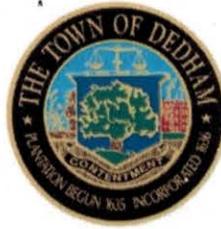


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TOWN OF DEDHAM
COMMONWEALTH OF MASSACHUSETTS

ZONING BOARD OF APPEALS
DECISION



APPLICANT:	Frank Gobbi
PROJECT ADDRESS:	530 Providence Highway, Dedham, MA
CASE #	VAR-06-14-1856
PROPERTY OWNER/ADDRESS:	Frank Gobbi, 530 Providence Highway, Dedham, MA
MAP/LOT AND ZONING DISTRICT:	108/104, Highway Business
DATE OF APPLICATION:	June 16, 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 such Special Permits or variances as may be necessary or proper for construction and maintenance of retaining walls with a height of not more than 14 feet
SECTION OF ZONING BYLAW:	Section 6.5.2, Retaining Walls, 9.2.2, Board of Appeal, Powers, and 9.3, Special Permits
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 July 16, 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 7:05 p.m. the Chairman called for the hearing on the appeal of Frank Gobbi, 530 Providence Highway, Dedham, MA, to be allowed such Special Permits as may be necessary or proper for construction and maintenance of retaining walls with a height of not more than 14 feet. The property is located at 530 Providence Highway in the Highway Business (HB) Zoning District. *Town of Dedham Zoning By-Law Sections 6.5.2, Retaining Walls, 9.2.2, Board of Appeal, Powers, and 9.3, Special Permits*

The Applicant was represented by Peter A. Zahka, II, Esq., 12 School Street, Dedham, MA. Also present was the Applicant, Frank Gobbi. With the application, Attorney Zahka had submitted a three-page Memorandum, a plot plan of the Subject Property, and photographs of the existing building and parking lot. At the commencement of the hearing, Attorney Zahka provided another site plan further depicting the location of the proposed retaining wall. The minutes from the hearing are the primary source of evidence and are incorporated herein by reference.

The Subject Property, known and numbered as 530 Providence Highway and shown on Dedham Assessor's Map 108, Lot 104, is owned by the Applicant, Frank Gobbi. The Subject Property contains approximately 1.4 acres of land, has over 470 feet of frontage on Providence Highway, over 300 feet of frontage on Eastern Avenue and over 340 feet of frontage on Mah Way. The Subject Property is occupied by an existing 2-story commercial (retail) building with a floor area of approximately 43,600 square feet. According the Dedham Zoning map, the Subject Property is located in the Highway Business (HB) Zoning District.

A parking plan for the Subject Property was approved by the Dedham Planning Board on or about March 5, 1997. As depicted on said parking plan, the Subject Property is served by a parking lot with 188 parking spaces. There is a significant grade differential of approximately 12 feet between the parking lot and Mah Way and the lower parking lot on Eastern Avenue. Currently, this grade consists of sloped asphalt.

The Applicant proposes to replace the sloped asphalt with retaining walls. The proposed retaining walls will have a maximum height of 14 feet (measured from the base of the wall). The Applicant views the sloping grade as a potential safety hazard and as unsightly. The slope has also become a nuisance resulting from children using the slope as a launch ramp for their bikes and skate boards. Furthermore, the proposed retaining walls may allow the Applicant to raise the grade of the parking lot on Providence Highway so that the store fronts are "at grade."

Section 6.5.2 ("Retaining Walls") of the Dedham Zoning By-Law provides that "no retaining wall more than four (4) feet in height shall be erected or constructed without first obtaining a Special Permit from the Board of Appeals." 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.

The Applicant respectfully submits that it satisfies the above stated requirements and criteria for the issuance of the requested special permit. Specifically, the beneficial impacts of the Applicant's proposal outweigh any adverse effects and the proposed change is not substantially more detrimental to the neighborhood than the previous use. With the proposed retaining walls, the parking lot will be more aesthetically and the "attractive nuisance" will be eliminated. In addition, if the Applicant eventually raises the grade of the parking lot, the store fronts will be more easily accessible by handicapped and elderly persons. The pro-

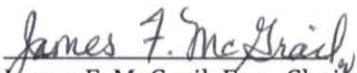
posed use is consistent with these other uses and is not anticipated to generate more traffic or increase the parking demand (compared to an as of right retail user).

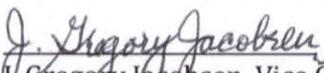
Upon motion being duly made by Scott M. Steeves and seconded by J. Gregory Jacobsen, the ZBA voted unanimously (5-0) to grant a Special Permit for retaining walls up to fourteen (14) feet in height at 530 Providence Highway in the Highway Business (HB) Zoning District. In granting of said special permits, the ZBA finds that, after consideration of the criteria in Section 9.3.2 of the Dedham Zoning By-Law, the adverse effects of the Applicant's proposal will not outweigh its beneficial impacts on the Town and neighborhood.

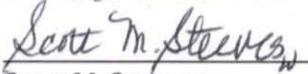
In accordance with MGL Chapter 40A, Section 11, no special permit shall take effect until a copy of this decision bearing the certification of the Dedham Town Clerk that twenty days have elapsed after the decision has been filed with the Dedham Town Clerk and no appeal has been filed or that an appeal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

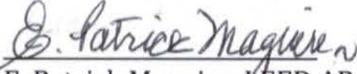
Date: July 16, 2014

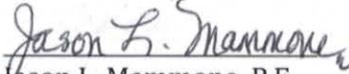
Attest, by the Zoning Board of Appeals:


James F. McGrail, Esq., Chairman

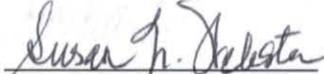

J. Gregory Jacobsen, Vice Chairman


Scott M. Steeves


E. Patrick Maguire, LEED AP


Jason L. Mammone, P.E.

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 Department.

Materials Submitted:

- ZBA Application
- Memorandum of Applicant prepared by Peter A. Zahka II, Esq.
- Photographs of existing conditions
- Parking plan of land prepared by Glossa Engineering, Inc., 1350 Main Street, Walpole, MA
- Specifications for retaining wall
- Proposed grading improvement prepared by Glossa Engineering, Inc.