

TOWN OF DEDHAM
COMMONWEALTH OF MASSACHUSETTS

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ZONING BOARD OF APPEALS
DECISION

Applicant: RAR Jefferson at Dedham Station MA, Inc.
Property Address: 1000 Presidents Way, Dedham, MA 02026
Property Owner: RAR Jefferson at Dedham Station MA, Inc.
Property Owner Address: c/o Thomson Reuters Dept. 207, P.O. Box 4900, Scottsdale, AZ 85261-4900
Applicant Representative: Patrick Connolly, Program Manager, Beals Associates, 2 Park Plaza, Suite 200, Boston, MA 02116

Legal Notice: The applicant seeks to be allowed a modification of the Comprehensive Permit Conditions 9, 10, and 11 pursuant to Massachusetts General Law c 40B s. 21 and 760 CMR 56.07:

1. Propose to add access to and from Rustcraft Road in addition to current access at Presidents Way
2. Parking stalls shall be minimum of 8.5 feet wide - they have altered layout of parking field in SW corner to accommodate relocated entrance only driveway.
3. Propose to install two-way electronic parking gate at entrance at Presidents Way, controlled by residents' fob access and activated by emergency vehicle sirens as required by Dedham Fire Department.

Section of Sign Code: *M.G.L. Chapter 40B, Sections 20-23, 760 CMR 56.07*

Zoning District, Map and Lot: Research, Development, and Office, Map 163, Lot 2
Date of Application: October 13, 2017
Date of Public Hearing: November 15, 2017, December 13, 2017
Date of Decision: December 13, 2017
Vote: Unanimously denied, 5-0

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CLERKS OFFICE
TOWN OF DEDHAM

Voting Members: James F. McGrail, Esq., J. Gregory Jacobsen, Scott M. Steeves, E. Patrick Maguire, MLA, RLA, CLARB, LEED AP®, Jessica L. Porter

Date Filed with Town Clerk: January 10, 2018

The Zoning Board of Appeals (“ZBA”) of the Town of Dedham, Massachusetts held a public hearing on Wednesday, November 15, 2017, at 7:00 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®. In the absence of Member Jason L. Mammone, P.E., the Chairman 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 24, 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 and Zoning Department.

At 8:00 p.m., the Chairman called for the hearing on the petition of RAR Jefferson at Dedham Station MA, Inc., to be allowed a modification of the Comprehensive Permit Conditions 9, 10, and 11 pursuant to Massachusetts General Law c 40B s. 21 and 760 CMR 56.07 as follows:

1. Propose to add access to and from Rustcraft Road in addition to current access at Presidents Way
2. Parking stalls shall be minimum of 8.5 feet wide - they have altered layout of parking field in SW corner to accommodate relocated entrance only driveway.
3. Propose to install two-way electronic parking gate at entrance at Presidents Way, controlled by residents' fob access and activated by emergency vehicle sirens as required by Dedham Fire Department.

The property is located at 1000 Presidents Way, Dedham, MA, and is located in the Research, Development, and Office zoning district. *Town of Dedham Zoning Board of Appeals Decision*

02-01 pursuant to provisions of MGL Chapter 40B, Section 20-23, Zoning Board of Appeals Decisions 05-04, M.G.L. Chapter 40B, Sections 20-23, 760 CMR 56.07

The Applicant was represented by Patrick Connolly, Program Manager, Beals Associates, 2 Park Plaza, Suite 200, Boston, MA 02116. 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 modification of the Comprehensive Permit on October 13, 2017. This included:

1. Zoning Board of Appeals application
2. Request for Comprehensive Permit Modification, prepared by Beals Associates, Inc., 2 Park Plaza, Suite 200, Boston, MA 02116
3. "Expanded Access Plan Set," prepared by Beals Associates, Inc., 2 Park Plaza, Suite 200, Boston, MA 02116
4. "Layout Plan – Jefferson at Dedham, Dedham, MA," prepared by Coler & Colantonio, Inc., as part of "Revised Site Plan"
5. Seven pages signed by residents of Jefferson Station in support of the petition.
6. Flash drive of application

The subject property is known and numbered as 1000 Presidents Way, Dedham, MA, and is shown on Dedham Assessors' Map 163, Lot 2. The certified plot plan indicates that the Subject Property contains 11.7 acres of land and has 1,066.64 feet of frontage on Presidents Way. According to the Dedham Zoning Map, the Subject Property is located in the Research, Development, and Office zoning district. Currently, the property is an apartment complex. According to the records maintained by the Dedham Board of Assessors, the complex was constructed in 2005.

