

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®
Jason L. Mammone, P.E.



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ZONING BOARD OF APPEALS

MINUTES

Wednesday, December 13, 2017, 7:00 p.m., Lower Conference Room

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

Staff: 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. In the absence of Member Jason L. Mammone, P.E., the Chairman appointed Associate Member Jessica L. Porter to sit in his stead.

Applicant and Owner: Annette Christ Thomas
Property Address: 99 Quincy Avenue, Dedham, MA
Case #: VAR-11-15-2285
Zoning District and Map/Lot: General Residence, Map 128, Lot 29
Application Date: November 15, 2017
Present and Voting: James F. McGrail, Esq., J. Gregory Jacobsen, Scott M. Steeves, E. Patrick Maguire, MLA, RLA, CLARB, LEED AP®, Jessica L. Porter
Representative: Anne Christ Thomas
Legal Notice: To be allowed a variance for a front yard setback of 11.5 feet instead of the required 20 feet to construct a portico over the front door of a single family dwelling
Section of Zoning Bylaw: *Town of Dedham Zoning Bylaw Section 4.1, Table of Dimensional Requirements*

Ms. Thomas is seeking a variance for a front yard setback of 11.5 feet instead of the required 20 feet so she can construct a portico over her front door as a shield against the weather. It will be attached to the mudroom. She presented a petition in support signed by eight neighbors:

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Cheryl Peterson	105 Quincy Avenue	Donald DiMartino	94 Quincy Avenue
Cheryl Molloy	90 Quincy Avenue	James F. Molloy, Jr.	90 Quincy Avenue
Joan M. Abbott	85 Quincy Avenue	Lori Sulinski	87 Quincy Avenue
Avet Azizian	98 Quincy Avenue	Phillip Gonzalez	36 Blossom Street

No one in the audience spoke in favor or in opposition to the proposed portico.

Mr. Jacobsen moved to approve a variance for a front yard setback of 11.5 feet instead of the required 20 feet for construction of a portico over the front door. Mr. Maguire seconded the motion. The vote to approve was unanimous at 5-0.

Applicant:	Cellco Partnership d/b/a Verizon Wireless
Property Address:	387 Washington Street, Dedham, MA 02026
Case #:	VAR-10-17-2274
Property Owner:	New England Tel & Tel Co (Verizon New England), c/o Duff & Phelps, P.O. Box 2479, Addison, TX 75001
Zoning District and Map/Lot	Central Business, Map 108, Lot 65
Application Date:	October 13, 2017
Present and Voting:	James F. McGrail, Esq., J. Gregory Jacobsen, Scott M. Steeves, Jessica L. Porter
Representative:	Tyler Haynes, McLane Middleton, 900 Elm Street, P.O. Box 326, Manchester, NH 03105-0326
Legal Notice:	To be allowed a Special Permit and variance as necessary to install wireless communication equipment
Section of Zoning Bylaw:	<i>Town of Dedham Zoning Bylaw Section 8.3.4</i>

Mr. Maguire recused himself from this hearing because he is an abutter. Mr. McGrail informed the Applicant that there would only be four voting members for the hearing, and he would need a unanimous 4-0 vote for approval. The Applicant was given the option of continuing the hearing until the next month; he chose to continue.

This hearing is a continuation from November 15, 2017. Mr. Haynes presented pictures of the site from various locations as requested by the Board. Mary Jane Parnell, 20 Church Street, has been talking with him, and said she is okay with the proposal, noting that the aesthetics will be reviewed by the Planning Board at the time of site plan review. She said she wants to make sure that nothing is added to the rendering other than what is taken down. She has no problem with the Board approving the petition with that condition. She appreciated the Board listening to her.

Mr. Steeves moved to allow a Special Permit and variance as necessary to install wireless communication equipment with the condition that the equipment will look as displayed in the pictures. Mr. Jacobsen seconded the motion. The vote to approve was unanimous at 5-0.

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Applicant: Dedham Marketplace, LLC
Property Address: 95 Eastern Avenue and 600 Providence Highway, Dedham, MA
Case #: VAR-10-17-2276
Property Owner: Dedham Marketplace, LLC, c/o Acton Management, Inc., 69 Great Road, P.O. Box 2350, Acton, MA 01720
Zoning District and Map/Lot: Highway Business, Map 123, Lots 16 and 22
Application Date: October 13, 2017
Present and Voting: James F. McGrail, Esq., J. Gregory Jacobsen, Scott M. Steeves, E. Patrick Maguire, MLA, RLA, CLARB, LEED AP®, Jessica L. Porter
Representative: Peter A. Zahka II, Esq., 12 School Street, Dedham, MA 02026
Legal Notice: 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 Zoning Bylaw: *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*

This is a continuation from November 15, 2017. Mr. Maguire rejoined the Board. Ms. Porter recused herself from this hearing because she is an abutter. Mr. McGrail informed the Applicant that there would only be four voting members for the hearing, and he would need a unanimous 4-0 vote for approval. The Applicant was given the option of continuing the hearing until the next month; he chose to continue.

