Town of Dedham
COMMONWEALTH OF MASSACHUSETTS

Dedham Town Hall
450 Washington Street
Dedham, MA 02026
Phone 781-751-9242

Economic Development Planner
Jayson Schultz

Office Manager
Kelli Leahy

Wednesday, September 18, 2024, 7:00 p.m.
Dedham Town Hall

Present: Scott Steeves, Chair
Sara Rosenthal, AIA, LEED AP, NCARB, Vice Chair
J. Gregory Jacobsen
Tom Ryan, Esq.
Matthew Gallagher
Norman Vigil, Esq., Associate Member
Theodore Coben, Associate Member

Staff: Jeremy Rosenberger, Planning Director
Jayson Schultz, Economic Development Planner
Kelli Leahy, Office Manager

Chair Steeves called the meeting to order at **7:00 p.m.** on the night of **Wednesday, September 18, 2024**.

Applicant:	WBR, LLC & Pisces3 Qualified Opportunity Fund, LLC
Project Address:	95 Eastern Avenue
Zoning District, Map/Lot:	Highway Business (HB) and Flood Plain Overlay (FPOD) Zoning Districts, Map/Lot 123/16.
Legal Notice:	Hearing pursuant to the remand order of the Land Court in Case no. 23 MISC 000340, WBR, LLC, et al. v. Zoning Board of Appeals, et al., to consider and act on a revised plan and related requests for Variances from building height (49 ft. proposed, 45 ft. max. allowed), number of stories, and Floor Area Ratio

	(21.74 proposed, .35 max. allowed) to construct a four (4) story, 110 room hotel at 95 Eastern Avenue, Dedham MA, Assessors Map/Lot 123-16. The lot is located within the Highway Business (HB) and Flood Plain Overlay (FPOD) zoning districts and has an area of +/- 2.82 acres.
Section of Zoning Bylaw:	Dedham Zoning By-Law Section 4.1, 4.2, 9.2, 9.3, 9.4, 9.5, and Table 2

Attorney Kevin Hampe, Jeff Saletin from the Saletin Development Group, and Brandon Carr from DiPrete Engineering were present on behalf of the application. Also present were Cris Crecelius from the Saletin Development Group, Joe Penney from DiPrete Engineering, and Attorney Kevin O'Flaherty. The subject property, located at 95 Eastern Avenue, is an existing asphalt parking lot connected to the Dedham Marketplace at 600 Providence Highway.

Attorney Hampe provided the Board and the public with the background, history, and overview of the proposed project, including updates to the project made since their last presentation to the Board.

The ZBA previously granted Variances to allow a 68.5 ft., 6 story hotel with a Floor Area Ratio of 21.74 by unanimous vote in August 2021. However, due to supply chain shortages, length of time to complete permitting, financing challenges, and other COVID-19 related delays, the Petitioner was not able to begin construction within one year as required by M.G.L., Chapter 40A, Section 10. As a result, the granted variances lapsed.

In January 2022, the Planning Board approved a Special Permit to construct a hotel as a Major Non-Residential Project, a Special Permit to build in a Flood Plain Overlay District, and approval of the project through Major Site Plan Review. The Planning Board issued a Certificate of Action conditioning the hotel to a reduced height of 55 feet, five stories, and FAR of 20.72 instead of the requested 68.5 feet, six stories, and FAR of 21.74. Peer reviews were conducted throughout the Planning Board approval process for architectural design and traffic, parking, and site plan review.

The Petitioner returned to the ZBA in June 2023 requesting the same relief that was previously approved by unanimous decision. The ZBA denied the Petitioner's two variance requests, and the Petitioner appealed the decision with the Land Court. Pursuant to a remand order from the Land Court, the ZBA is required to consider and act upon revised plans and variance requests.

These revisions include a reduction in the room count from 120 to 110 and a reduction in the building height to 49 feet and four stories. To compensate for the reduction in height, the building footprint will be extended 25 feet to the south, resulting in a reduction of 12 parking spaces; however, with the reduced room count, the parking ratio remains the same and complies with the parking requirements of the Bylaw. The lot line between the

proposed hotel and the existing Dedham Marketplace will be shifted approximately 25 feet to the south to meet the building set back requirements.

Attorney Hampe commented that the proposed hotel would provide many benefits to the Town including aesthetic improvements to the site and surrounding area, generating approximately $600,000 in additional tax revenue, and increased business for local merchants and restaurants.

Mr. Crecelius added that based on a 2021 report created by Town staff, the primary revenue generator on a recurring basis is property taxes. The local options room tax is 4% of every dollar of room revenue and goes directly to the Robin Reyes Capital Improvement Fund. The Town uses these funds for capital improvements that occur on an annual basis. There are also one-time financial benefits such as building permits, sewer hookup fee, etc.

Mr. Saletin commented that he founded the Saletin Real Estate Group in 1984 and the Group specializes in acquisition, development, and management of mixed-use shopping centers, commercial properties, and hotels in New England. He provided an overview of their real estate portfolio, highlighting several keystone properties.

Mr. Saletin added that the Group operates only Hilton and Marriott brand hotels; the Group's hotels have received many awards including the Lighthouse Award from Hilton and the Gold Circle Award from Marriott.

Their hotels are all associated with larger real estate development properties that they own and maintain. In keeping with this concept, the Saletin Group purchased the Dedham Marketplace, which is an 11.25-acre site located at 600 Providence Highway and 95 Eastern Avenue. The marketplace has frontage on Route 1 and Eastern Avenue and excess parking on the Northern end of the site.

Mr. Saletin reviewed the project benefits for the Town, including revenue generated through payment of personal property, meals, and hotel taxes. The hotel is a business generator for the entire Town, particularly for the businesses and restaurants in Dedham Square.

