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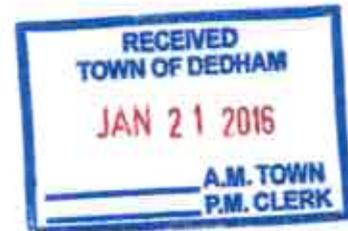
## TOWN OF DEDHAM ZONING BOARD OF APPEALS

### MINUTES

Wednesday, November 4, 2015, 7:00 p.m.  
Lower Conference Room

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**Present:** James F. McGrail, Esq., Chairman  
J. Gregory Jacobsen, Acting Chairman  
Scott M. Steeves  
E. Patrick Maguire, LEED AP  
Jason L. Mammone, P.E.  
Jessica L. Porter  
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.

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<b>Applicant:</b>	<b>Riverside Community Care</b>
<b>Property Address:</b>	<b>270 Bridge Street, Dedham, MA</b>
<b>Case #:</b>	<b>VAR-09-15-2027</b>
<b>Property Owner/Address:</b>	Marbridge, LLC, 80 Hayden Avenue, Suite 100, Lexington, MA
<b>Map/Lot, Zoning District:</b>	39/45, LMA
<b>Date Of Application:</b>	September 28, 2015
<b>Present And Voting:</b>	James F. McGrail, Esq., J. Gregory Jacobsen, Scott M. Steeves, Jason L. Mammone, P.E., Jessica L. Porter
<b>Representative:</b>	Vanessa Schwede, FastSigns of Needham, 11B Second Avenue, Needham, MA 02494 Steve Schwede, owner, FastSigns of Needham, 11B Second Avenue, Needham, MA 02494
<b>Legal Notice:</b>	To be allowed a waiver from the Town of Dedham Sign Code as noted in the Town of Dedham Charter for a sign that will be 33 feet above grade instead of the allowed 25 feet, and for internal illumination of said sign

**Section Of Zoning Bylaw:**

*Town of Dedham Charter Section 237.19E Computation of Sign Area and Height, and Town of Dedham Charter Section 237.18E Internal Illumination*

In the absence of Member E. Patrick Maguire, LEED AP, the Chair appointed Associate Member Jessica L. Porter to sit in his stead.

Ms. Schwede returned to discuss the height and illumination of the sign. As noted previously, the Design Review Advisory Board issued a letter of recommendation for the sign. Riverside Community Care has various events several times a month (usually weekly) for different groups of people. These are normally after 5:00 p.m., so they are petitioning for illumination. Normal business hours are 8:00 a.m. to 5:00 p.m., Monday through Friday. The street is fairly dark because there are no parking lots in the area, and in the fall and winter months, darkness comes early. The only existing signage shows only the building number at the front entrance. The property owner plans to have a new sign, but without any designation for the tenants in either building. This signage will show only the address numbers and the property name. It is not known if that sign will be lit. The only building designations are four-inch letter next to the front entrance, and these are duranodic brown, which is almost the color of the brick, which makes it difficult to read since the area is not well lit.

With regard to the height of the building sign, this will also help people find the business because it provides better visibility from a distance. On the second level, there is a big flood light fixture, which provides safety for the entire parking area, but would decrease the visibility of the sign if it was put at the garage level. Based on the recommendation of DRAB, the client has opted to go with halo lit lighting in white lettering. This should help the sign stand out against the brick during the day by giving it a more subtle glow effect. It will be less saturated coming from the back side against the building, rather than from the front where it would be a very bright light. This light was placed there for the safety of the tenants. Ms. Schwede noted that there is conservation land in the back of the building, but this is a wooded, dark, unlit area. There is lighting there for safety purposes.

