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TOWN OF DEDHAM
COMMONWEALTH OF MASSACHUSETTS
ZONING BOARD OF APPEALS

DECISION



APPLICANT: Stuart Henry
PROJECT ADDRESS: 380 Washington Street, Dedham, MA
CASE # VAR-01-16-2060
PROPERTY OWNER/ADDRESS: Makarios Series, LLC, Washington Street Series,
262 Main Street, Norfolk, MA 02056
MAP/LOT AND ZONING DISTRICT: 108/67, Central Business
DATE OF APPLICATION: January 19, 2016
MEMBERS PRESENT AND VOTING: James F. McGrail, Esq., J. Gregory Jacobsen, Scott M. Steeves, Jason L. Mammone, P.E., Jessica L. Porter
PETITION: To be allowed such Special Permits as necessary for a full service restaurant (i.e., a use requiring a common victualler license) with seating for 49 patrons and a change of use.
SECTION OF ZONING BYLAW: Sections 3.1, 3.3, 9.2, 9.3, and Table 1
REPRESENTATIVE: Peter A. Zahka II, Esq., 12 School Street, Dedham, MA
Michael Tallon
DATE FILED WITH TOWN CLERK: MARCH 2, 2016

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The Zoning Board of Appeals ("ZBA") of the Town of Dedham, Massachusetts, held public hearings on February 17, 2016, 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. In the absence of Member E. Patrick Maguire, LEED AP, the Chairman appointed Associate Member Jessica L. Porter to sit in his place. The hearings were duly advertised for this meeting of the ZBA in accordance with requirements of MGL Chapter 40A, Section 11.

At 7:05 pm., the Chairman called for the hearing on the petition of Stuart Henry (hereinafter referred to as the "Applicant"). The Applicant seeks to be allowed such special permits as necessary for a full service restaurant (i.e., a use requiring a common victualler license) with seating for 49 patrons and a change of use. The property is located at 380 Washington Street, Dedham, MA, and is in the Central Business Zoning District. *Town of Dedham Zoning By-Law Sections 3.1, 3.3, 9.2, 9.3 and Table 1.*

Applicant was represented by Peter A. Zahka, II, Esq., 12 School Street, Dedham, MA. Also present on behalf of Applicant was Michael Tallon. Attorney Zahka previously submitted a plot plan of the Subject Property and photographs of the existing building. The transcript from the hearing is the primary source of evidence and is incorporated herein by reference. At the hearing Applicant was afforded an opportunity to make a full presentation.

At the outset of the meeting, it was explained that Michael Tallon and Applicant Stuart Henry were partners in this Project. Michael Tallon has taken over the Project and will be proceeding with all permitting of relating to the same. It was noted that Mr. Tallon has extensive experience in the restaurant business¹.

The Subject Property², shown on Dedham Assessors Map 108, Lot 67, contains approximately 5,697 square feet of land. The existing building at the Subject Property occupies almost the entire lot. The building houses a pizza shop, a bagel shop and a (former) convenience store. Applicant proposes to open and operate a restaurant in the space previously occupied by the convenience store. This space has a floor area of approximately 1,500 square feet and has a basement. The Subject Property is located in the Central Business (CB) Zoning District.

¹ While Mr. Henry is the named Applicant, the special permit granted under this decision is not personal to him and may be utilized by Mr. Tallon.

² The Dedham Board of Assessors' records reflect a property address of 376 Washington Street for the Subject Property. The location of the proposed restaurant (former location of District Convenience) has a street address of 380 Washington Street.

Applicant proposes a full service restaurant at the Subject Property with seating for 49 patrons. The proposed restaurant will be a "gastropub," which is a restaurant serving high quality food and beverages in a pub atmosphere. Applicant envisions the restaurant as a neighborhood gathering spot. The restaurant will have an extensive menu ranging from full steak, chicken, and fish dishes to more traditional pub plates. It is anticipated that there will be tap beer selection of 20 to 24 varieties, as well as specialty drinks and cocktails. The Project involves major interior renovations. Applicant indicates that the design concept will be centered on a warm, intimate, communal style of seating with banquettes and an expansive bar. The exterior of the building will be painted with new doors and a new (externally illuminated) sign.

