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**TOWN OF NEEDHAM
MASSACHUSETTS
BOARD OF APPEALS**

**PLAN SUBSTITUTION AND MODIFICATION TO A VARIANCE
&
SPECIAL PERMIT**

***DEI Incorporated, Applicant
S-BNK Needham Heights, LLC, Owner
695 Highland Avenue
Map 77, Parcel 14***

November 20, 2024

DEI Incorporated applied for Plan Substitution and the alteration or removal of conditions relating to a Variance dated October 14, 1969, and to waive strict adherence to the number of required parking spaces and the parking plan and design requirements under Sections 5.1.1.5, 5.1.2, and 5.1.3 of the Zoning By-Law (the "By-Law") to allow the operation of Dedham Savings Bank. The property is located in the General Residence zoning district. A public hearing was held in the Charles River Room, Public Services Administration Building, 500 Dedham Avenue on Wednesday, November 20, 2024 at 8:00 p.m.

Documents of Record:

- Application for Hearing, dated October 25, 2024, Clerk stamped October 28, 2024.
- Letter from George Giunta, Jr., dated October 25, 2024.
- Memorandum in Support prepared by George Giunta, Jr. dated October 25, 2024.
 - Exhibit A – Building Permit and Plot Plan, dated August 26, 1970 and August 27, 1970 respectively.
- Letter certifying authorization from Joseph Seravalli, The Barchester Corporation, August 26, 2024.
- 695 Highland Avenue – ZBA Variance – October 14, 1969.
- 695 Highland Avenue – ZBA Special Permit – August 16, 2007.
- Catherine Huntington vs. Zoning Board of Appeals Hadley & another, 12 Mass. App. Ct. 710 (1981).

- Site Plan Proposed, Field Resources, Inc., stamped by Bradley J. Simonelli, Professional Land Surveyor, dated October 15, 2024.
- Site Plan Existing Conditions, Field Resources, Inc., stamped by Bradley J. Simonelli, Professional Land Surveyor, dated October 15, 2024.
- Plans LS-1-2, AS-1, A-2.1 prepared by DEI, stamped by John Kenney, Professional Engineer and Richard Stanley Ladrick, Registered Architect, dated August 20, 2024.
- Site Plan Review, Design Review Board, dated September 9, 2024.
- Letter from Joe Prondak, Building Commissioner, November 7, 2024.
- Letter from Lee Newman, Director of Planning and Community Development, November 19, 2024.
- Letter from Thomas Ryder, Town Engineer, November 12, 2024.
- Email from Tara Gurge, Assistant Public Health Director, November 12, 2024.
- Email from John Schlittler, Chief of Police, Police Department, November 4, 2024.
- Email from Tom Conroy, Fire Chief, Fire Department, November 6, 2024.
- Email from David Hojlo, November 13, 2024.

November 20, 2024

The Board included Howard S. Goldman, Acting-Chair; Nikolaos Ligris, Member; and Peter Friedenbergh, Associate Member. Also in attendance was Valentina Elzon, Member. Mr. Goldman assigned Mr. Friedenbergh as the voting member. Mr. Goldman opened the hearing at 9:40 p.m. by reading the public notice.

George Giunta, the attorney representing the Applicant, noted that the property is located at the corner of Highland Avenue, Webster Street and borders Putnam Street and is occupied by a one-story bank building containing 2,208 square feet located in the General Residence zoning district. The property consists of 15,688 square feet of land with 81.73 feet of frontage on Highland Avenue, 166.52 feet of frontage on Webster Street and 92 feet on Putnam Street. There is a drive-up teller window on the Putnam Street side of the building.

The bank use was authorized by Board Decision *695 Highland Avenue – ZBA Variance – October 14, 1969* (“1969 Variance”) for Needham National Bank. The Decision was modified for façade improvements by Board Decision *695 Highland Avenue – ZBA Special Permit - August 16, 2007* (“2007 Special Permit”) for Sovereign Bank. The location has been used continuously as a bank and was most recently a branch for Santander Bank until 2023.

The Applicant is seeking to locate a second Needham branch of the Dedham Savings Bank. The Applicant proposes design changes to the building to improve the safety and flow of the vehicle circulation and improve the aesthetics of the site. The Applicant proposes to demolish and rebuild the drive-up canopy on the Putnam Street side. The canopy will be larger than the existing canopy but will be set back 20 feet from Putnam Street, complying with dimensional and density requirements.

