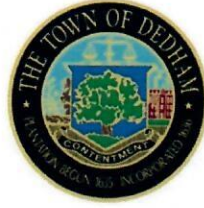


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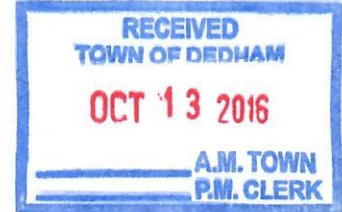
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**TOWN OF DEDHAM
ZONING BOARD OF APPEALS
DECISION**



Applicant: Daniel Brennan for Dedham 865-875 Realty Ventures Nominee Trusts

Property Address: 875 Providence Highway, Dedham, MA

Case #: VAR-08-16-2129

Property Owner: Dedham 865 Realty Ventures Nominee Trust and 875 Realty Ventures Nominee Trust, c/o Charles River Realty Group, 1461 VFW Parkway, #1, West Roxbury, MA 02132

Zoning District and Map/Lot: Research, Development, and Office, Map 149, Lot 34

Application Date: August 26, 2016

Present and Voting: James F. McGrail, Esq., J. Gregory Jacobsen, Scott M. Steeves, Jason L. Mammone, P.E., Jared F. Nokes, J.D.

Representative: Daniel Brennan, 50 Holt Road, Andover, MA 01810

Legal Notice: To be allowed a waiver from the Town of Dedham Sign Code for four free-standing signs for one pre-menu board, one menu board, one digital order screen, and lettering on a canopy

Section of Sign Code: Town of Dedham Sign Code, Table 2 Sign Dimensions and Location

Date Filed with Town Clerk: OCTOBER 13, 2016

The Zoning Board of Appeals ("ZBA") of the Town of Dedham, Massachusetts held a public hearing on Wednesday, September 21, 2016, 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 Jason L. Mammone, P.E. Member E. Patrick Maguire, LEED AP was unable to attend the meeting, so Chairman McGrail appointed Associate Member Jared F. Nokes, J.D., to sit in his stead.

The hearings were duly advertised in accordance with the requirements of MGL Chapter 40A, Section 11. Legal ads were placed for two consecutive weeks in *The Dedham Times*. In addition, abutters within 300 feet of the property in question received notification of the hearings, and notification regarding each 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 7:45 p.m., the Chairman called for the hearing on the appeal of Dedham 865 Realty Ventures Nominee Trust and 875 Realty Ventures Nominee Trust, c/o Charles River Realty Group, 1461 VFW Highway, #1, West Roxbury, MA 02132, to be allowed a waiver from the Town of Dedham Sign Code as noted in the Town of Dedham Charter for four free-standing signs for one pre-menu board, one menu board, one digital order screen, and lettering on a canopy. The property is located at 875 Providence Highway, Dedham, MA, and is located in the Research, Development, and Office zoning district. *Town of Dedham Sign Code, Table 2 Sign Dimensions and Location*

The Applicant was represented by Daniel Brennan, 50 Holt Road, Andover, MA 01810. The minutes from the hearing are the primary source of evidence and are incorporated herein by reference. Also speaking on behalf of the Applicant was Peter A. Zahka II, Esq., 12 School Street, Dedham, MA 02026, who permitted the site before the Town of Dedham Planning Board.

The subject property is known and numbered as 875 Providence Highway, Dedham, MA, and is shown on Dedham Assessors' Map 149, Lot 34. The certified plot plan indicates that the Subject Property contains of 29,703 square feet of land and has 226.21 feet of frontage on Providence Highway and 124.58 feet of frontage on Wilson Avenue. According to the Dedham Zoning Map, the Subject Property is located in the Research, Development, and Office zoning district. Currently, the property is vacant. According to the records maintained by the Dedham Board of Assessors, construction is ongoing for a commercial building.

This is a new building with a drive-thru. The Applicant needs approval for four free-standing signs as noted in their petition. The landlord has a pylon sign out front with all the tenants'

names on it. They have gone to the Design Review Advisory Board and received their recommendation. Mr. Brennan passed out renderings of the signs and pointed out each location. All the signs will be in the drive-thru line. There is no issue with square footage of the signs, as they have coordinated with the other tenants and the landlord. Mr. Mammone asked how one would leave the Starbucks site. Mr. Brennan showed the exit but was not sure about this. Mr. Zahka, who permitted the site, showed the main entrance in front between the two buildings. There is a drive-thru lane with an escape lane going around Starbucks and onto Providence Highway to turn right. It is, for the most part, fully closed off except for some access that they provided with coordination from the DPW and Engineering Departments. Cars visiting the site go in and out on Providence Highway only. There is no access onto Wilson Avenue from the site. It is to be noted that there were times when multiple people spoke at the same time, limiting the ability to hear properly.

