

**TOWN OF DEDHAM**  
**COMMONWEALTH OF MASSACHUSETTS**

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J. Gregory Jacobsen, Vice Chairman  
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**ZONING BOARD OF APPEALS**  
**DECISION**

CLERKS OFFICE

2018 JAN 10 PM 3: 22

TOWN OF DEDHAM

**Applicant:** Dedham Marketplace, LLC  
**Property Address:** 95 Eastern Avenue and 600 Providence Highway  
Dedham, MA  
**Property Owner:** Dedham Marketplace, LLC  
**Property Owner Address:** c/o Acton Management, Inc., 69 Great Road, P.O. Box  
2350, Acton, MA 01720  
**Applicant Representative:** Peter A. Zahka II, Esq., 12 School Street, Dedham, MA

**Legal Notice:** The applicant seeks to be allowed such relief or waivers as required from the Town of Dedham Sign Code for signs at 95 Eastern Avenue and 600 Providence Highway to be in accordance with a Sign Package that includes a total sign area of 1,433 square feet inclusive of wall signs with a total area of 1,174 square feet (including awning signs with a total area of 252 square feet and window signs), three free-standing signs with a total area of 249 square feet (one at 113 square feet, one at 130 square feet, and one at 6 square feet, two free-standing signs with a height of 23 feet, and free-standing signs with a front yard setback of 15 feet and 1 foot.

**Section of Sign Code:** *Town of Dedham Sign Code Sections 237-8, 237-14, 237-19, 237-21, 237-22, 237-23, 237-29, 237-30, Table 1, and Table 2*

**Zoning District, Map and Lot:** Highway Business, Map 123, Lot 16 and Map 123 Lot 22

**Date of Application:** October 13, 2017  
**Date of Public Hearing:** November 15, 2017, December 13, 2017  
**Date of Decision:** December 13, 2017  
**Vote:** 4-0, unanimous approval

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

**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®. Associate Member Jessica L. Porter recused herself from consideration of the petition for a Special Permit because she is an abutter to the property in question. Chairman McGrail informed the Applicant that a unanimous vote of approval (4-0) would be required, and gave the Applicant the opportunity to continue the hearing. The Applicant chose to continue with this hearing.

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 Department.

At 8:00 p.m., the Chairman called for the hearing on the appeal of Dedham Marketplace, LLC, c/o Acton Management, Inc., 69 Great Road, P.O. Box 2350, Acton, MA 01720, to be allowed such relief or waivers as required from the Town of Dedham Sign Code for signs at 95 Eastern Avenue and 600 Providence Highway to be in accordance with a Sign Package that includes a total sign area of 1,433 square feet inclusive of wall signs with a total area of 1,174 square feet (including awning signs with a total area of 252 square feet and window signs),

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three free-standing signs with a total area of 249 square feet (one at 113 square feet, one at 130 square feet, and one at 6 square feet, two free-standing signs with a height of 23 feet, and free-standing signs with a front yard setback of 15 feet and 1 foot. *Town of Dedham Sign Code Sections 237-8, 237-14, 237-19, 237-21, 237-22, 237-23, 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 on behalf of the Applicant was Stephen Steinberg of Acton Management. Attorney Zahka had previously submitted a three-page Memorandum, a certified plot plan, site photographs of the Subject Property and existing signs, and a proposed Sign Package. The minutes from the hearing are the primary source of evidence and are incorporated herein by reference.

The Subject Property, owned by the Applicant, is known and number as Eastern Avenue and 600 Providence Highway, and is shown on Dedham Assessors' Map 123, Lot 16, and Map 123, Lot 22. The Subject Property contains over 11 acres of land, has over 220 feet of frontage on Providence Highway, and over 320 feet of frontage on Eastern Avenue. The Subject Property is occupied by two multi-tenanted commercial buildings. The Subject Property is located in the Highway Business (HB) Zoning District.

The Subject Property is fully developed and is (with some minor vacancies from time to time) fully occupied. The signs on the Subject Property have a total area of approximately 1,433 square feet. This includes three (3) existing free-standing signs with signs areas of 6 square feet, 130 square feet and 113 square feet. The larger free-standing signs have a height of 23 feet and one has a front yard setback of 15 feet. The smaller free-standing sign has a property line setback of 1 foot. A complete list of the signs is included in the "Sign Package" submitted with the Application.