The planting on Putnam Street is being replaced by a gravel bed. Between the new canopy and Putnam Street a new landscaped area is proposed. This improvement is for aesthetics and to delineate the perimeter of the property along Putnam Street and improve the vehicular approach and circulation on the property. New landscaping and two new trees are planned along Webster Street and Highland Avenue. Landscaping is also included within the parking area.

The main reconfigurations proposed for the parking area are 1) the parking spaces along the east side of the property will be removed for improved site vehicular circulation, and 2) a handicapped van-size parking space will be located next to the main entrance. The Design Review Board reviewed the application and were satisfied with the proposal.

Mr. Giunta reported that any changes to the site require Board review because of the 1969 Variance. He also highlighted conditions of that Decision which he requested be modified:

- **Conditions #5** – which restricted the 1969 Variance to the petitioner (Mary W. Mack) and the bank (Needham National Bank). Mr. Giunta noted that the governing law (M.G.L. c.40A, sec. 10) was changed in 1975 to prohibit limitations on a variance to continued ownership of the property by a particular person or entity. Mr. Giunta asked that this Condition be removed to bring the Variance into compliance with the current law.
- **Condition #4** – which required there be at parking for at least 17 cars. The applicant proposes providing 14 parking spaces. Mr. Giunta requested that the Condition be removed completely or be modified to require only 14 spaces. He noted that there were no off-street parking requirements in the By-Law at the time of the 1969 Variance, and if the current parking regulations per Section 5.1.2 (7) Required Parking - Offices, office buildings and banks of the By-Law were applied for a 2,200 square feet building (one space per 300 square feet of floor area) only eight parking spaces would be required.

The changes proposed are within the framework of the 1969 Variance, no change or expansion of use is proposed and the building will meet all dimensional and density requirements.

Comments received:

- The Building Commissioner had no objection to the proposal.
- The Police Department had no concerns.
- The Health Department had no concerns.
- The Engineering Department had no comment or objection.
- The Planning Board had no comment.
- The Design Review Board found the proposal to be an improvement to the building and site.
- Daniel Jojlo, Trustee to 687 Highland Avenue, had a series of questions regarding tree/planting heights and encroachment into Putnam Street.

Dr. Kevin Domingos, Clinical Director - Boston Neuropsychological Services, LLC and Trustee to Hillcrest Condo Association, 687 Highland Avenue, appeared. Dr. Domingos welcomed Dedham Savings Bank. Dr. Domingos raised a series of concerns and proposed several modifications to the project, such as: sharing the condo dumpster in exchange for the condominium making some of its parking spaces available to bank customers; changing the orientation of the parking spaces to be located between the properties so as to have more parking

to use jointly; the installation of “no parking/towing” signs; a concern that the leaves from deciduous trees proposed to be planted on the property will come onto the condo property and increase its maintenance costs; a concern that the Putnam residential properties appear to encroach ten feet onto Putnam Street; a concern with the Putnam Street visibility being obstructed by the proposed landscaping; and a concern that the proposed landscaped area would narrow Putnam Street.

Mr. Goldman inquired if there could be discussions with Dr. Domingos to modify the plans. Mr. Giunta thought the possible alteration of the parking plan and granting of easements was inappropriate for this public hearing and beyond the scope of the relief sought.

Eric Seestedt, representative of DEI, the company providing the engineering, design and construction for the project, noted that the proposal is to improve the aesthetics of the building and the general area and site, and the traffic flow entering and exiting from Putnam Street. He noted that they are not at liberty to change the parking spaces as engineered and presented in the submitted plans. Mr. Seestedt assured that the proposed plantings identified from the native plant schedule in the Landscape Plan will not exceed height, water needs or shade limits. Mr. Giunta added that the planting proposed on the Putnam Street side are low ground shrubs with the Serviceberry not exceeding six feet in height. Mr. Goldman requested that the plants be maintained below five feet. The Applicant was agreeable to maintaining the height limits suggested.

Dr. Domingos suggested that a driver’s view level is lower at three feet height.

Mr. Ligris noted that the relief sought was limited to the number of parking spaces. He thought the proposal was a vast improvement over the current substandard condition of the site. Mr. Ligris highlighted that the Design Review Board, who weighs in on design aesthetics, also found the proposal to be an improvement to the building and site.