Mr. Carr provided an overview of the flood plain and soil restrictions unique to the site. Approximately 98% of the lot is located within the Flood Plain Overlay District (FPOD) and per the Dedham Bylaw, any portion of a lot within the FPOD cannot be used toward the Floor Area Ratio (FAR) calculation. With nearly the entire lot in the flood plain, only 2% of the lot can be used in this calculation.

The Dedham Bylaw also requires that any residences or hotels within the FPOD be elevated above the flood plain. (This is also required for insurance reasons.) Mr. Carr added that the majority of the Highway Business Zone and developable area is located outside of the flood plain, creating conditions that are unique to this site and restricting its development

Mr. Carr explained that another site restriction is the soil conditions. The site contains 655 Udorthents, which is a soil type generally found in filled wetlands. This loose, granular soil is subject to liquefication during a seismic event.

As a result of the soil conditions and the property's location within the FPOD, the hotel must be built on a pile foundation system with a structural slab. The building will sit on piles driven 90 feet into the bedrock to create a structural slab. This type of construction is significantly more expensive than a typical shallow spread foundation, particularly for a building of this size.

Mr. Carr reviewed the required findings for the granting of a variance. Per MGL Chapter 40A, upon appeal or petition, a permit granting authority may grant a variance as a result of "…circumstances relating to the soil conditions, shape, or topography of such land…in which it is located, a literal enforcement of the provisions of the ordinance or bylaw would involve substantial hardship…and that desirable relief might be granted without substantial detriment to the public good and without nullifying…the intent or purpose of such…bylaw."

Given the unique soil conditions, the need to limit construction costs to make the project economically feasible, and because the FPOD area of the lot cannot be used in the calculation of the FAR, Mr. Carr explained that the two requested variances are appropriate and necessary.

For the record, Mr. Carr stated the variance requests. The first is a variance from building height. After the Board denial, the applicant made revisions and is now proposing a height of four-stories and 49 feet, where 45 feet is allowed. In order for the project to be financially viable, the revisions expanded the building's proposed footprint 25 feet to the south. The building must be raised out of the flood plain which pushes the building's height past the 45 feet allowed.

The second variance requested is related to FAR. Approximately 98% of the lot is located within the Flood Plain Overlay District (FPOD); according to the Dedham Bylaw, a property owner is unable to use any portion of a lot within the FPOD when calculating the FAR.

Mr. Saletin added that he made commitments to the Planning Board that local construction and subcontracting companies will be encouraged to submit their bids and Dedham residents will be given preference for employment opportunities. The Group previously contributed money and services to water and sidewalk improvements along Eastern Avenue and will contribute additional funds to complete work along the corner of Route 1 and Eastern Avenue.

For the record, Chair Steeves commented that the Planning and Zoning Department received 12 letters of support and two letters of opposition.

Chair Steeves asked if there were any members of the Board with questions for the applicant.

Vice Chair Rosenthal inquired about the FAR calculation. In response, Mr. Carr confirmed that if the land in the flood plain did not have to be deducted, the FAR calculation would be 2.4 instead of the 21.74 requested.

Associate Member Coben inquired about the fiscal impact and estimated tax revenue for the Town. Mr. Crecelius replied that based on a 2021 report created by Town staff, the primary revenue generator on a recurring basis is property taxes, which are approximately $1,200 per room, per year. Because the report is three years old, he expects the present-day tax revenue to be higher. The local options room tax is 4% of every dollar of room revenue and goes directly to the Robin Reyes Capital Improvement Fund. The Town uses these funds for capital improvements that occur on an annual basis.

Using 2019 numbers and data, the Town estimates the hotel will generate approximately $406,000 annually; however, the hotel will not open for several years, and this number will increase over time. There are also one-time financial benefits such as building permits, sewer hookup fee, etc.

Mr. Crecelius added that there are several non-monetary benefits to the Town that were conditions of the Planning Board approval. These include roadway improvements (including crosswalks) at the Route 1/Eastern Avenue intersection, $30,000 toward sidewalk repairs throughout the Town, and repaving Lechmere Road.

Mr. Crecelius stated that on average Saletin Group hotels have low to mid-seventies occupancy rates; however, due to Dedham's convenient location and local amenities, he expects the occupancy rates to be higher. The Saletin Group retained the services of two hotel advisory firms to conduct detailed studies on the market and advise them accordingly.

Chair Steeves asked if there were any members of the public who wished to be heard on the application.

Carmen DelloIacono, 145 West Jersey Street, resides approximately 1,000 feet from the proposed project and expressed his support for the hotel. As a former member of the Select Board, he was involved with the Robin Reyes Fund, which provides valuable services to the Town.

Mr. DelloIacono continued, thanking the applicant for listening to concerns raised by the community last year and revising their proposal accordingly. He would like to see a roof top restaurant added to this hotel, which is something that the Town does not currently have.

As the Wiring Inspector for the Town, Mr. DelloIacono confirmed that the Saletin Group has completed extensive and much needed upgrades and improvements to the properties they own in Dedham. Mr. DelloIacono added that he has tremendous respect for Attorney Kevin Hampe, Attorney Keith Hampe, and the ZBA for their work on this project.

Mr. DelloIacono stated that the Veterans Affairs Hospital is within 3.5 miles of the hotel. He inquired if a discounted nightly rate could be offered to veterans in need of a place to stay while receiving care at the VA Hospital.

Mr. Saletin replied that the Group does not have plans to add a restaurant to the hotel. The hotels in their portfolio fall under the 'limited services' guidelines and restaurants are not permitted. While a small breakfast will be offered, a limited service hotel is designed to drive business to the local restaurants.

Regarding Mr. DelloIacono's comments about discounted nightly rates for veterans, Mr. Saletin stated he thinks this is a wonderful thing to do and will speak with the head of the property management group.

Mr. DelloIacono added that his name was included in the Land Court documents with the implication that he in some way influenced the Board's decision on the original petition. Mr. DelloIacono commented that he has a tremendous amount of respect for the Board and finds the statements in the court documents concerning. Mr. DelloIacono stated that, for the record, there were no closed-door conversations between he and members of the Board, nor was there any corruption that took place.