The reason the landlord wants the sign to be on the top floor is that they would like it to be in line with the Little Sprouts sign, which is on the top floor. Mr. McGrail said it would not be in line with that sign; Ms. Schwede said that both signs would be on the top floor and consistent with one another. Mr. McGrail disagreed, saying that Little Sprouts is in a two-floor building, and Riverside Community Care would be in a three-floor building. He said that Little Sprouts came to the Zoning Board of Appeals lighting, not for the height of the sign, and height is a concern. He also said the sign in question would be a lot closer to the residential neighbors; the Little Sprouts sign is set farther back. Mr. McGrail said that when people are driving, they are not necessarily seeing the sign. It seemed to him that if cars were to catch it, it would be best put on the other side. Ms. Schwede said it is street-facing, and explained how people would see it. She said the sign would be more to draw attention and to help motorists find the building.

Ms. Porter asked about placing the sign on the farther bay to the left as one faces the building. Ms. Schwede said the client would completely use any visibility coming from the opposite direction. Ms. Porter asked if the driveway was on the other side of the sign, and it is.

She also asked if there are other tenants in the building, and Ms. Schwede said there are, but the landlord will not give any other tenants signage. Little Sprouts' signage was erected prior to the landlord taking over the property. This is also when Riverside was coming in. The landlord will authorize signage for Riverside because it is a larger tenant, but no one else will be allowed signage. Ms. Porter asked, if the landlord decided to do signage for another tenant, whether that tenant would need to come before the Zoning Board of Appeals. She said that an issue that Mr. Maguire brought up with the Little Sprouts sign was that there was no comprehensive sign package for the building. Ms. Schwede reiterated that the landlord is not going to allow any more signage.

Mr. McGrail said that for six days of the weeks, the sign would not need to be lit. It would only be necessary once a week. He said he is concerned because there are residential properties across the street. He wondered if the Applicant would need to be before the ZBA if the sign was put on the second floor. Ms. Schwede said it would still be over 25 feet, although she is not sure by how much. The 25-foot mark would hit somewhere on the windows of the first floor, which is actually a garage. She will make a notation on the rendering and send it to the Board so they would know where it is exactly 25 feet. The tree line and the existing lighting fixture may obstruct the sign.

Ms. Porter asked for verification of the size of the sign. It is a 45.7 square foot sign. Little Sprouts needed a waiver for a 40 square foot sign because the Sign Code has a limit of signs in a residential district being 20 square feet. Ms. Schwede said the building is zoned in the Limited Manufacturing A district, and is not residential. The Little Sprouts property is in the General Residence zoning district. Building Commissioner Kenneth Cimeno, who was present at the meeting, clarified this for the Board. Ms. Porter discussed putting the lights on a timer, and was curious as to what was done with operator error. Ms. Schwede said there are different types of timer settings, and these would be preset so it did not need to be changed every night. Ms. Porter said she would like the timer set at 5:30 p.m. on days when there is no event. She asked how that can be done if there is no set time every day of the week. Ms. Schwede said she would check to see if it could be set for specific days for events, and at regular times the rest of the days.

Mr. Steeves was concerned about putting the signs between the windows, and whether someone could come to the Board later, or not have to come to the Board, to put a sign there. There would be no control over that. Ms. Schwede said she was sure that the landlord would sign a statement saying that these would be the only signs on the buildings. Mr. McGrail noted that the landlord could sell the building, and the statement would be revoked.

Mr. McGrail said that the Applicant should try to make the sign have a height of 25 feet. If it cannot be fit within that height, he is concerned that it does not follow the Town of Dedham Sign Code, and he is concerned that someone could fill that spot in the middle, and they may do it without having to come to the Zoning Board of Appeals. He is also very concerned about lighting the sign, especially in light of the fact that more often than not, the business is not open past 5:00 p.m. The neighbors are directly across the street, probably 50-60 feet from the building to their homes. The Little Sprouts sign is way back. Ms. Schwede asked about doing gooseneck lighting facing the letters, so there would be less extra lighting bouncing back at the residences. Mr. McGrail asked if goosenecks could be controlled with a timer, and Ms. Schwede said they could.