The applicant was approved under a comprehensive permit granted by the Zoning Board of Appeals. It was subsequently acquired by Jefferson Station, LP, and then RAR2 Jefferson at Dedham Station.

The Dedham Zoning Board of Appeals (ZBA) is authorized and empowered to grant requested relief pursuant to MGL c. 40B and 760 CMR 56.07 under a number of provisions of

the Dedham Zoning Bylaw. Sections 3.3.2 and 3.3.3 of the Dedham Zoning Bylaw 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 Bylaw provides, in pertinent part, that if “the nonconforming nature of each structure shall be increased by the proposed reconstruction, extension, alteration, or change, the Zoning 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.”

The Town of Dedham Zoning Board of Appeals is the Special Permit Granting Authority for 40B projects. 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

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.”

The Town of Dedham Zoning Board of Appeals is the Special Permit Granting Authority for. 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.

Its powers are noted in Zoning Bylaw Section 9.2.2 as follows:

9.2.2 Powers

The Board of Appeals shall have and exercise all the powers granted to it by Chapters 40A, 40B, and 41 of the General Laws and by this Bylaw. The Board's powers are as follows:

1. To hear and decide applications for Special Permits. Unless otherwise specified herein, the Board of Appeals shall serve as the Special Permit granting authority.
2. To hear and decide appeals or petitions for variances from the terms of this Bylaw, with respect to particular land or structures, as set forth in G.L. c.40A, s.10. The Board of Appeals shall not grant use variances.
3. To hear and decide appeals taken by any person aggrieved by reason of his inability to obtain a permit or enforcement action from any administrative officer under the provisions of G.L. c.40A, ss. 8 and 15.
4. To hear and decide comprehensive permits for construction of low or moderate income housing, as set forth in G.L. c.40B, ss. 20-23

The Applicant respectfully submits that the requirements and criteria for the issuance of the requested modification of the Comprehensive Permit are satisfied.

The Applicant is seeking modification of the Comprehensive Permit, Conditions 9, 10, and 11. They want to add access to and from Rustcraft Road, in addition to the current access at Presidents Way, alteration of the layout of the parking field in the southwest corner to accommodate the relocated entrance-only driveway, and installation of a two-way electronic parking gate at the entrance on Presidents Way, which would be controlled by residents' fob access and activated by emergency vehicle sirens as required by the Dedham Fire Department. The Applicant contends that the impacts on Rustcraft Road and the surrounding neighborhood will be limited. Mr. Connolly did not identify the specific locations, but petition statement clarified much of this information, and included the following statements.

They want to add electronic parking gates, including a two-way gate at the northern end of Presidents Way, a one-way gate at the existing curb cut on Rustcraft Road, and a one-way gate at a relocated western curb cut on Rustcraft Road. These would be activated by a resident's fob. The relocated western curb cut on Rustcraft Road would be shifted 50 feet to the east to provide a greater distance between the driveway and the Avalon driveway to the west. The driveway will be 20 feet wide to provide adequate access for emergency vehicles. There

will be enough room in the driveway to queue four vehicles, preventing back-ups onto Rustcraft Road. The alteration in the parking field in the southwest corner will allow a relocated entrance-only driveway. The overall number of parking spaces will remain the same. Seven parking spaces will be altered: four are incorporated into the curved driveway, and three will be relocated to the parking aisle just north of the entrance. The fobs would be provided to residents only. Emergency personnel, police, and fire vehicles would activate the gates by their sirens; the fire chief did not like the fobs. Cut through traffic would be eliminated. The pedestrian connection will be preserved with a relocated concrete sidewalk in the same general layout as the existing sidewalk. The existing street trees in the location of the driveway will be relocated if possible or replaced in kind. Directional signage will be installed.

