantially more detrimental than the existing nonconforming uses and structures and the adverse effects of the proposal do not outweigh its beneficial impacts.

No one appeared in opposition to the requested relief.

Upon motion being duly made by E. Patrick Maguire, MLA, RLA, CLARB, LEED AP® and seconded by Jessica L. Porter, the ZBA voted 5-0 to grant a Special Permit for a temporary trailer for storage from November 17, 2017, to November 27, 2017, during the holiday season. The vote was unanimous at 5-0.

In granting said Special Permit, the ZBA finds that the proposed modification will not be substantially more detrimental than the existing nonconforming structure to the neighborhood. Furthermore, the ZBA finds that, after consideration of the criteria in Section 9.3.2 of the Dedham Zoning By-Law, the adverse effects of the Applicant’s proposal will not outweigh its beneficial impacts on the Town and neighborhood.

The Applicant is advised that, in accordance with MGL Chapter 40A, Section 11, no variance shall take effect until a copy of this decision bearing the certification of the Dedham Town Clerk that twenty days have elapsed after the decision has been filed with the Dedham Town Clerk and no appeal has been filed and that no special permit shall take effect until a copy of this decision bearing the certification of the Dedham Town Clerk that twenty days have elapsed after the decision has been filed with the Dedham Town Clerk and no appeal has been filed or that an appeal has been filed within such time shall be recorded in the Norfolk County Registry of Deeds or the Land Registration Office of Norfolk County.

Dated: November 15, 2017

Attest by the Zoning Board of Appeals

  
James F. McGrail, Esq.

  
J. Gregory Jacobsen

  
Scott M. Steeves

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

  
Jessica L. Porter

Attest by the Administrative Assistant

  
Susan N. Webster