Inasmuch as Applicant will have facilities for on-premises consumption of food and beverage (i.e., tables and chairs), a common victualler license will be required. In Dedham, the Board of Selectmen is the licensing board for the issuance of common victualler licenses. Use Category E.8. of Table 1 of the Dedham Zoning By-Laws ("Use Regulation Table") provides that a "use requiring a common victualler license" is allowed in the CB Zoning District upon issuance of a special permit by the ZBA. In acting upon requests for special permits, the ZBA is guided by Section 9.3. of the Dedham Zoning By-Law which provides that:

Special permits shall be granted . . . only upon [the]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 should 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 characteristics and social structure;
5. Impacts on the natural environment; and
6. Potential fiscal impact, including impact on town services, tax base, and employment

Applicant submits that it satisfies the above stated requirements and criteria for the issuance of the requested special permit. Applicant avers that the adverse effects of the proposed use will not outweigh its beneficial impacts to the Town or neighborhood, considering the above requirements and criteria. The Project is consistent with neighborhood characteristics since the Subject Property is located in a heavily developed commercial area on Washington Street in Dedham Square in the CB Zoning District. The Project will allow for the use of prime commercial space in Dedham Square that has been vacant for several years. Since the restaurant will be in an existing building, Applicant submits that the Project has little or no impact on the natural environment and there are adequate provisions for utilities and public services.

Applicant also claims that the Project will serve social, economic, and community needs. The Project is a great opportunity to re-tenant and re-use the space, and will bring a good business to the Dedham Square area. It is noteworthy that, through special legislation, the Town has recently acquired three (3) full on-premises liquor licenses for Dedham Square. Inasmuch as the Project is commercial in nature, the same should have a positive fiscal impact upon the Town. Applicant indicates that there is no on-site parking and that parking for the restaurant will be in the municipal parking lot.

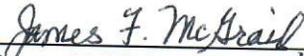
Amy Haelsen, Executive Director of Dedham Square Circle, was present at the hearing and offered testimony in support the application. Ms. Haelsen noted that Dedham Square has been undergoing a major revitalization and that the proposed restaurant is consistent with these efforts. She also indicated that this is a great opportunity to utilize a store-front that has long been vacant. John Howard, 9 School Street, Dedham, MA, also appeared in support of the Project. Mr. Howard reiterated that the proposed location has been vacant too long and indicated that the proposed restaurant is something he would like in Dedham Square. In addition, William Gorman, 161 Ledgewood Road, Dedham, MA, spoke in favor of the application and proposed restaurant. No one appeared in opposition to the application.

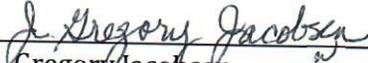
Upon motion being duly made by Jessica L. Porter and seconded by Scott M. Steeves, the ZBA voted unanimously (5-0) to grant and approve such special permits as required for a restaurant (i.e., a use requiring a common victualler license) with 49 seats and a change of use. In granting said special permit, the ZBA finds that, after consideration of the criteria in Section

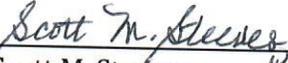
9.3.2 of the Dedham Zoning By-Law, the adverse effects of Applicant's proposal will not outweigh its beneficial impacts on the Town and neighborhood.

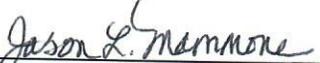
Applicant is advised that, in accordance with MGL Chapter 40A, Section 11, no special permit shall take effect until a copy of this decision bearing the certification of the Dedham Town Clerk that twenty days have elapsed after the decision has been filed with the Dedham Town Clerk and no appeal has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

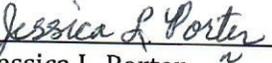
Dated: February 17, 2016


James F. McGrail, Esq.


J. Gregory Jacobsen


Scott M. Steeves


Jason L. Mammone, P.E.


Jessica L. Porter

Attest, by the Administrative Assistant:


Susan N. Webster

Copies of this decision are filed in the Dedham Town Clerk's office. 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/Zoning Department.

Materials Submitted:

- ZBA application
- Plan of Land prepared by E.W. Pilling, Engineer, dated December 2, 1940
- Google Map photograph of site
- Town of Dedham GIS map of site
- Rendering of proposed restaurant