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TOWN OF DEDHAM
COMMONWEALTH OF MASSACHUSETTS

ZONING BOARD OF APPEALS DECISION

APPLICANT:	**National Express Transit Corporation**
PROJECT ADDRESS:	**110-112 Meadow Road (f/k/a 80 McDonald Street, Dedham, MA**
CASE #	**VAR-04-14-1836**
PROPERTY OWNER/ADDRESS:	National Express Transit Corporation, 110 Meadow Road, Dedham, MA
MAP/LOT AND ZONING DISTRICT:	171/97, Limited Manufacturing B
DATE OF APPLICATION:	April 23, 2014
MEMBERS PRESENT AND VOTING:	James F. McGrail, Esq., J. Gregory Jacobsen, Scott M. Steeves, E. Patrick Maguire, LEED AP, Jason L. Mammone, P.E.
PETITION:	To be allowed a Special Permit to continue to place, occupy, and utilize a trailer for business and office purposes for a period of seven (7) years at 110-112 Meadow Road (formerly 80 McDonald Street, Dedham, MA). The current use of the trailer was authorized in Zoning Board of Appeals Case #VAR-03-10-1209 on April 10, 2010.
SECTION OF ZONING BYLAW:	Section 3.2.1. Special Accessory Uses in All Districts, Trailers, and Section 9.3.2 Special Permits, Criteria
REPRESENTATIVE:	Peter A. Zahka II, Esq., 12 School Street, Dedham, MA
DATE FILED WITH TOWN CLERK:	**JULY 25, 2014**

The Zoning Board of Appeals ("ZBA") of the Town of Dedham, Massachusetts held public hearings on May 21, 2014, commencing 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, E. Patrick Maguire, LEED AP, and Jason L. Mammone, P.E. These hearings and meeting of the ZBA were duly advertised in accordance with the requirements of MGL Chapter 40A, Section 11.

At 7:45 p.m. the Chairman called for the hearing on the appeal of National Express Transit Corporation (hereinafter referred to as "Applicant") to be granted a special permit to continue to place, occupy, and utilize a trailer for business and office purposes for a period of seven (7) years. The current use of the trailer was authorized by Zoning Board of Appeals Case #VAR-03-10-1209 on April 21, 2010. The property is located at 110–112 Meadow Road (f/k/a 80 McDonald Street) in a Limited Manufacturing B (LMB) Zoning District. *Dedham Zoning By-Law Sections 3.2.1. & 9.3.2.*

The Applicant was represented by Peter A. Zahka, II, Esq., 12 School Street, Dedham, MA. Also present on behalf of the Applicant Victor Herrera, the Applicant's General Manager. With the application, Attorney Zahka had submitted a 5-page Memorandum together with plot plans of the subject property and photographs of the existing trailer. The transcript from the hearing is the primary source of evidence and is incorporated herein by reference.

Applicant leases space at the real estate known and numbered as 110-112 Meadow Road, Dedham, MA (f/k/a 80 McDonald Street). The Subject Property, owned by LSREF2 Clover Property 13, LLC, is within a site now or formerly known as The Boston Business Park and consists of land and buildings located partially in the Dedham and partially in Hyde Park. There is no direct access to the Subject Property from within the Town of Dedham. Instead, the Subject Property must be accessed via Meadow Street off of Neponset Valley Parkway in Hyde Park. The entire site consists of approximately 72 acres. The Subject Property is shown on Dedham Assessor's Map 171, Lot 97. According to the Dedham Assessor's records the portion of the Subject Property located in Dedham contains approximately 37.4 acres of land. There are several buildings within the site with a total floor area in excess of 700,000 square feet (although there has been some recent building demolition). The Subject Property was once utilized as a warehouse and distribution center for Stop & Shop. According to the Zoning Map of the Town of Dedham, the Subject Property is located in a Limited Manufacturing B (LMB) Zoning District. It is noteworthy that the Subject Property is the only land in the Town of Dedham in the LMB Zoning District.

The Applicant is one of only three vendors for the MBTA's "The Ride" program. "The Ride" is a federally mandated program that provides transportation services to persons with disabilities who are unable to utilize regular public transportation. The Applicant's service area consists of 19 municipalities including the Town of Dedham (the Applicant provides over 1,500 trips annual trips to Dedham residents).