Mr. Connolly said the manager could provide a new one to a resident who lost the fob. Mr. McGrail asked what would prevent residents from loaning their fobs to other people. Mr. Connolly was not sure. Mr. McGrail clarified this by giving the example of a resident who does not drive and wants to give the fob to a child or caregiver, but that person uses the fob to cut through. Mr. Connolly has not thought of that, and said they would definitely look at this. Registrations are required to get a fob, and each fob can be tracked. The property manager said they will only give fobs to residents with vehicles; she does not know the exact number of vehicles at this time. Mr. McGrail said the Board wants to know that. Residents must register in order to receive a fob.

Mr. Maguire asked if there is access to Rustcraft Road at this time. Mr. Connolly said there is not. The gates are closed, and only emergency access is allowed; the police chief and fire chief have keys. Mr. McGrail said that this is because there was overwhelming opposition to access to Rustcraft Road at the time. He asked why this issue has come up at this time. Mr. Connolly said it is to prevent cutting through, and for the safety of residents because it restricts cars from coming in and out. Mr. McGrail asked whether the Applicant would still propose a fob at that location if the Board does not allow access onto Rustcraft Road and maintains the status quo. Mr. Connolly did not know. Mr. Jacobsen asked if there was a charge for the tenants to have a fob. The property manager said that every tenant who has a vehicle would be issued a fob. If it is lost, the tenant has to pay for it.

The Applicant supplied a petition in support of the proposal. One person who signed does not live at the apartment complex. Mr. Maguire said he did not consider this person to be an abutter. He asked how this proposal came up, noting that the approval did not allow this. Mr. Connolly said it is a public safety concern from the residents to allow access to the site, and a public safety concern with all the traffic in Legacy Place coming onto the site. He allowed that it varies with different times of the year. Mr. Maguire asked if this could be stopped by having fobs in the back. Mr. Connolly said that putting the gates in makes it easier to control, easier for the residents to access the site, and easier for the fire and police chiefs to use. Mr. Maguire said it made sense for the development not to have access when originally approved, and everyone was fine with it. Mr. Connolly said the developer agreed to it but did not want it. Mr. McGrail asked if the Police Department and Fire Department asked for this. The property manager said they did not, but they want it. The gates have been open in the past during holiday season.

Many residents spoke, some of whom could not be heard properly and some of whom were not identified for the record. There was a lot of background talking while people were trying to make statements.

Kevin Leary, 195 Fairbanks Road: There is no letter from the Police Department or the Fire Department. There are a lot of dead end streets along Central Avenue. Many cars speed through the area looking to avoid lights. If the petition is allowed, it would increase the traffic. When Jefferson was approved, it was voted that there shall not be access from Rustcraft Road because of traffic. Now they have Legacy Place and Avalon apartments, which bring additional traffic. Traffic has already increased on Rustcraft Road, and the entrance to Jefferson is right where there is a curve in the road. Directly across from Jefferson is a drop off for the train station, and cars block the road.

Carmen DelloIacono, 145 West Jersey Street: Rustcraft Road, in his opinion, is the worst road in Dedham. There are no sidewalks. Any added traffic is unacceptable. He understood Jefferson's residents' concern about cut through traffic, but did not think those residents understood the neighbors' opposition to it. If the police and fire felt that strongly about the gates, someone would be here to support it. If the residents who moved into Jefferson did not know

about the access, then due diligence was not done by the property owners and management should have told the incoming tenants. He asked that the Board not vote favorably.

David Wieher, 69 Robinwood Road: The traffic study done 15 years ago is old, does not equal what the traffic is now, and needs to be updated. He lives right across from Legacy Place and many cars, probably 200, use his street as a cut through. He said that the neighbors were not notified of the meeting tonight (*Note: postcards were sent to abutters within 300 feet of the property per State law*). Mr. Maguire said a new traffic study should have been done because traffic is horrible. He said that generalities are not sufficient.

