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TOWN OF DEDHAM
COMMONWEALTH OF MASSACHUSETTS
ZONING BOARD OF APPEALS
DECISION

APPLICANT:	**Rev'd Indoor Cycling, LLC, and R & R Realty Associates, LLC**
PROJECT ADDRESS:	**81 Legacy Boulevard, Dedham, MA**
CASE #	**VAR-04-14-1824**
PROPERTY OWNER/ADDRESS:	R & R Realty Associates, LLC, 32 Tamarack Road, Westwood, MA 02090
MAP/LOT AND ZONING DISTRICT:	149/11, Research, Development, and Office (RDO)
DATE OF APPLICATION:	April 8, 2014
MEMBERS PRESENT AND VOTING:	J. Gregory Jacobsen, Scott M. Steeves, E. Patrick Maguire, LEED AP, Jason L. Mammone, P.E., Jared F. Nokes, J.D.
PETITION:	To be allowed a Special Permit for an indoor cycling studio at 81 Legacy Boulevard, Dedham, MA
SECTION OF ZONING BYLAW:	Chapters 3.1, 9.2.2, 9.3, 10, and Table 1
REPRESENTATIVE:	Peter A. Zahka II, Esq.
DATE FILED WITH TOWN CLERK:	**JUNE 10, 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, Acting Chairman J. Gregory Jacobsen, Scott M. Steeves, E. Patrick Maguire, and Jason L. Mammone. In the absence of (Chairman) James F. McGrail, the Acting Chairman appointed Jared F. Nokes, J.D. to sit in his place and stead. These hearings and meeting of the ZBA were duly advertised in accordance with the requirements of MGL Chapter 40A, Section 11.

At 7:17 p.m., the Acting Chairman called for the hearing on the appeal of Rev'd Indoor Cycling, LLC, and R & R Realty Association, LLC, to be allowed a Special Permit for an in-

door cycling studio. The property is located at 81 Legacy Boulevard (f/k/a 75 Commercial Circle), Dedham, MA, in the Research Development and Office (RDO) Zoning District. *Dedham Zoning By-Law Sections 3.1; 9.2.2; 9.3; 10; and Table 1.*

The Applicant was represented by Peter A. Zahka, II, Esq., 12 School Street, Dedham, MA. Also present on behalf of the Applicant was Meaghan Severson, a principal of Rev'd Indoor Cycling, LLC, and Ron Priore, a principal of R & R Realty Association, LLC. With the application, Attorney Zahka submitted a 2-page Position Statement together with a plot plan of the Subject Property, and photographs of the existing building. The minutes from the hearing are the primary source of evidence and are incorporated herein by reference.

The Subject Property, known and numbered as 81 Legacy Boulevard (and formerly known and numbered as 75 Commercial Circle), is owned by the Applicant, R & R Realty Association, LLC. The Subject Property contains approximately .34 acres of land, has approximately 112 feet of frontage, and is located in the Research Development and Office (RDO) Zoning District. A portion of the building is currently occupied by Sweet Tart, LLC, an establishment selling frozen yogurt, candy, and related products. The Subject Property is served by a parking lot with 26 parking spaces. A parking plan for the Subject Property was approved by the Dedham Planning Board on or about July 18, 2013. In connection therewith, the Planning Board granted various waivers including a reduction in the required number of parking spaces. The parking plan was approved for an 1,880 square foot restaurant with 16 seats (i.e. Sweet Tart) and an exercise facility with 28 participants.

The Applicant, Rev'd Indoor Cycling, LLC, proposes to occupy the remaining space (approximately 2,400 square feet) in the building for purposes of operating an indoor cycling studio. The Applicant will be offering exercise classes commonly referred as "spin classes" in which participants exercise on stationary bicycles. As proposed, the establishment will have a maximum of between 24 to 28 clients/participants at any one time.

Use Category E.5 and footnote 23 of Table 1 of the Dedham Zoning By-Law provide that a "general service establishment" is allowed by special permit on lots in the RDO District having frontage on an existing access directly onto a major highway. The Subject Property has frontage on Legacy Boulevard which provides access directly to Providence Highway. The

definition of "major highway" in Section 10 of the Dedham Zoning by-Law specifically includes Providence Highway. Said Section 10 defines a "general service establishment" as a "nonexempt business or trade school, blueprinting or copying establishment, catering service, clothing rental establishment, dancing or music school, . . . or *like enterprise.*" The Dedham Zoning Board of Appeals (ZBA) has previously found that an exercise facility is such a "like enterprise" and falls within the definition of "general service establishment." (See ZBA Decision No. 03-08.)

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. The adverse effects of the proposed use will not outweigh its beneficial impacts to the Town or neighborhood, considering these requirements and criteria. The Subject Property is appropriately located for the proposed use. The general vicinity of the Subject Property is heavily commercial. The Subject Property is adjacent Providence Highway and Legacy Place. The proposed 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).

Inasmuch as the building is already constructed, there are no issues with the environment or the adequacy of utilities. In addition, the Project will serve social, economic, and community needs, and will have a positive fiscal impact on the Town. Simply stated the proposed use

is an opportunity for the full occupancy of an existing building. Inasmuch as this is a commercial enterprise (no residential component), there will be no impact on the public school system. There will be some (albeit minimal) employment opportunities.

Upon motion being duly made by Scott M. Steeves and seconded by Jason L. Mammone, P.E., the ZBA voted 4-1, with J. Gregory Jacobsen voting nay, to grant a Special Permit for an indoor cycling studio offering spin classes (i.e., a general service establishment) for up to 28 clients/participants at any one time at 81 Legacy Boulevard in the Research, Development, and Office (RDO) 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.

Dated: May 21, 2014

Attest, by the Zoning Board of Appeals:

J. Gregory Jacobsen
J. Gregory Jacobsen, Acting Chair

Scott M. Steeves
Scott M. Steeves

E. Patrick Maguire
E. Patrick Maguire, LEED AP

Jason L. Mammone
Jason L. Mammone, P.E.

Jared F. Nokes
Jared F. Nokes. J.D.

Attest, by the Administrative Assistant:

Susan N. Webster
Susan N. Webster

Copies of this decision are filed in the office of the Dedham Town Clerk. 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
- Position statement prepared by Peter A. Zahka II, Esq., 12 School Street, Dedham, MA
- Certified plot plan prepared by Allen & Major Associates, Inc., 100 Commerce Way, Woburn, MA 01888
- Photograph of existing conditions
- Town of Dedham GIS map