

James F. McGrail, Esq., Chairman  
J. Gregory Jacobsen  
Scott M. Steeves  
E. Patrick Maguire  
Jason L. Mammone, P.E.  
JH Rumpp, Alternate  
Jessica L. Porter, Alternate

**TOWN OF DEDHAM**  
Commonwealth of Massachusetts



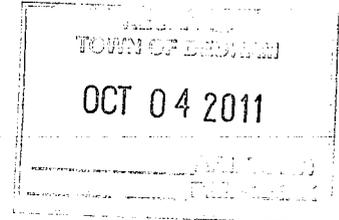
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**ZONING BOARD OF APPEALS**  
26 Bryant Street  
Dedham, Massachusetts 02026

DECISION

Case # VAR-08-11-1418  
Applicant: Buca di Beppo Restaurants, Inc.  
Address: 233 Elm Street, Dedham, MA  
Map/Lot/Zoning District: 162/7, RDO District  
Date of Hearing: September 21, 2011  
Date of Filing: October 4, 2011



The Town of Dedham, Massachusetts Zoning Board of Appeals (hereinafter, "ZBA") held Public Hearings on Wednesday, September 21, 2011, in the Selectmen's Chambers, Town Hall, 26 Bryant Street, Dedham, MA. Present were members of the Zoning Board of Appeals James F. McGrail, Esq., Chairman, J. Gregory Jacobsen, Scott M. Steeves, and Jason L. Mammone, P.E. In the absence of Member E. Patrick Maguire, the Chair appointed Alternate Member Jessica L. Porter to sit in his place. The public hearings for this meeting of the ZBA were duly advertised on September 2, 2011, and September 9, 2011, in the *Dedham Times* in accordance with the requirements of G.L.c. 40A, § 11. The ZBA meeting notice was duly posted in accordance with the provisions of G.L.c. 39, § 23A, as amended.

At 10:15 p.m. on Wednesday, September 21, 2011, the Chairman called for the hearing on the petition of Buca di Beppo Restaurants, Inc. ("Applicant") to be allowed the following waivers from the Town of Dedham Sign Code:

- To be allowed an additional free standing pylon sign on the property
- To be allowed the pylon sign to measure 48.6 feet in height instead of required 12 feet
- To be allowed a total sign area of 60 square feet instead of the required 40 square feet.
- To be allowed the pylon sign to be one (1) foot from rear property line instead of required ten (10) feet

*Town of Dedham Sign Code, Table 2*

The Applicant submitted the following materials to the Zoning Board of Appeals:

- Zoning Board of Appeals application, request for abutters list, and authorization form for publication in *The Dedham Times*
- Site plan prepared by Federal Heath Sign Company, 1128 Beville Road, Suite E, Daytona, Florida
- Renderings of the proposed pylon sign, prepared by Federal Heath Sign Company, 1128 Beville Road, Suite E, Daytona, Florida
- Photographs and renderings of existing and proposed conditions prepared by Federal Heath Sign Company, 1128 Beville Road, Suite E, Daytona, Florida
- Statement from Mr. Hampe with the history of the property and the proposal for the sign.

The two-page transcript from the hearing is the primary source of evidence and is incorporated herein by reference.

The Zoning Board of Appeals is authorized and empowered to grant relief or waivers from the provisions of the Dedham Sign Code pursuant to Section 11.c. of the Dedham Sign Code. This provision sets forth both procedural and substantive requirements for the grant of such waivers or relief. The Applicant indicates that it has satisfied these requirements.

Buca di Beppo took over the former Vinny Testa's Restaurant in 2009. In 2008, the Commonwealth of Massachusetts erected a sound barrier fence along Route 128. In doing so, they eliminated the ability of cars to be able to see the rear of the restaurant. There had been a very large Vinny Testa's sign that was visible from the highway. The sound barrier has eliminated the signage for the back of the property. They request waivers to erect an additional pylon sign on the site to eliminate the lack of visibility. The Fairfield Inn presently has a 60 foot pylon sign, but it cannot hold more signage. The requested sign would be erected to the rear of the property. It would measure 48.6 feet in height and have a total sign area of 60 square feet. The base footing would be approximately one foot from the rear property line. Mr. Hampe argued that there is nothing in the Town of Dedham Sign Code regarding setbacks from the rear property line, but asked for that relief nonetheless. Total signage for the lot is within the allowable square footage.

It should be noted that the owner of the property, Bijal Hotel Limited Partnership c/o Jiten Hotel Management, Inc., has an outstanding balance of over \$300,000 for taxes and sewer fees. William Ralph, Assistant Town Treasurer, has worked with them and entered into agreement with them regarding the outstanding balance. He has issued an e-mail to the Board recommending that this petition be heard.

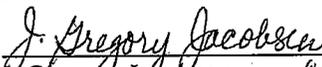
The applicant had gone to the Design Review Advisory Board on two occasions with their proposed signage. After the first meeting, the Board had suggested an attempt to lower the sign and to move it closer to the fence. Site testing with a boom truck was done, and photographs were submitted to them. It was determined that a large amount of tall trees and shrubs blocked the vision of the sign from Route One, although visibility was improved on Route 128. At a second visit to the Design Review Advisory Board, the Board, although sympathetic to Buca di Beppo's petitions, did not recommend installation of the sign due to concern of setting a precedent. The Board suggested that the applicant look for other options. Mr. McGrail noted that the Design Review Advisory Board is an advisory board, and the Zoning Board of Appeals is not compelled to follow their recommendations, although they normally do. Putting up a blue directional sign on the highway is cost prohibitive in that erecting it would cost \$25,000.

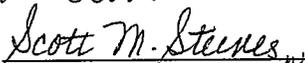
Mr. Jacobsen made a motion to approve the waivers from the Town of Dedham Sign Code for the relief requested in the petition and approve the sign as shown on the plans submitted and Mr. Mammone seconded the motion. The vote of the Board was unanimous (5-0).

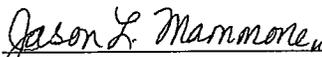
On a motion made by J. Gregory Jacobsen and seconded by Jason L. Mammone, the Zoning Board of Appeals voted unanimously (5-0) to grant the requested waivers and relief from the provision of the Dedham Sign Code to allow an additional free-standing pylon on the property sign in accordance with the sign plans submitted with the petition said sign measuring 48.6 feet in height instead of the required twelve (12) feet, to allow a total sign area of 60 square feet instead of the required 40 square feet, and to allow the sign to be one foot from the rear property line instead of the required three (3) feet, with the condition that the property owners pay the remaining balance of the outstanding taxes and sewer fees by December 30, 2011. If that does not happen, the sign would need to be covered until the taxes are paid. In granting the relief and waivers, the ZBA finds that (1) the Applicant has satisfied the procedural requirements set forth in the Dedham Sign Code that literal compliance with the provisions of the Sign Code is not practical or is unfeasible, and 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.

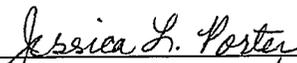
Date: October 4, 2011

  
James F. McGrail, Esq., Chairman

  
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