Ryan McDermott, 14 Indian Path, spoke in his role as President of the Dedham Square Circle Organization. Mr. McDermott commented that he has spent a lot of time with the applicant over the past couple of years and thanked Mr. Saletin and his team for their engagement and proactive approach to building support within the community. He also appreciates the Group's focus on partnering with local businesses. He expressed support for granting the requested variances.

Susan Butler, 60 Cox Street, thanked the applicants for a terrific and thorough presentation. She appreciates that the Group also owns the Dedham Marketplace next door, which will ensure connectivity between the two properties. Ms. Cox added that as much as she loves Dedham Square, there are other restaurants in Dedham and asked that the Group be inclusive of all businesses.

In response to a question from Ms. Cox about how long hotel guests are permitted to stay, Mr. Saletin confirmed that he committed to the Planning Board that guests will not be permitted to stay longer than 30 days. Business travelers generally stay several nights during the week and leisure travelers generally stay over a weekend.

Ms. Cox commented that litter is prevalent in the area and appreciates anything the Group can do to keep the property clean.

Lastly, Attorney Hampe confirmed that an extensive traffic study of the area was completed as part of the Planning Board proceedings. Neither the Planning Board nor Town staff had concerns about traffic impact based on the findings of the report.

Dedham Property Owner and abutter Frank Gobbi expressed his opposition to the hotel, commenting that traffic on Eastern Avenue has been an issue for a long time and has

worsened over time. Mr. Gobbi commented that he is unfamiliar with the Group's plans to rebuild the intersection at Route 1 and Eastern Avenue; however, he heard they are planning to close down the entrance on Eastern Avenue near his properties. Mr. Gobbi expressed concerns about the stormwater management situation, an increase in insect and rodent activity, and a lack of parking on the property.

Carla Foley, 92 Old River Place, expressed concerns about the project, specifically about the water situation and its proximity to the wetlands. Additionally, Ms. Foley reviewed the court documents and noticed that the plaintiff is listed as 'WBR LLC' rather than a specific person and inquired about the names of the property owners. Mr. Saletin replied that the Group has investor partners with individual trusts and entities that are being used as investment vehicles.

Nick Gardner was present on behalf of **Oscar's Pub & Kitchen** at **380 Washington Street**. Mr. Gardner expressed his support for the project, commenting that the influx of business that comes along with a hotel will be beneficial to businesses in the Square. Mr. Gardner added that the restaurant industry is a challenging one and many establishments live on small margins. He encouraged the Board to think of the people who own and work in the restaurants and local businesses when making their decision.

Katie Casey, 58 Dale Street, expressed her opposition to the project, stating that Dedham does not need another hotel. She is glad the building height has decreased and understands how it might help restaurants in the Square but a hotel in that location will take away from the feel of the town. Ms. Casey added that zoning regulations are in place to protect residents and should be upheld.

Jason Brogan, 5 Ware Street, thanked the applicant for the presentation and commented that Dedham does not have a good history with its hotels. He reported that over the past couple of years, there were more than 400 calls to Fairfield and Holiday Inns. Mr. Brogan read through the court documents, and it appears that one of the main arguments for remanding the case back to the Board is because there were no 'people of interest' that spoke in opposition to the project. He commented that one Dedham developer spoke in opposition to the project tonight, which he hopes this will give the Board the rationale to once again deny the variance request.

Upon a motion made by Vice Chair Rosenthal and seconded by Member Jacobsen it was voted to close the Public Hearing.

After the public portion of the hearing was closed, **Ann Gentile, 181 Vincent Road**, stood and voiced her opposition to the project.

Chair Steeves asked if there were any members of the Board who wished to be heard.

Member Ryan commented that he understands the community's concerns and reservations about another hotel being built in Dedham, but the use has been approved by the Planning Board and the special permit approving the use remains in full force and effect.

Per the Land Court's remand order, the sole questions the Board must consider and decide upon are the requested variances for building height and FAR. Per the Dedham Bylaw, the maximum building height in the HB Zoning District is 45 feet and the Petitioner is proposing 49 feet. The intent of the Petitioner's requested four feet is not to make the building taller, rather it is to lift the building out of the flood plain and make the building safer and financially viable.

Member Ryan explained that the ZBA is allowed to examine the reason for the Petitioner's request and factor in the existing soil conditions, topography, and shape of the lot. The Board must make a determination whether the hardship imposed by a strict interpretation of the Bylaw presents a detriment to the public good and/or nullifies or derogates from the intent of the bylaws in general. Member Ryan added that development on this lot presents a unique challenge and hardship due to the soil conditions referenced by Mr. Carr and its location in the flood plain.

Member Ryan stated one key factor in the calculation of the FAR for this property is its proximity to the wetlands and location in the flood plain. He understands concerns about flooding; however, the project has been approved by the Planning Board and to obtain that approval, the Petitioner underwent a thorough and rigorous site plan review process. The Petitioner appeared before the Conservation Commission process to address the wetlands issue and worked with the Stormwater Management permit process to mitigate the chance of flooding and water issues. The Board is permitted to consider the entirety of the project when deciding if the FAR variance can be granted. Given the scope of the review by various Town Boards, Member Ryan does not believe that the project will present a detriment to the public good or nullify the intent of the bylaw.

Associate Member Vigil thanked the Petitioner for a thorough and full presentation. In response to an earlier statement during the public comment portion of the hearing, Member Vigil stated that there is a legal standard on which to deny a request; a denial cannot be made based on the opposition of a local businessman.

Associate Member Vigil is in support of granting the FAR variance, however, has concerns about the building height. He does not believe that the ZBA can approve the variance request without derogating from the purpose of the intent of the bylaw. While a four-foot variance is reasonable, the intent of the bylaw is to prohibit tall buildings. Town Meeting or the Select Board could change the height bylaw they chose, however it is the ZBA's responsibility to look at the legal standards as they are currently and apply those to the petition.