Mr. Cimeno discussed the sign being 25 feet above grade, putting it over the second floor windows frames so that it is higher than the sills of the second floor window frames and the lowest point of the roof, and the illumination. These are the three factors that basic requirements for placement of wall signage. External illumination would be allowed without any need for relief, so the gooseneck lighting would be fine.

Mr. McGrail said the petition would be continued to November 18, 2015. The Applicant will provide a rendering of what it would look like if it was in between the two floors. He also suggested that they proceed in a manner that does not require ZBA approval. Ms. Schwede will investigate putting the lights on a timer as well. This hearing ended at 7:30 p.m.

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<b>Applicant:</b>	<b>Ellen S. Praught</b>
<b>Property Address:</b>	<b>152 Meadowbrook Road, Dedham, MA</b>
<b>Case #:</b>	<b>VAR-08-15-2010</b>
<b>Property Owner/Address:</b>	Ellen S. Praught, 1241 Adams Street, #306, Dorchester, MA 02124
<b>Map/Lot, Zoning District:</b>	87/15, Single Residence A
<b>Date of Application:</b>	August 24, 2015
<b>Present and Voting:</b>	J. Gregory Jacobsen, Scott M. Steeves, E. Patrick Maguire, LEED AP, Jason L. Mammone, P.E., Jessica L. Porter
<b>Representative:</b>	Peter A. Zahka II, Esq., 12 School Street, Dedham, MA Ellen S. Praught, owner
<b>Legal Notice:</b>	To be allowed such variances as required for a buildable lot with a lot width of 125 feet instead of the required 150 feet
<b>Section of Zoning Bylaw:</b>	<i>Town of Dedham Zoning Bylaw Section 4.0 Dimensional Requirements, Section 9.2.2 Board of Appeal, Section 10 Definition, and Table 2 Table of Dimensional Requirements</i>

Mr. McGrail recused himself from this hearing due to a professional relationship with the Applicant. Associate Member Jessica L. Porter was appointed to sit in his stead. This is a continuation from September 16, 2015.

Mr. Zahka reviewed the history of the property and the interpretations of both former Building Commissioner Vincent DeVirgilio and current Building Commissioner Kenneth Cimeno as noted in the minutes of September 16, 2015. He supplied a "re-drawing" of the ANR Plan prepared by McKenzie Engineering Group (as well as an email from Scott Henderson, P.E., McKenzie Engineering Group, explaining the re-drawing). This plan confirmed that the property lines for the lots on the ANR Plan could have been drawn to create lots that comply with and satisfy the "lot width" requirement utilizing Building Commissioner Cimeno's method. Mr. Zahka also submitted a letter from former Building Commissioner Vincent DeVirgilio that described the manner and method he utilized for determining "lot width" during his tenure as Building Commissioner. His opinion was that the property satisfied the "lot width" requirement (utilizing his method for determining the same).

Building Commissioner Kenneth Cimeno was present at the continued session of the public hearing, and confirmed and agreed with the Applicant's statements as to the change in the method of determining "lot width." He also agreed and acknowledged that the Subject Property satisfied the "lot width" requirement under the method utilized for determining the same at the time the Subject Property was created in 2002. Commissioner Cimeno further explained his method for determining "lot width" and offered some historical perspective on the change of methods.

Mr. Zahka presented a letter signed by former Building Commissioner DeVirgilio indicating that he was the Building Commissioner in 2002, and stating how he calculated lot width. At that time, with the lots created while he was Building Commissioner, there was not a lot width issue from his perspective. When the larger lot was originally submitted to the Planning Board for Form A, Alex Zaleski, consultant to the Planning Board, reviewed the plan and submitted a letter referring to lot width in relation to Lot 4. No reference was made to Lot 1.