Frank Beers, 54 Wilson Avenue, was concerned about the audio from the drive-thru. He asked what the hours of operation were, how loud the audio would be, and whether it would infringe on the neighborhood. Mr. Brennan said the hours are 5 a.m. to 11 p.m., although it will probably be 10 p.m. He is unsure about the decibel levels. The signage will be no higher than 5', and the digital order screen will be 4.' The speakers are probably lower than that. Mr. McGrail said an 8' fence was a condition and should address Mr. Beers' concerns. Mr. Beers understood that the parking lights would be off at 10 p.m. Mr. McGrail is not sure when the lights will go off; this is a Planning Board issue. Mr. Nokes asked if the ZBA has jurisdiction on sound, and they do. An acoustical consultant can measure decibel levels. The applicant plans to open in early December, and was given the option of continuing the hearing. Mr. McGrail said he wants to be able to answer Mr. Beers' questions about decibel levels. Mr. Brennan has some data on this, and was asked to bring it in. Mr. Beers said he did not care if they have the speakers, but just wants to be sure the noise is acceptable. Mr. Zahka suggested a condition in the decision that Starbucks will maintain voice activation to minimize the impact on the neighborhood.

Alfonso DeBenedictis, 50 Orchard Street, asked about preventing vehicles from going down his street and through the Pauline Books and Media. The traffic backs up tremendously at rush hour. He said the owner said he would look into a way to stop traffic from doing that.

Mr. McGrail said the Board encouraged the owner to do that, but there is no guarantee that the Pauline Sisters would agree. Mr. Zahka said they have a curb opening on the Sisters' site onto Providence Highway and a side street. People go through the residential neighborhood onto the Sisters' site, cut through their parking lot, and go onto Providence Highway in an effort to avoid Washington and Elm Streets. He will discuss this with the owner. Mr. McGrail questioned how to address the Pauline Sisters about this. The owner was going to speak to them to see if he could convince them to close that access. Mr. DeBenedictis said that they are agreeable as long as the Town allows them to park on Wilson Avenue. Mr. Cimeno said they have not received complaints about the cut through traffic per se because it is not a Building Department issue. The old site plan allowed access to Wilson Avenue, and has not, to his knowledge, been modified. He understood the concerns, but did not know how it could be corrected legally unless the Pauline Sisters or the town restricted that curb cut access on Orchard Street. Mr. Beers said there had been cement curb stones and one way access; these have disappeared and the lot is now a cut through. Anita Andreassi, 37 Orchard Street, said that access is blocked by a fence, and this has cut down on the cut through traffic. She was fine with the signage.

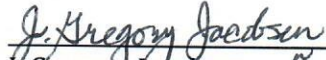
Mr. McGrail brought the subject back to signage, which is what the Board will vote on. The other issues include the fence, which was conditioned in the original ZBA decision, and which is the obligation of the owner. The current fence is a construction fence, but this must be replaced with an 8' fence. As far as the Pauline property is concerned, it sounded like there has been discussion, but the Sisters would have to go to the Planning Board for site plan review in exchange for those spaces on Wilson Avenue. Mr. Zahka will update the neighbors. The ZBA's concern is the drive thru speakers.

Upon motion being duly made by Scott M. Steeves and seconded by J. Gregory Jacobsen, the ZBA voted 5-0 to grant a waiver from the Town of Dedham Sign Code allow a waiver from the Town of Dedham Sign Code for four free-standing signs for one pre-menu board, one menu board, one digital order screen, and lettering on a canopy. A condition of the approval is that Starbucks must maintain any voice activation at decibel levels that minimize any impact on the surrounding neighborhood.

Dated: September 21, 2016

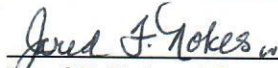
Attest by the Zoning Board of Appeals


James F. McGrail, Esq.^w



J. Gregory Jacobsen^w


Scott M. Steeves^w


Jason L. Mammone, P.E.^w


Jared F. Nokes, J.D.^w

Attest by the Administrative Assistant


Susan N. Webster

Materials Presented:

- ZBA application
- Authorization letter from Justin Ferris, Charles River Realty Group, Authorized Representative for Dedham 865 Realty Ventures Nominee Trust
- Design Review Advisory Board recommendation letter dated September 8, 2016
- Layout Plan prepared by DeVellis Zrein, Inc., P.O. Box 307, Foxborough MA 02035
- Renderings and specifications for proposed signage prepared by Hilton Displays, 125 Hillside Drive, Greenville, Sign Code 29607