Associate Member Coben commented that he believes the intent of the bylaw's height restriction is not about height, but about prominence.

Vice Chair Rosenthal commented that since the last time the Petitioner was before the Board, the Town adopted the Stretch Opt-In Energy Code. The proposed building will need to be either all electric or have solar panels if it employs a mixed-use energy source. She suggested that the applicant review the floor plans to ensure they can accommodate the extra electric equipment and/or solar panels on the roof.

Vice Chair Rosenthal added that in her professional experience as an architect, she would also need to appear before Planning and Zoning Boards to deal with the flood plain and height issues such as these. The size of the mechanical equipment required to ensure a building's energy efficiency does not allow for construction of the same size buildings with the same construction methodologies as when the bylaws were originally written.

Upon a motion made by Member Ryan and duly seconded by Vice Chair Rosenthal, the Board voted in favor (4-1) that the Petitioner had met the requirements of MGL Ch. 40A sec. 10, namely that based on the facts presented by the applicant as summarized above, development of the property presents a unique hardship related to the existing soil conditions on the site and its location within the Flood Plain Overlay District, and, owing to those unique circumstances, a literal enforcement of the height and FAR provisions of the Bylaw would create substantial hardship for the applicant and desirable relief might be granted without substantial detriment to the public and without nullifying the purpose of the Bylaw which, among other things, specifically contemplates a hotel use on the site. The Board also finds on the basis of facts set forth above that the proposed Project will provide numerous benefits to the Town. Accordingly, the Board grants the Variances requested by the Petitioner for building height (49 ft. proposed, 45 ft. max. allowed) and Floor Area Ratio (21.74 proposed, .35 max. allowed) to construct a four (4) story, 110 room hotel.

A roll call vote was taken.

Scott Steeves – yes
Sara Rosenthal – yes
Gregory Jacobsen – yes
Thomas Ryan – yes
Norman Vigil – no

Applicant:	Peter A. Zahka, II and Camille S. Zahka, PCAR Realty Trust
Project Address:	12 School Street
Zoning District, Map/Lot:	Central Business (CB) Zoning District, Map 108/46.
Legal Notice:	Requests such Special Permits as required for the use of an existing building as a two-family residential dwelling and to allow the Central Business (CB) Zoning District dimensional requirements to apply to the lot and building (instead of the General Residence (GR) Zoning District zoning requirements).
Section of Zoning Bylaw:	Town of Dedham Zoning Bylaw Sections 9.2, 9.3, Table 1 and Table 2.

Applicant was represented by Peter A. Zahka, II, Esq., 12 School Street, Dedham, MA. Applicant had previously submitted a certified plot plan of the Subject Property, floor plans and photographs of the existing building, and a Project Narrative. The transcript from the hearing is the primary source of evidence and is incorporated herein by reference. At the hearing, Applicant was afforded an opportunity to make full presentation.

Applicant is the owner of the real estate known and numbered as 12 School Street, Dedham, Massachusetts (the "Subject Property"). The Subject Property, shown on Board of Assessors Map 108, Lot 46, contains approximately 5,600 square feet of land with 54.25± feet of frontage on School Street. There are also 23± feet of frontage on Washington Street. According to the Zoning Map for the Town of Dedham, the Subject Property is located in the Central Business (CB) Zoning District. In addition, the Subject Property is located in the Dedham Historic District.

Per the Dedham Assessors' data card, the Subject Property is occupied by a two-story building with a gross floor area of approximately 3,136 square feet constructed circa 1835. The Subject Property is served by a paved parking lot with a curb cut on and access from both School Street and Washington Street. From an historical perspective, the existing building on Subject Property has been utilized as a single-family dwelling, a two-family dwelling, a mixed-use development, and as a commercial building. When acquired by Applicant's family in 1998, the structure was used as a two-family dwelling. For a short period of time, Applicant used the building as mixed-use with offices on the first floor and a residential apartment on the upper floor. However, the building has been used as offices on both floors for well over the last 20 years.

Applicant proposes to convert (or re-convert) the existing structure to a two-family residential house. Table 1 ("Use Regulation Table") of the Dedham Zoning By-Law provides that a two-family house is allowed in the CB Zoning District upon issuance of a Special Permit. Applicant has requested such Special Permit required to allow the existing building to be used as a two-family house. Table 2 ("Table of Dimensional Requirements") of the Dedham Zoning By-Law sets forth the various dimensional requirements for building lots in the different zoning districts within the Town. Per said Table 2, there are no lot area, frontage, rear yard setback, or front yard setback requirements in the CB Zoning District. However, per said Note 9, the GR dimensional regulations apply to one and two-family dwellings located in the CB District "provided that the Board may grant exceptions from such requirements by Special Permit, for lots established by plan or deed recorded before 1-1-1995, if compliance would entail practical difficulties and the exception would have no adverse effect on nearby properties". Applicant has requested such Special Permit required to allow the Central Business (CB) Zoning District dimensional requirements to apply to the lot and building (instead of the GR Zoning District dimensional requirements).

In acting upon requests for special permits, the ZBA is guided by Section 280-9.3.B of the Dedham Zoning By-Law which provides that:

> **9.3.B Criteria.** Special permits shall be granted by the Special Permit Granting Authority, unless otherwise specified herein, only upon its 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 shall 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 character and social structures;
5. Impacts on the natural environment;
6. Potential fiscal impact, including impact on town services, tax base, and employment.

Applicant respectfully submits that the requirements and criteria for the issuance of the requested Special Permits are satisfied. Most of School Street is located in a Single Residence B (SRB) zoning district, and most properties on School Street are residential.