A resident said that cars making illegal left turns from Legacy Place and who live at Jefferson would be eliminated by going through the back entrance. The number of cars on the road will not change. They are forced to deal with Costco, Legacy Place, and all the businesses in the area. They are not asking to use the back entrances so they can go flying up and down Rustcraft Road and going into dead end roads. In terms of it affecting the neighbors on Central Avenue, Jefferson tenants are being forced to make their way out of a Costco parking lot to get out of their building every day. It would increase safety to have a blocked entrance to legally make left and right turns out of the back vs. being forced to go out the side entrance to get to the highway. A resident said that there is only one exit to leave Jefferson, but Mr. McGrail disagreed. Another resident said all the traffic from Costco causes a back-up as well. Mr. McGrail said that his understanding is that, during the holidays, the police and fire will open the gates; the property manager agreed. The Town does make efforts to try to create relief.

John Filleti, Jefferson resident: When he leaves in the morning to take the train, 60% of the vehicles are still there. He would like the traffic cut off over the holidays, and be able to get in and out without affecting much of the other traffic on Rustcraft Road. He supports the key fob to stop all the cut-through traffic, saying that it is actually Legacy Place that impacts traffic.

Ann Sullivan, 43 Rustcraft Road: When residents rented their apartments, they were aware that there was only one way out. When she bought her house, there was not a lot of traffic. The agreement with Jefferson was for the gates to be closed. Despite their claims that traffic

would not be impacted, traffic has increased to the point that she cannot get out of her driveway at times. She feels that her property value has decreased because of this. The Board has an obligation to review the agreement made in the first decision. Mr. McGrail said there were conditions imposed, and the Applicant has abided by those. They can also come to the ZBA for modifications. The Board has no obligation to waive the conditions. When the project was first proposed, there was overwhelming opposition to allowing traffic on Rustcraft Road. The Applicant agreed to the condition not to allow it. That took a large percentage of the opposition away from the project.

Chuck DelloIacono, Parks and Recreation Commission: The biggest problem is safety. There is a ball field around the corner from Jefferson. When Legacy Place was built, mitigation included tripling the size of the ball field and sidewalks were added. A traffic study should be performed, and mitigation needs to be considered.

Adam Weinstein, 45 McKinley Avenue: The comment was that the Avalon complex may also want to do the same thing and have their gate open all the time. He has seen at least three accidents there because no one expects someone to come out of the gates. He said that almost every morning he has to go to Concord Electric Supply on Stergis Way via Legacy Place. There is no traffic to get out of there in the morning; he sees maybe two or three cars come out of Jefferson. He does not go to Legacy Place other than to the supply company, and if he wants to get to Route 1, he has to sit in a line of traffic.

William Gorman, 161 LedgeWood Road: He was part of the Citizens Ad Hoc Committee reviewing the project and the concerns of the neighborhood. At the time, he lived at 216 Jefferson Street directly across from Rustcraft Road. During 2002, there were many meetings with the developer, other town boards, and the Board of Selectmen. The driving force on shutting the gates was that the project was "put down the Town's throat" as a 40B; 40B projects allow the developer to come in, make a proposal, and make a 25% set-aside for medium income that is below the rate of the rental units. 40B projects are very difficult to keep out of any town or neighborhood. Under State law for 40B, the developer only has to go to the ZBA, which is the ruling body on the conditions given for a 40B. They went to the Conservation Commission because of State laws dealing with the environment. There was one building that did not seem to fit; this was considered their "throw away building." The Fire Department

was unable to get fire equipment access around these buildings, and it was thought they would get rid of that building. Instead, they scrunched everything to make it tighter, allowing them to get their intended capacity of 300 units. The developer knew the problem going in, and agreed to cut the access off because there was so much opposition and they did not want to drag the process out in court. They did not want to let the tenants know about this. In 2003, it was conditioned that “access shall only be from Enterprise Drive as shown on the revised plans. The Applicant shall not install any gates at the Enterprise Drive entrance to the development.” Mr. Gorman said this appears in another part in which it discusses the bylaw and how they got a waiver from the bylaw to pave areas connecting driveways from Enterprise Drive to emergency access gates on Rustcraft Road, approved under the comprehensive permit. Mr. McGrail again said there was overwhelming opposition to the gates being open to access/egress onto Rustcraft Road. The Applicant conceded this almost immediately, and as a condition of their permit, they agreed that they would not allow this. They are now trying to have the Board modify that. Avalon Station has one exit. If this petition is approved, they will probably also come in because they are a 40B.