The parking lot for the fleet of vehicles utilized by the Applicant for "The Ride" is located a considerable distance from the Applicant's office. Given this distance, drivers would need to check-in at the office and then be transported to the vehicles. This leads to inefficiencies and delays. Therefore, in 2010 the Applicant placed an office trailer in this parking lot. This trailer was authorized by a special permit granted by the Dedham Zoning Board of Appeals

in Case No. VAR-03-10-1209. Since 2010, the trailer has been utilized as office space for supervisors and has provided a convenient place for driver check in and supervision. Simply stated the trailer has allowed the program to be operated more efficiently. The trailer has been in place since 2010 without any incidents or problems.

The previously granted special permit allowed the trailer "for a period of four (4) years or until the expiration or termination of the Applicant's current lease at the subject property or vendor contract with the MBTA, whichever is less." The Applicant has renewed its lease at the Subject Premises and continues as an MBTA vendor for The Ride. The Applicant desires the continued use of an office trailer adjacent to the vehicle parking area on the Subject Property.

Under Section 3.2.1 ("Trailers") of the Dedham Zoning By-Law, the Zoning Board of Appeals is authorized and empowered to grant special permits for trailers as a "special accessory use." Said Section 3.2.1 ("Trailers") provides in part:

> The Board of Appeals may, upon application and after a duly authorized hearing under the General Laws, grant permits for trailers, whether on wheels or not hereafter placed upon any land within the Town which shall be used or occupied ...for business, or office purposes... for a period not exceeding thirty (30) days in the aggregate, for any one year. The Board of Appeals may also grant permits for longer periods of time by special exception to the terms of this section in harmony with the zoning regulations and statutes, or to do or act anything else in relation thereto.

Inasmuch as there is no simple procedure for renewal or extension of the previously granted special permit, the Applicant is requesting a new special permit for seven (7) years to coincide with the term of its lease and MBTA contract. As indicated in the above language, the ZBA may grant a trailer for this period of time as a "special exception." The Applicant respectfully submits that (as it did in 2010) circumstances exist that warrant the grant of the special permit with such a "special exception."

Section 9.3.2 of the Dedham Zoning By-Law sets forth the criteria and standards to be considered in granting or awarding of special permits:

> 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 the site. . . [T]he determination shall include consideration 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 character and social structure;
5. Impacts on the natural environment; and
6. Potential fiscal impact, including impact on town services, tax base, and employment.

The Applicant submits that the beneficial impacts of the Applicant's proposal outweigh any adverse effects and that the grant of the special permit will be in harmony with the Zoning By-Laws. Currently, 80% to 90% of the site is vacant (and has been for many years). Therefore, the trailer has not and will not interfere with other activities at the site. "The Ride" program operated by the Applicant is beneficial to the residents of Dedham (and other communities served by the Applicant). The trailer allows for a more efficient operation of the program. Given the location of the trailer, it has not and will not be seen from within the Town of Dedham. The seven (7) year period requested by the Applicant coincides with the term of Applicant's lease of the premises and MBTA contract.

Upon motion duly made by Scott M. Steeves and seconded by J. Gregory Jacobsen, the ZBA unanimously voted (5-0) to grant the requested special permit to continue to place, occupy and utilize a trailer for business and office purposes at 110 – 112 Meadow Road, Dedham, MA, until June 30, 2021.

The 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: May 21, 2014

James F. McGrail

James F. McGrail, Esq., Chairman

J. Gregory Jacobsen

J. Gregory Jacobsen

Scott M. Steeves

Scott M. Steeves

E. Patrick Maguire

E. Patrick Maguire, LEED AP

Jason L. Mammone

Jason L. Mammone, P.E.

Attest, by the Administrative Assistant:

Susan N. Webster

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 Department.

Materials Submitted:

- ZBA application
- Memorandum of Applicant in Support of Requested Special Permit, prepared by Peter A. Zahka II, Esq.
- Plan to Accompany Special Permit Application, prepared by Kelly Engineering Group, Inc., 0 Campanelli Drive, Braintree, MA
- Town of Dedham GIS map
- Photograph of existing trailer