Inasmuch as the Subject Property was established by deed prior to 1800, and the building thereon was built in 1835 (according to the Dedham Assessor's data card), the Subject Property qualifies as a lot "established by a plan or deed recorded before 1-1-1995". As described further herein, Applicant submits that practical difficulties make compliance with the GR Zoning District dimensional requirements virtually impossible, and that the exception will have no adverse effect on the neighborhood. Thus, a Special Permit to allow the conversion of the building to a two-family residential house and an exception to allow the application of the CB Zoning District dimensional requirements, the building and lot on the Subject Property would not have any adverse effect on nearby properties.

Applicant is intending to sell the Subject Property and finds that there is little market for offices. While there are a number of allowable commercial uses in the CB district (including but not limited to educational uses, child care facilities, medical and professional offices, retail uses, mixed-use developments, and personal and general service establishments), Applicant desires to be respectful and sensitive to the residential abutters on School Street. Simply stated, Applicant feels that due to traffic and potential noise, many of these allowable uses would be inappropriate for the area and desires to sell either to office users with little or no traffic (like the current situation), or as a two-family house.

The Subject Property does not comply with the GR Zoning District dimensional requirements relative to lot area, frontage, and side yard setbacks, but does comply with the various CB Zoning District dimensional requirements under the Dedham Zoning By-Law: The Subject Property has (a) lot coverage of 21.7% and (b) floor area ratio of 56%. While generally there is no front yard setback in the CB Zoning District, Note 2 of said Table 2 provides that there shall be a front yard setback of "10 feet for any part of a building within 200 feet of a residence district boundary abutting on the same street, measured parallel to said street." The Subject Property appears to be within 200 feet of a residence district boundary abutting on the same street. The required front yard setback for the

Subject Property on School Street is 10 feet. The Subject property has a setback from School Street of approximately 20 feet.

Applicant submits that after considering the criteria in Section 280-9.3.B of the Dedham Zoning By-Law, the beneficial impacts of Applicant's proposal outweigh any adverse effects. Since the building already exists and is in full use, there will be adequacy of utilities and other public services and impact on the nature environment on non-issues. The paved parking lot currently serving the Subject Property is adequate for the current office uses and a two-family residential house would have less parking demand. It is noteworthy that any significant changes to the existing building will require review and approval from the Dedham Historic District Commission. The current building looks like a house and will continue to do so.

Applicant submitted a petition signed by ten abutters and neighbors to the Subject Property indicating their support for the application and the granting of the requested Special Permits. Other abutters or neighbors emailed the Town directly, indicating their support for the application and the granting of the requested Special Permits. In addition, a number of the residential neighbors appeared at the hearing and spoke in favor of the application and the granting of the requested Special Permits. No one appeared in opposition to the application or the granting of the requested Special Permits.

After discussion and upon motion duly made by Member Jacobsen and seconded by Member Gallagher, the ZBA voted unanimously (5-0) to approve the issuance of Special Permits as required for the use of an existing building as a two-family residential dwelling and to allow the Central Business (CB) Zoning District dimensional requirements to apply to the lot and building (instead of the General Residence (GR) Zoning District zoning requirements) at 12 School Street, Dedham, Massachusetts, Map/Lot 108-46, in the CB Zoning District.

In granting of said Special Permits, the ZBA finds that after consideration of the criteria in Section 280- 9.3.B of the Dedham Zoning By-Law, the adverse effects of Applicant's proposal will not outweigh its beneficial impacts on the Town and neighborhood. Also, the Applicant satisfies the specific requirements of Note 9 of Table 2 of the Dedham Zoning By-Law in that compliance with the GR Zoning District dimensional requirements would entail practical difficulties and the exception allowing the CB Zoning District dimensional requirements to apply would have no adverse effect on nearby properties.

Applicant:	Nancy Dunn *(continued from 8.21.24)*
Project Address:	93 Madison Street
Zoning District, Map/Lot:	Single Residence B (SRB) Zoning District, Map 141/59.
Legal Notice:	Request for a modification of a previous Zoning Board of Appeals decision dated June 22, 2022 to remove the

	condition requiring landscaping to screen the left side addition.
Section of Zoning Bylaw:	Town of Dedham Zoning Bylaw Section 3.3.D, 4.3.2, 4.8, 9.2, 9.3, Table 1 and Table 2.

Homeowners Nancy and Robert Dunn were present on behalf of the application.

Chair Steeves welcomed the applicants back to the Board. The Chair commented that since the last meeting he conducted research and suggested that the applicants consider arborvitaes as possible solution to the issue at hand. Arborvitaes are inexpensive, easy to maintain, and easy to find.

Ms. Dunn stated she does not like arborvitaes and Mr. Dunn expressed concerns about planting the trees in the small space due to the compressor and gas line.

Chair Steeves inquired if, since the August meeting, the applicants had done work to identify possible solutions to the problem. Ms. Dunn answered in the affirmative; however, stated she was informed by the Building Commissioner Mr. Cimeno that there was not enough space for any plantings.

Member Gallagher commented that he reviewed the documentation from the Dunn's landscaper. Based on the information in the documents and research he conducted, Member Gallagher learned that a pencil tree may be a solution. Ms. Dunn replied that the tree was not a solution because it would grow too close to the home and damage the siding.

Member Ryan stated that the Board approved the requested relief with the installation of landscaping as a condition of that approval. If the Dunns are not complying with this condition and the issue cannot be resolved, the Board will speak with legal counsel to discuss next steps. Chair Steeves expressed his agreement with these comments.

Mr. Cimeno explained that when the Board puts a condition on a variance or special permit, a violation of the condition is as enforceable as any section of the zoning bylaw. The variance or special permit is issued in lieu of compliance with the bylaw and therefore violations are subject to the same penalties.

Associate Member Vigil stated he would like to hear directly from the next-door neighbor.

Chair Steeves asked if there were any members of the public who wished to be heard.

Andrew & Virginia Sullivan, 99 Madison Street, read a short statement to the Board expressing their disappointment that the Dunn's are not honoring the condition of their special permit approval.