Other residents spoke in favor of opening the gates. Robert Carney, Jefferson resident, said he did not believe that Jefferson is the problem. He was in favor of opening the gates. Another resident said that, while she understands the safety concerns, she thinks that management has raised some good solutions regarding the fob system. It will not allow people to cut through. She did not see how the traffic would increase by 500 cars. Most people who are part of the 40B cannot afford cars, and are mostly elderly or disabled. Visitors would not have access to fobs. She is not opposed to a STOP sign since the concern is so large. Mr. McGrail said he drove through the parking lot the other day and there were not a lot of empty spaces.

Mr. McGrail said that 40B projects are designed to promote affordable housing in communities. The frustration that cities and towns have with 40B is that many of the controls that the cities and towns have are wiped away by 40B, which is unfortunate. The biggest condition that Dedham has is lack of egress onto Rustcraft Road, and this speaks to how passionate people are about the access and egress. It became the #1 issue relative to the project. The Town recognized that it did not have a lot of ammunition in shaping what the project would look like, similar to Costco, Legacy Place, or the theater. When it comes to 40B, the cities and

towns are hamstrung in that regard due to the design of the law to promote affordable housing.

A Jefferson resident said that she has lived in Dedham since 2003. An agreement to sell her house fell through, so they had to move to Jefferson while they were looking for another house. She now lives on Fairbanks Road. She knows both ends of the spectrum, the area that is affected by the traffic and what it is like to live at Jefferson. Living at Jefferson at the holidays was horrible. It would take her an hour to get from Costco to Route 1. Mr. McGrail asked if the gates were open during that time. She said they were opened eventually. There was also a time when an ambulance could not get in or out. Mr. McGrail will be speaking with both the Fire Chief and the Police Chief to follow up on that. He asked the resident if it is ever that bad aside from the holiday season. She said it is not. She did say that when she left Jefferson, she left through Avalon. There are times when she needs to go down Rustcraft Road, which now has General Dynamics and the kiss-and-ride. She said it is not only Jefferson that causes the traffic. Legacy Place is the biggest problem.

Marie Donoghue, 324 Central Avenue: She has lived in Dedham for 84 years. There has been a lot of mention about people going to Route 95. If the gates are open, people would turn left onto Rustcraft Road, which is backed up now almost to General Dynamics; it would be a "horror show." This would mean that cars would go down Central Avenue to Wentworth Street, then onto East Street. Mr. McGrail said this issue brings up whether there is a need for a traffic study; this would address all of those things.

When asked if the fobs would make any sound, Mr. Connolly said they are silent, but they can set it up so it would be emergency-coded if the Fire and Police Chiefs want that. They could pull up and punch in a code. There is also a call box, so if someone was looking for someone, they could hit the call button, which would go to the office. There are a lot of options.

Former Fire Chief James Driscoll, 13 Boulevard Road, was the fire chief when Jefferson was developed. He retired eight years ago and spoke in an unofficial capacity. The gate was first proposed in 2002, at which time the developer offered a fob with a feature for the Fire Department. Chief Driscoll asked for information on where these were used, and was given a place in Bedford, New Hampshire. The developer said they have gates that could be opened

by activating the sirens so that fire trucks, police, and ambulances could enter the property. He spoke with both the fire chief and the fire prevention officer there, and said they were not the least bit satisfied with this feature, saying it did not work the way it was presented. They said that if they had a second chance on this, they would not allow it. Chief Driscoll was very adamant with the developer, and they finally agreed not to put that feature in. He said that this is why it is an open roadway from Enterprise Drive to the property.