Over the years, the Applicant has received various sign permits and sign waivers for the Subject Property. At this time, however, there are some questions and confusion over the exact "Sign Package" that has been approved for the Subject Property. The Applicant desires to

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eliminate such confusion/questions by seeking a single comprehensive approval to permit the maintenance and continuation of the existing signs as a set forth and described in the Sign Package. This will also establish the “baseline” for any future changes to the signs on the Subject Property. It is noteworthy that the Applicant is not seeking any additional signs or sign area.

In light of the existing total sign area, the sign area of wall signs, the number of free-standing signs, and the set-back and height of the free-standing signs, the Applicant requires relief or waivers from the Dedham Sign Code in order to continue with and implement the signs as set forth in the Sign Package. Specifically, the Applicant requests such relief or waivers from the Town of Dedham Sign Code as required for signs at 95 Eastern Avenue and 600 Providence Highway to be in accordance with a Sign Package that includes a total sign area of 1,433 square feet, inclusive of wall signs with a total area of 1,174 square feet (including awning signs with a total area of 252 square feet and window signs), three free-standing signs with a total area of 249 square feet (one at 113 square feet, one at 130 square feet, and one at 6 square feet, two free-standing signs with a height of 23 feet, and free-standing signs with a front yard setback of 15 feet and 1 foot.

The Applicant respectfully requests that the ZBA grant waivers from the Dedham Sign Code as required for implementing the proposed Sign Program. 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 satisfies 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.

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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 waivers. In addition, the sign area, number of signs, height and setback of free-standing signs, and other nonconformities with the Dedham Sign Code have existed at the Subject Property for many years. They have all been the subject of previously granted permits, and, in some cases, were previously granted waivers. The Applicant further notes that the Dedham Sign Code does not appropriately or sufficiently address the needs of the unique features of the Subject Property and buildings, including the size and shape of the same and the number of streets the same abuts. Accordingly, literal compliance with the Dedham Sign Code provision applicable to commercial properties is not practicable or feasible.

No one appeared in opposition to the requested waivers and/or relief from the Dedham Sign Code. Associate Member Jessica Porter, 4 Willow Street, speaking as an abutter and having recused herself from any consideration of the petition, did have some questions on the signs listed in the Sign Package, as well as a concern with the timing of the shut off the sign lights (illumination) for the various businesses. In order to provide the Applicant with an opportunity to address these questions and concerns, 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®. Associate Member Jessica L. Porter recused herself from consideration of the petition for a Special Permit because she is an abutter to the property in question. Chairman McGrail informed the Applicant that a unanimous vote of approval (4-0) would be required, and gave the Applicant the opportunity to continue the hearing. The Applicant chose to continue with this hearing.

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The Applicant was again provided with the opportunity to make a full presentation. It was noted that the Applicant had met with Ms. Porter to discuss and address her questions relative to the signs. To that end, the Applicant submitted suggested motions for approval and granting of sign relief based upon separate provisions for free-standing, wall, and window signs, and that the area of wall signs be dedicated to the various sides of the building. Ms. Porter was present at the hearing and agreed that this did adequately address her questions.

Upon motion duly made by E. Patrick Maguire, MLA, RLA, CLARB, LEED AP® and seconded by J. Gregory Jacobsen, the ZBA voted unanimously (4-0) to grant and approve such relief or waivers from the provision of Town of Dedham Sign Code for signs and sign program at 95 Eastern Avenue and 600 Providence Highway to be as follows:

1. Three (3) free-standing signs with a maximum total sign area of 249 square feet (one at 113 square feet, one at 130 square feet, and one at 6 square feet), two of said free-standing signs to have heights of 23 feet, and said free-standing signs to have front yard setbacks of 15 feet and 1 foot
  
2. Wall signs (exclusive of window signs but inclusive of awning signs) to have a total sign area of 986 square feet as distributed on said buildings as follows: (a) western side of the building (i.e., facing Providence Highway): maximum wall sign area of 159 square feet; (b) southern side of building (i.e., facing BJ's): maximum wall sign area of 541 square feet; and (c) eastern side of building (i.e., facing Eastern Avenue and/or Lechmere Road right of way): maximum wall sign area of 286 square feet
  
3. Window signs shall be allowed in addition to the above, provided that each tenant shall be limited to a maximum area of not more than 25% of that tenant's windows.w


The above relief and waivers is granted and approved on the condition that the lights/illumination of the signs for each individual business shall be turned off when the particular business is closed for business.

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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: December 13, 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®

Attest by the Administrative Assistant

  
Susan N. Webster