Approximately eight to ten inches of the Dunns' fence is on the Sullivan's property line; Mr. Sullivan shared photos with the Board that include the surveyor's markings depicting

the lot lines. Mr. Sullivan requested that the fence be moved back to the property line, which would allow them to install landscaping on their side of the fence. They plan to install a trellis with vines and have been consulting nursery professionals to help them select the best options given their needs.

Mr. Sullivan proposed that the language in the special permit be amended by striking the landscaping condition and adding the relocation of the fence to the property line. He requested that Mr. Cimeno be involved during the process to confirm that the Dunns have satisfactorily completed the fence work.

In response to a request from Chair Steeves, Mr. Cimeno stated that with the confirmation of a land surveyor, he can verify that the fence has been moved and landscaping on the Sullivan's side of the fence has been installed to the satisfaction of both property owners.

Ms. Dunn agreed with this suggestion and stated she will call the fence company tomorrow.

Upon a motion made by Vice Chair Rosenthal and seconded by Member Jacobsen, it was voted to close the public portion of the hearing.

After a brief discussion the Board agreed to wait for confirmation that the fence can be moved before taking a formal vote. It was decided to continue the hearing to the next meeting.

A motion made by Member Jacobsen and seconded by Vice Chair Rosenthal to continue the public hearing to October 16, 2024.

Applicant:	Denise Rinfret
Project Address:	73 Chute Road
Zoning District, Map/Lot:	Single Residence B (SRB) Zoning District, Map 134/22.
Legal Notice:	Requests a Special Permit for a right-side setback of 7.5 feet (10 feet required) for a pre-existing +/- 85 square-foot addition, and a Special Permit to house a temporary trailer (storage container) on the property
Section of Zoning Bylaw:	Town of Dedham Zoning Bylaw Sections 3.2.A, 4.3, 9.2, 9.3, and Table 2.

Homeowner Denise Rinfret was present on behalf of the application. Ms. Rinfret explained that she purchased the home in 2019 and began renovations shortly thereafter. After pulling the necessary permits, a storage container was delivered to the property to house building

materials. It was noted that a storage container is allowed on the property by right in conjunction with an active building permit.

After the house flooded during the course of renovations, the existing staircase on the right side of the home was enlarged and enclosed with walls and a roof. To mitigate future flooding, Ms. Rinfret installed five sump pumps and interior and exterior French drains. This enlargement of the staircase resulted in right side yard encroachment issues. The minimum side yard setback in the SRB Zoning District is 10 feet and Ms. Rinfret's right side yard setback is 7.5 feet. After being notified of the encroachment issues, the Town's Building Commissioner Ken Cimeno visited the property and attempted to contact Ms. Rinfret to resolve the issue.

In response to a question from Chair Steeves, Ms. Rinfret commented that the construction has been ongoing for approximately three and a half to four years. She added that there were construction slowdowns for several reasons, some of which were due to family and personal medical issues.

Chair Steeves asked if any members of the Board had questions for Ms. Rinfret.

Member Jacobsen inquired why the presence of the storage container has not been addressed by the Town sooner. Mr. Cimeno explained that a storage container is allowed as an accessory use in conjunction with an open building permit. After multiple complaints from neighbors and unsuccessful attempts to speak with Ms. Rinfret to address the issues, Mr. Cimeno issued a stop work order in July 2024 and requested the container be removed immediately.

Mr. Cimeno added that if the Board approves the requested side yard setback zoning relief, the stop work order can be lifted, construction can continue, and the project can be completed. If the Board does not grant the relief, they could approve the Special Permit request to allow the container to remain on the property when the stop work order is in effect and there is no active construction.

Until zoning relief or a Special Permit is granted, Mr. Cimeno is unable to complete the permitting process and lift the stop work order to bring the project to a completion.

In response to a question from Member Ryan, Ms. Rinfret confirmed that there is both interior and exterior renovations remaining. Exterior work includes (but is not limited to) landscaping, fencing, roof eaves, and installation of the bottom panels on the deck. Interior work includes (but is not limited to) installation of the kitchen, bathrooms, and the plumbing.

In response to a question from Member Gallagher about a timeline for completion of the renovations, Ms. Rinfret replied that she hopes to be living in the home before the holidays.

Chair Steeves stated that he understands the need for the side yard setback relief to mitigate the chance of flooding. He inquired whether Ms. Rinfret would be willing to move the items in the storage container into the house to remove the empty container or move the

items into the garage on the property. Ms. Rinfret replied that neither of these suggestions would be feasible, as the house has freshly painted walls with new mahogany floors, and her father's antique car is located in the garage.

Associate Member Coben commented that a concern raised in one of the letters was about the landscaping. Ms. Rinfret confirmed that this specific landscaping issue has been remedied.

For the record, Chair Steeves noted that the Planning Department received two letters from neighbors who are opposed to the petition. He added that there were also six signatures in support of the petition included with the application materials.

Chair Steeves asked if there were any members of the public who wished to be heard on this application.

Thomas Gorman, 107 Chute Road, stated that he is a long time Dedham resident and lives three homes away from Ms. Rinfret. He expressed his opposition to the petition, commenting that Ms. Rinfret purchased the home in 2019 and construction has been ongoing, and the storage container has been present since then. He requested that the Board deny the appeal.

Edward Conway, 75 Pacella Drive, stated that the construction has been ongoing for more than five years and expressed frustration that the storage container has been on the property since then. Mr. Conway added that he pays a significant amount of money in property taxes and should not have to continue to look at the storage container every day.

Ron DeRosa, 81 Pacella Drive, commented that he sees the container every morning when leaving his home. Recently, a coyote snuck up on him from behind the storage container, which could have presented a hazard to his health. He requested that if the Board approves Ms. Rinfret for the Special Permit that he and the neighbors be given a firm deadline on when the container will be removed.