Mr. McGrail said it is fair to say that people who live within Jefferson and Presidents Way are for the job, and those who live outside are against it. There is a history that needs to be respected. He wants to get better educated about what is going on during the holiday season, so it is prudent for the Board to speak with the Fire Chief and the Police Chief. The Board will not make a decision this evening, but it will at the next meeting on December 13, 2017. Mr. Maguire said it would be impossible for him to be in favor of the petition without a traffic study that showed the traffic impacts. Without more information that what has been given by the Applicant, he cannot say he supports this. The hearing was continued to December 13, 2017.

The Zoning Board of Appeals (“ZBA”) of the Town of Dedham, Massachusetts held a public hearing on Wednesday, December 13, 2017, at 7:00 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®. In the absence of Member Jason L. Mammone, P.E., the Chairman appointed Associate Member Jessica L. Porter to sit in his stead.

Mr. McGrail asked if anyone in the audience who did not speak at the last hearing would like to be heard.

Anne Frasca, 358 Central Avenue, said she was sympathetic to the residents of Jefferson with regard to traffic, but her neighborhood has been dealing with traffic issues for an extended period of time. There have been a lot of development recently, not only Legacy Place but Jefferson, Avalon, and the re-development of the Rustcraft building, which is now fully occupied. The level of traffic on Rustcraft Road and the level of traffic using the neighborhoods and cutting through has increased significantly in the last several years. While she was sympathetic with what these neighbors have to deal with, they understood this restriction when

they moved into the building. It may be particularly difficult during the holiday season, but she said it is difficult for all of them. They have seen a continual increase in cut-through traffic. The “No Left Turn” coming out of Legacy Place onto Rustcraft Road is not regularly enforced. The exit out of the Rustcraft building onto Rustcraft Road is also not regularly enforced. Now, the neighborhoods are looking at another adjustment to allow the traffic from the buildings to be added to Rustcraft Road. That inevitably turns into cut-through traffic through the neighborhood because people do not want to sit at the lights on either end of Rustcraft Road. She said she would have to sell her home if she wanted to avoid the traffic. She would like everyone to abide by the original promise that traffic would not be able to exit on and off Rustcraft Road. With regard to safety and security, there is a drive-through in front of the entrance off Rustcraft Road for emergency vehicles. She did not believe it is a safety issue. This is simply a convenience issue. She hoped that those residents would be sympathetic and understanding about what is going on in her neighborhood and what has happened in the neighborhood over the past several years.

Thomas Coyne, 41 Robinwood Road, lives across from Legacy Place. He agreed with Ms. Frasca. While he was sympathetic to the residents of Jefferson, when they moved into the neighborhood, they knew about the driving restrictions. The Town was originally opposed to opening the gates except for in emergency situations. By opening the gates, there would be a whole new set of problems in the area, i.e., traffic issues, safety issues, and the need for streetlights and crosswalks. Robinwood Road is not only impacted by the holiday season, but twelve months a year, every day, day in and day out. His street is used as a U-turn since there is no left turn coming out of Legacy Place onto Elm Street. There are “No Turning” signs and “Residents Only” signs, but the street is used as a main flow of traffic. Opening the gates will cause safety issues and more negative impact on the neighborhoods. The residents of Jefferson can move anytime, but the residents are homeowners and cannot move. The residents knew about this when they moved in. He asked what the residency of the buildings is; it is 96% occupied.

Ms. Frasca asked to add one thing. She said that if this petition for Jefferson is approved, Avalon will want the same thing. It cannot be done for one and not the other.

Mr. McGrail has spoken with the Police and Fire chiefs. Some people knew and some did not that the Police and the Fire have the ability to open up the gates whenever they deem it appropriate and a public emergency. There was a recent meeting with the management from Jefferson, Legacy Place, and Costco. There is a plan, for example, to open the gates from 10 a.m. to 10 p.m. on Friday, Saturday, and Sunday and again on Christmas weekend. There will be a message board to inform people at Legacy Place and Jefferson. The Fire Department is the only department with a key to open the gates. There is a mechanism in place for this. He said he realizes the concern is overflow traffic, but this is addressed during the holiday season. They also do this the day after Thanksgiving.