Mr. Zahka passed out a motion for the Board to review. The applicant met with Ms. Porter at the site and went over the signs. The primary issue was to have in a single decision the existing sign program that exists today. Ms. Porter made a couple of good suggestions:

1. Total wall area. Ms. Porter felt it was best to do it by building side, and the applicant agreed. The original application has the existing free-standing signs. The wall signs will be divided by area between the various sides of the building.
2. Window signs are allowed, but everyone will be limited to 25%, which is what the Zoning Bylaw allows. Some tenants are well above that now, and the applicant will have to ensure that each one is compliant.

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Mr. McGrail asked about the light issue with Papa Gino's. Mr. Zahka said that, the last he understood, it appeared that there may have been a single switch for them, but deferred to Ms. Porter. Ms. Porter said that there is one switch and timer for the lights. This leaves all the building lights on as long as the parking lights are on. The applicant will be talking with an electrician about separating those so she can leave the parking lights on but turn off the building signs. Mr. Zahka said he has no problem with building signs going off when the business is closed. This would be a condition of the approval. Mr. Maguire said that window signs should be allowed in addition...provided that each tenant is limited to the maximum of not more than 25%. He just wanted to clarify that. Mr. Zahka agreed.

Mr. Maguire moved that Dedham Marketplace, LLC, 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 as follows:

1. Three 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.
2. Two free-standing signs with a height of 23 feet and said free-standing signs to have front yard setbacks of 15 feet and one foot.
3. Wall signs, exclusive of window signs but inclusive of wall signs, to have a total sign area of 986 square feet as distributed on said buildings as follows:
 - a. Western side of the building facing Providence Highway, maximum wall sign area of 159 square feet.
 - b. Southern side of the building facing BJ's, maximum wall sign area of 541 square feet.
4. Three 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.
5. Two free-standing signs with a height of 23 feet and said free-standing signs to have front yard setbacks of 15 feet and one foot.
6. Wall signs, exclusive of window signs but inclusive of wall signs, to have a total sign area of 986 square feet as distributed on said buildings as follows:
 - c. Western side of the building facing Providence Highway, maximum wall sign area of 159 square feet.
 - d. Southern side of the building facing BJ's, maximum wall sign area of 541 square feet.
 - e. Eastern side of the building facing Lechmere Road right of way, maximum wall sign area of 286 square feet.
7. Windows 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 the tenants' windows.
8. Sign lights shall go off when the business is closed.
9. Windows 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 the tenants' windows.
10. Sign lights shall go off when the business is closed.

Mr. Jacobsen seconded the motion. The vote to approve was unanimous at 4-0.

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Applicant: RAR Jefferson at Dedham Station MA, Inc.
Property Address: 1000 Presidents Way, Dedham, MA 02026
Case #: VAR-10-17-2279
Property Owner: RAR Jefferson at Dedham Station MA, Inc., P.O. Box 4900, Scottsdale, AZ 85261
Zoning District and Map/Lot: RDO, Map 163, Lot 2
Application Date: October 13, 2017
Present and Voting: James F. McGrail, Esq., J. Gregory Jacobsen, Scott M. Steeves, E. Patrick Maguire, MLA, RLA, CLARB, LEED AP®, Jessica L. Porter
Representative: Patrick Connolly, Program Manager, Beals Associates, 2 Park Plaza, Suite 200, Boston, MA 02116
Legal Notice: 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 Zoning Bylaw: *M.G.L. Chapter 40B, Sections 20-23, 760 CMR 56.07*

This hearing is continued from November 15, 2017.

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.

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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 street lights 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

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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 that Chief Spillane acknowledged that he was given information, but he is not in favor of the technology. Mr. Connolly said they are willing to work 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.

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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, but took Rustcraft Road to see what the difference would be, and it added on 5-10 minutes. She said that anyone taking Route 95 south will not take Rustcraft Road because it is a longer drive. There are eight residents who take Rustcraft Road; she does not know how they get there. 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.

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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 approve was unanimous at 5-0. Mr. McGrail said that the applicant can re-apply at some point.

Review of Minutes: Mr. Jacobsen moved to approve the minutes of November 15, 2017, seconded by Mr. Steeves. The vote to approve was unanimous at 5-0.

Mr. Steeves moved to adjourn, seconded by Mr. Jacobsen. The vote to approve was unanimous at 5-0. The meeting ended at 8:00 p.m.

Respectfully submitted,



Susan Webster
Administrative Assistant
Zoning Board of Appeals