A resident at **65 Chute Road** commented that she lives next door to Ms. Rinfret and has called the Town many times to share her concerns. Specifically, this resident has experienced bug infestation and water in her basement as a result of the project and the rotting construction materials on Ms. Rinfret's property. The pavers on her driveway were also damaged when a subcontractor dropped a window from an overhead crane.

William Farrell, 91 Chute Road, commented that while he understands the neighbor's concerns, he is in support of Ms. Rinfret's petition.

Upon a motion made by Vice Chair Rosenthal and seconded by Member Jacobsen it was voted to close the Public Hearing.

Member Gallagher inquired if Ms. Rinfret could use a smaller storage container for the duration of the construction. Ms. Rinfret stated that she is unsure why the neighbors find the container so offensive, but a smaller container would not be feasible. Associate Member

Vigil inquired if the company from which she is renting the container would be able to store it for her until the project is finished. Ms. Rinfret stated the company only rents containers, they do not store them.

Vice Chair Rosenthal commented that Ms. Rinfret is experiencing a hardship due to the flooding and must cover the right side yard stairwell to mitigate this. If the Board approves the requested zoning relief, construction can resume, the project will be finished, and the container will be removed. She added that there are limitations to Ms. Rinfret's control of the situation because many subcontractors work at their own pace and do not feel the onus of completing residential projects as quickly as commercial ones.

Chair Steeves commented that the Board wants Ms. Rinfret to finish her project, however they also want to respect the neighbors. After a brief discussion, Ms. Rinfret stated that the container would be removed from the yard by the end of the year.

In response to a question from Chair Steeves about enforcement action if the container was not removed, Mr. Cimeno confirmed that the Board can put reasonable conditions on any Special Permit decision. If the parties agree that the container will be removed no later than January 1, 2025 and it is not, this condition would be enforceable by the Building Department.

Member Ryan commented that he does not believe that the granting of the requested Special Permit is in the public good. He suggested continuing the hearing to the October meeting and if the underlying situation changes or improves, the Board can consider granting relief at that time.

Chair Steeves commented that the Board almost has no choice but to grant the relief so the stop work order can be lifted, work can resume, the project can be completed, and the container can be removed. Vice Chair Rosenthal noted her agreement that the relief must be granted to make forward progress.

Upon a motion made by Vice Chair Rosenthal and duly seconded by Member Jacobsen to approve the request for a Special Permit for a right-side setback of 7.5 feet (10 feet required) for a pre-existing +/- 85 square-foot addition, with the condition the temporary storage container be removed from the property no later than January 1, 2025.

A roll call vote was taken.

Scott Steeves – yes
Sara Rosenthal – yes
Gregory Jacobsen – yes
Thomas Ryan – no
Matthew Gallagher – yes

The motion passed, 4-1.

Applicant:	Cynthia Forde
Project Address:	209 Curve Street
Zoning District, Map/Lot:	Single Residence B (SRB) Zoning District, Map 77/43.
Legal Notice:	Requests a Special Permit for a right-side setback of 5.4 feet (10 feet required) for a +/- 300 square-foot rear addition, and a Variance for distance between proposed addition and existing garage of 6.35 feet (10 feet required). The +/- 4,500 square foot subject property is located at 209 Curve Street, Dedham MA, Map/Lot 77-43 and is located within the Single Residence B (SRB) Zoning District.
Section of Zoning Bylaw:	Town of Dedham Zoning Bylaw Sections 4.3, 9.2, 9.3, and Table 2.

Ms. Cynthia Forde was present on behalf of the application. Ms. Forde explained that she has mobility issues and is concerned about falls and possible injury. She would like to add a 300 square foot addition to the right side of the house. The addition would include a bedroom, bathroom, and small laundry room on the first floor. She has lived in her home for more than 20 years and approval of the requested special permit and variance will allow her to age in place.

Ms. Forde explained that she would like to add a 300 square foot addition to the right side of the house. The addition would include a bedroom, bathroom, and small laundry room. She has lived in her home for more than 20 years and approval of the requested special permit and variance will allow her to age in place.

Chair Steeves asked if there were any members of the public who wished to be heard.

Barbara Gula, 211 Curve Street, expressed her support for Ms. Forde's petition, commenting that Ms. Forde is a wonderful neighbor who takes care of her property.

Ms. Gula explained that as Ms. Forde's next-door neighbor, she has concerns about the hours of construction, excessive noise, garbage/construction debris, and overall impact on the neighborhood. Mr. Rosenberger commented that per the Dedham Bylaws, construction is only permissible Monday through Friday from 7 a.m.-7 p.m. and Saturday from 8 a.m.-6 p.m. Ms. Gula also requested the name and contact information for the contractor so she can contact that person with any concerns that arise.

Ms. Forde replied that there will be a dumpster on-site during the construction, however it will be emptied when needed and removed when the work is completed. While she is not

comfortable sharing the contact information for the contractor, she offered to introduce Ms. Gula to this individual when the work begins.

Chair Steeves asked if there were any members of the Board who wished to be heard.

Member Ryan expressed his complete support for the project, adding that construction happens regularly town-wide, and there are not many issues that arise. He assured Ms. Gula that construction is closely regulated and encouraged her to contact Building Commissioner Ken Cimeno with any concerns that cannot be resolved after speaking with Ms. Forde.

Upon a motion made by Member Jacobsen and duly seconded by Member Ryan, the Board voted in favor (5-0) to approve a Special Permit for a right-side setback of 5.4 feet (10 feet required) for a +/- 300 square-foot rear addition, and a Variance for distance between proposed addition and existing garage of 6.35 feet (10 feet required).