Neither the Police chief nor the Fire chief took a position on this. Both felt that the process in place is adequate from the perspective of working with the property management and the various businesses. They felt that there was a good system in place and it is getting better because there is more communication and more meetings. In speaking with the Fire Chief, he was concerned about the proposed use of technology and how it would sync with the fire apparatus. There has been talk about fobs, and there was also discussion about how sirens could open the gates, but the Chief said there are two different sirens depending what kind of call it is. He said a lot of these technology issues were raised 15 years ago. They had made calls to the Bedford, New Hampshire Fire Department because they were engaged in a similar effort. The Bedford Fire Department said that trying to intertwine the technology was not going very well. They have significant concerns about how the technology would interact with their operation. They like having a key and being able to make a public emergency determination; it seems as though the Police agree.

Mr. McGrail said there should be a concerted effort with Police, Fire, the businesses, and the neighbors to do a traffic study that addresses the concerns of the Jefferson residents and the people who live outside. He said that nothing was presented to the Board that addressed both the Central Avenue neighborhood and the Robinwood Road neighborhood. A lot has happened in the area with regard to businesses. General Dynamics did a traffic study, but it did not address what is happening in Jefferson. From the Board's perspective, a traffic study related to this exact request should be undertaken. There needs to be a lot more work with regard to working with the Fire Department, Police Department, and the neighbors to make sure that, should accommodations be made beyond what is in place now, there is a buy-in from a

lot of different interest groups. There are a lot of different impacts that need to be adequately addressed. This was a major topic of conversation 15 years ago. The applicant was aware of the issue and went on record quickly saying they would not open the gates to Rustcraft Road. They went so far as to put it in writing. Mr. McGrail said that it does not seem that there is an overwhelming need to change things. He respects what the residents of Jefferson think, but also respects what the neighbors outside the property think. He said he has not heard from the Police or Fire chief that this is something that should be done. They feel that there are adequate steps in place to address the traffic concerns.

Mr. Connolly said the fobs have a passcode and a call button that goes directly to the office. Mr. McGrail said that Fire Chief Spillane did not give a ringing endorsement for the technology. He does not want delays getting into the property. Mr. Connolly said he sent the plans to the Chief on Monday. He also spoke with the Braintree Deputy Fire Chief who said he has never had an issue with the technology. He said the technology has improved over the last 15 years. He sent plans to Chief Spillane and would like to discuss this further with him.

Mr. McGrail said there is a lot of work to be done, including neighborhood and community meetings and a traffic study. Mr. Connolly had a copy of the General Dynamics traffic study, but Mr. McGrail said this does not relate to Jefferson. He said that no one sat down with the neighbors to discuss this; it is possible that their concerns could be addressed. This has been the most controversial item the Board has had, and the more controversial it is, the more effort the applicant must make to limit the controversy and put people at ease. He is sympathetic to both sides, but noted that the neighborhood was promised this in exchange for their support of Jefferson. He said the Police and Fire have a huge input in this, but there has been no discussion with them. He said that there has to be extensive dialogue, and it would be a six month process if they want it to be successful.

Mr. Connolly asked why the Board is shunning the traffic study done for General Dynamics. Mr. McGrail explained that it does not look at cars going in and out of Jefferson. The General Dynamics study has nothing to do with Jefferson. Data is needed about the impacts of people leaving Legacy Place or Costco and cutting through Jefferson. There is a real concern that if the Board allows this for Jefferson, it will have to allow it for Avalon. It needs to be a collaborative effort. There needs to be a meeting with the Police and Fire to learn every concern they have and what they do or do not like about the proposal. A traffic study is necessary to get

more data. To get his vote, the neighborhood would have to come in and report that they have met, understand the proposal, and had their concerns addressed, and the Police and Fire departments would need to be fine with the proposal.