Mr. Cimeno explained his interpretation and how he came to his conclusion. He agreed with Mr. Zahka that former Building Commissioner DeVirgilio did interpret it as the parallel line. He thought the plan was based on that interpretation of the bylaw at the time. He disagreed, because his interpretation of measuring a width requirement, it is measured closest point to closest point. When those are measured on Lot 1, he believes they are parallel lines, as it appears to be a parallelogram. He said that if it is measured closest point to closest point, there is less than 150 feet of frontage. Under that interpretation, he said it fails to meet the lot width requirement. He noted that this is his interpretation based on logic and what the intention of the Zoning Bylaw is in providing for dimensional requirements. He said he does not disagree with the fact that the Building Commissioner has the right to use logic in his evaluation of the requirement, and felt that Mr. DeVirgilio used a logical conclusion to use the parallel method to satisfy his interpretation of the bylaw.

Mr. Maguire agreed with Mr. Cimeno's interpretation, and thanked Mr. Zahka for providing the information requested. He said that, from where he sits, he did not think anybody prepared this previous plan with any but of the best intentions. If it was done correctly, there would be no need for this hearing. He said it can be done, and he does not see what the difference is between what was done and what could legally be done. He said that in a perfect world, someone would go back to the Planning Board with another ANR plan that actually was correct. Mr. Zahka said that if his client owned all the property, going to the Planning Board would be an option.

Several neighbors brought up a current situation with flooding. If in fact the lot is ever developed, it can only be for a single family dwelling. To do that, the Applicant would need to go before the Conservation Commission to prove that the current situation regarding run off leaving the property or coming from offsite property would be managed through a stormwater management system capable of handling it. Therefore, it has no impact on adjacent properties from a stormwater management perspective. If the site is developed, it would only improve the area, not worsen it.

James A. Goodhue, Esq., Grindle Robinson LLP, Wellesley, MA, represented David Moir, owner of another parcel on Meadowbrook Road. He spoke in opposition to the granting of the variance, and gave a legal explanation for his opposition. He said that there is no hardship, which is required by the Board. He said that the correct interpretation is really the only rational interpretation; otherwise, there will be many crazy-shaped lots. He said that the way to address this issues is to return to Town Meeting and tweak the bylaw again. Mr. Zahka clarified Mr. Goodhue's statements by saying that the 150 foot lot width requirement was in place when the lots were done. These lots have the 150 feet. It was not a bylaw change of which his client or anyone else was notified. The lot required 40,000 square foot of land or more; it has this. In 2002, the lot required 150 of frontage; it has this. Interpretation of the bylaw has changed, and until recently, his client had someone looking at the lot. This issue came to light in discussion with the Building Department.

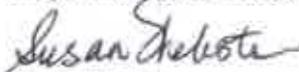
Mr. Zahka said that, in his petition, he noted 125 feet. He is not asking for a lot width of 125 feet so he can subdivide the property. This can be stated in any favorable motion that this is not the intent.

Kellie Jenkins, 65 Deerpath Road, said that she and her neighbors were at the first meeting and were in opposition. She said that the erosion coming down and across the street causes a four-foot lake five months of the year. The road is impassable on several occasions and can be under two feet of water. She said the road is a mess and the street lights do not work. She has called "a million times," and was told they could not be fixed. She believes that the Conservation Commission will stop this, but said that to make an exception on top of everything else going on seeks a "little off" to her. She said it will make a worse mess for the rest of the neighbors and their back yards.

Mr. Steeves made a motion to grant such variances as required for a buildable lot with a lot width of 125 feet instead of the required 150 feet on Lot 1, 252 Meadowbrook Road, with the caveat that Mr. Zahka is not looking for 125 feet but the full lot is being utilized and may not be further subdivided. The motion was seconded by Mr. Maguire. The vote of the Board was as follows: Ms. Porter - yes, Mr. Mammone - yes, Mr. Maguire - yes, Mr. Steeves - yes, Mr. Jacobsen -no. The vote was therefore 4-1 and passed. This hearing ended at 8:00 p.m.

Mr. Steeves made a motion to adjourn, seconded by Mr. Mammone. The vote was unanimous. This meeting ended at 8:01 p.m.

Respectfully submitted,



Susan Webster

Administrative Assistant

Town of Dedham Zoning Board of Appeals