Applicant:	Whole Foods Market
Project Address:	300 Legacy Place
Zoning District, Map/Lot:	Research Development & Office (RDO) Zoning District, Map 162/1.
Legal Notice:	Requests a Special Permit to house a temporary trailer behind Whole Foods Market on property owned by WS Development.
Section of Zoning Bylaw:	Town of Dedham Zoning Bylaw Sections 3.2.A, 9.2 and 9.3

Present at the meeting was Dave Filippone, Store Manager of Whole Foods Market. Mr. Filippone explained that the temporary trailer would arrive at the beginning of November 2024 and would be removed the first week in December 2024, after the Thanksgiving holiday.

Chair Steeves asked if there were any members of the public who wished to be heard. There were none.

Chair Steeves asked if there were any members of the Board who wished to be heard. There were none.

Upon a motion made by Member Ryan and duly seconded by Vice Chair Rosenthal, the Board voted in favor (5-0) to approve the request for a Special Permit to house a temporary trailer behind Whole Foods Market on property owned by WS Development for the month of November for the next three years, through December 2027.

Applicant:	Fellowship Bible Church of Dedham, Inc.
Project Address:	47 Milton Street
Zoning District, Map/Lot:	General Residence (GR) Zoning District, Map 113/63.
Legal Notice:	Requests a Special Permit and/or Variance to subdivide an existing 29,043 square foot lot into two lots with Parcel A containing 5,491 square feet and a single family residential structure and parcel B containing a church structure and educational building on 23,552 square feet in a General Residence Zoning District; a Variance for the existing single family residential structure to be located on Parcel A containing a total area of 5,491 square feet (7,500 square feet required); a Variance for the existing single family residential structure located on Parcel A to have a front yard setback of 13.6 feet (20 feet required), a right side setback of 7.7 feet (15 feet required), a left side setback of 12.4 feet (15 feet required), and a rear yard setback of 14.2 feet (25 feet required); and a Variance for the church educational building located on Parcel B to be allowed a left side setback of 4.23 feet (15 feet required) and a rear yard setback of 4.6 feet (25 feet required).
Section of Zoning Bylaw:	Town of Dedham Zoning Bylaw Sections 3.3, 9.2, 9.3 and Table 2

Upon a motion made by Vice Chair Rosenthal and duly seconded by Member Jacobsen, the Board voted in favor (5-0) to approve the applicant's request to withdraw without prejudice.

Scott Steeves – yes
Sara Rosenthal – yes
Greg Jacobsen – yes
Tom Ryan – yes
Matthew Gallagher – yes

The motion passed unanimously, 5-0.

Applicant:	Coastal Medical Transportation Systems

Project Address:	100 Bridge Street
Zoning District, Map/Lot:	Local Business (LB) Zoning District, Map 25/4.
Legal Notice:	Requests a Special Permit to allow an essential services use (ambulance service).
Section of Zoning Bylaw:	Town of Dedham Zoning Bylaw Sections 9.2, 9.3, and Table 2

Kevin Mont, Vice President of Emergency Services from Coastal Medical Transportation Systems (CMTS) was present on behalf of the application. Mr. Mont explained that CMTS is the 911 ambulance provider for the Town of Dedham. CMTS's 24-hour base of operations at 219R Bussey Street, however the building is no longer suitable for their needs.

After a search, CMTS identified a property for sale at 100 Bridge Street and would like to purchase the building and move their base of operations to this location. To do so, they will need to be granted a Special Permit for essential use services.

The property at 100 Bridge Street will house the Town's two 911-dedicated ambulances and medical supplies for the community. One ambulance will operate 24 hours per day and the other will operate 16 hours per day. Mr. Mont added they are also planning to move a Mass Casualty Trailer to the property, which will be housed within the building.

Mr. Mont added that there would be four to six staff per day working out of this base location, all of whom are dedicated and highly trained 911 emergency responders for the community.

All staff have been trained on how to minimize noise and lights and be good neighbors. Signage will also be hung around the property reminding staff of protocols and supervisors will check in regularly with the base crews.

For the record, Chair Steeves noted is one letter of support from Dedham Fire Chief William Spillane. A letter of support was also received from Giorgio Petruzziello of Petruzziello Properties

Chair Steeves asked if there were any members of the Board with questions for the applicant.

Member Jacobsen commented that the current occupants at 100 Bridge Street allow patrons from the adjacent Brickhouse Café to use their extra parking spaces and inquired if this will continue to be the case when CMTS purchases the property. Mr. Mont confirmed that he is in discussions with the Brickhouse's management team and plans to continue with this arrangement when CMTS purchases the property.

Chair Steeves asked if there were any members of the public who wished to be heard.

Janet Holmes, 13 Charles Bank Road, expressed concerns about noise at night and about the bumper-to-bumper traffic on Bridge Street traffic during peak hours. Bridge Street is already a tight street and there is little space for cars to move over for an ambulance to pass. She is concerned about accidents and a delay in someone receiving care if the ambulance cannot exit quickly enough.

In response to a question from Ms. Holmes, Mr. Mont stated that a traffic study had not been completed; however, traffic patterns are an issue that first responders deal with every day as they navigate communities to respond to calls. Traffic is a challenge in all communities and crews are highly trained in how to maneuver efficiently and safely

Mr. Mont added that he understands Ms. Holmes' concerns and assured her that sirens are not used during the overnight hours when the roads are clear. Crews are highly trained to make judicious decisions on when both lights and sirens should be used.

Upon a motion made by Member Jacobsen and duly seconded by Member Gallagher, the Board voted in favor (5-0) to approve the requested Special Permit to allow an essential services use (ambulance service).

Meeting Minutes

A motion was made by Member Jacobsen and seconded by Vice Chair Rosenthal to approve the meeting minutes for the August 21, 2024 meeting.

A roll call vote was taken.

Scott Steeves – yes
Sara Rosenthal – yes
Greg Jacobsen – yes
Tom Ryan – yes
Matthew Gallagher – yes

The motion passed unanimously, 5-0.

Adjournment

A motion was made by Member Jacobsen and seconded by Vice Chair Rosenthal to adjourn the meeting at 10:40 p.m.