Kelly Edstrom, Manager, Jefferson Station, did an internal survey to try to get an idea of where everyone goes every day. There are 405 vehicles registered on site. Quite a few residents have children, and 10-15 residents have two vehicles. There are 41 residents who take the commuter rail five days a week. Of the residents, 113 take Route 95 northbound five days a week, and 77 take Route 95 southbound five days a week. She usually takes Route 95 south to go home. In terms of the holiday gate opening, she was not here last year, but knew that there were a lot of issues with the gates opening without the property being notified. She said the gates were open and police were directing public traffic through the property. The cars went into the property but not through it, so people were getting lost. Legacy Place set up the traffic meeting this year. Ms. Edstrom said she was more than happy to have the gates open for the residents, although that is not the overall reason they were open; they were open for Legacy Place traffic to come through the property. She required Legacy Place to provide signage to direct cars out.

Ms. Edstrom thinks that it is “in the heads of people that it is going to cause a lot more traffic down that end of Rustcraft,” but she did not believe it would. Mr. McGrail said he is not saying that it will or it will not. There are residents that want to be able to access Rustcraft Road, so from a property management perspective, people are demanding why they cannot do that. The proposal is for technology that can manage the traffic, and only the Police and Fire can use it. This seems simple. The Board makes every effort to keep the neighbors happy, as was shown on the cell tower application earlier in the evening, when the applicant worked with an abutter to explain the petition. She has to give it a chance; she may be surprised what happens when people get together to talk. Mr. Maguire agreed, and said he cannot support the petition unless he has data. He asked why they need to have the gates open if only eight people are using Rustcraft Road. He said there has to be a true, site-specific traffic study that addresses the issues. This study may prove to the Board that, by opening the gates, it will improve the traffic on Route 1; this would help everyone in town. He reiterated that a traffic study must be done to give the Board and the neighbors real data. Right now, there is no way the Board can say “we think it will be okay.” Mr. McGrail concurred. There will be a lot of back and forth with the neighbors, and it will take time and effort.

William Gorman, 161 Ledgewood Road, said he went through Avalon two weeks ago, and there is a huge sign board directing traffic to the right, and another one directing traffic to exit through Jefferson. There were no other indications on where to go. Legacy Place took it upon themselves to direct the traffic through Jefferson to Rustcraft Road. He said people followed the directions with no idea that the exit was to the left because they could not see it. They continued to go straight ahead, putting them at a dead end, so they turned around. He said it was like “bumper cars” turning around. Mr. McGrail said this has been addressed. Mr. Gorman said that now the gate is not open for the residents, but it is open to the through traffic through Legacy Place all the way out to Rustcraft Road. Ms. Edstrom said that there are A-frame signs, one at the end of the bridge, another by the compactor, and another by the exit. Mr. Gorman said that now the gate is not open for the Jefferson residents, but it is open for the through traffic through Legacy Place felt that this was a total violation of the Comprehensive Permit. Mr. McGrail disagreed. The Police and Fire have met with Legacy Place and have the authority to open the gates for public emergency purposes. This is not a violation.

Mr. Steeves moved to deny RAR Jefferson at Dedham Station MA, Inc., modification to the Comprehensive Permit Conditions 9, 10, and 11 pursuant to Massachusetts General Law c 40B s. 21 and 760 CMR 56.07:

1. Propose to add access to and from Rustcraft Road in addition to current access at Presidents Way
2. Parking stalls shall be minimum of 8.5 feet wide - they have altered layout of parking field in SW corner to accommodate relocated entrance only driveway.
3. Propose to install two-way electronic parking gate at entrance at Presidents Way, controlled by residents' fob access and activated by emergency vehicle sirens as required by Dedham Fire Department.

Mr. Jacobsen seconded the motion. The vote to deny was unanimous at 5-0.

Dated: December 13, 2017

Attest by the Zoning Board of Appeals


James F. McGrail, Esq.

J. Gregory Jacobsen
J. Gregory Jacobsen

Scott M. Steeves
Scott M. Steeves

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

Jessica L. Porter
Jessica L. Porter

Attest by the Administrative Assistant

Susan N. Webster
Susan N. Webster