Mr. Goldman thought the concerns raised regarding the congestion on Putnam Street, and the height of the plant materials and its impact on drivers’ visibility, needed further discussion. Mr. Seestedt asked Dr. Domingos if he was comfortable with the plantings having a 4 feet height limit. Dr. Domingos did not specifically respond to the question as he had more issues he wanted to discuss. Mr. Goldman offered to continue the public hearing to the next meeting. Mr. Seestedt did not want to continue the meeting. Mr. Giunta resisted continuing the meeting as height restrictions for plantings on Putnam Street could be easily addressed with a provision. Mr. Giunta, as a representative to many of the abutters of Putnam Street, argued that property boundaries may appear to encroach into Putnam Street when they do not actually do so because of the long history of Putnam Street being unpaved and aerial view delineations of the area not reflecting accurate surveyed street lines. Mr. Giunta reported that all the work proposed is based on a surveyed plot plan and is contained within the property and does not encroach onto Putnam Street. Mr. Giunta opposed continuing the meeting for issues that are not germane to the relief sought. He was supportive, however, of the neighbors communicating.

Mr. Friedenberg agreed with Mr. Giunta and was opposed to continuing the meeting. Mr. Friedenberg saw no issue regarding Putnam Street visibility as no one exiting the property is turning right onto Putnam Street and possibly obstructing sight lines of abutters exiting their

properties.

Dr. Domingos asked about the location of the dumpster. Mr. Giunta said that no dumpster is proposed.

Mr. Friedenbergr moved to grant at 695 Highland Avenue 1) a Plan Substitution to the Variance dated October 16, 1969 with the plans submitted; 2) that the 1969 Variance be modified so that:

- Condition #5 reads: "This Variance is granted for use of the property solely as a bank;"
- Condition #4 reads: "That the number of parking spaces comply with the applicable provisions of the By-Law;" and

3) a Special Permit pursuant to Sections 5.1.1.5, 5.1.1.7 and 5.1.3 of the By-Law to waive strict adherence to the parking plan and design requirements per the plans submitted, conditioned that

- the shrubs proposed in the Landscape Plan shall be maintained so that they will not obstruct visibility at Putnam Street from the abutting property.

Mr. Ligris seconded the motion. The motion was unanimously approved.

The meeting adjourned at 10:25 p.m.

Findings:

On the basis of the evidence presented at the hearing, the Board makes the following findings:

1. The premises consists of approximately 15,688 square feet of land, with approximately 81.73 feet of frontage on Highland Avenue, 166.52 feet of frontage on Webster Street, and 92.06 feet of frontage on Putnam Street. The property is occupied by a one-story bank building, built in 1970. The existing commercial building consists of approximately 2,208 square feet of space with a drive-up teller window with 17 spaces of off-street parking. The premises is located in the General Residence zoning district.
2. The building and use of the premises for bank purposes was authorized by Board Decision *695 Highland Avenue – ZBA Variance – October 14, 1969* ("1969 Variance") issued to Mary W. Mack and Needham National Bank and modified by Board Decision *695 Highland Avenue – ZBA Special Permit – August 16, 2007* to Sovereign Bank. Since its construction, the building has been continuously used for banking purposes, most recently by a Santander Bank branch which closed in 2023.
3. The Applicant seeks a Plan Substitution to the 1969 Variance. Dedham Saving Bank proposes to use and occupy the premises for its second Needham branch and improve the aesthetics of the site and building, and the vehicular circulation flow of the property. Modifications and improvements include the demolition and rebuilding of the drive-up canopy, the addition of a new landscape island, the addition of a handicapped space, the reconfiguration of the driveway and parking and the addition of new landscaping. The improvements comply with all the dimensional and density requirements of the By-Law.
4. The size and function of the building and the use of the premises as a bank will

remain the same.

5. The Applicant seeks modification to the 1969 Variance – Condition #5. The 1969 Variance contains language that does not comply with the provisions of M.G.L. c.40A, sec. 10 as amended by Statute 1975, c 808, Section 8 which, now prohibits the imposition of a condition “based upon the continued ownership of the land or structures to which the variance pertains by the applicant, petitioner or any owner.” Condition #5 states: “This variance is granted to the present petitioners and proposed user on a nontransferable basis, and for use of the property solely as a bank.” To bring Condition #5 into compliance with the statute, the Applicant requests that Condition #5 be modified as follows: “This variance is granted for use of the property solely as a bank.”
6. The Applicant seeks modification to the 1969 Variance – Condition #4. The 1969 Variance was issued prior to the adoption of off-street parking regulations. Condition #4 states: “Parking facilities for at least 17 cars, as shown on the plan, must be provided.” The premises contains 17 off-street parking spaces. In the 1980’s the Town adopted off-street parking regulations and, based on Section 5.1.2 (7) of the By-Law Required Parking – Offices, office buildings and banks, the standard is one space per 300 square feet of floor area. For a bank of 2,208 square feet, the total number of spaces required is 8 spaces. Following the modifications to the driveway and parking area, a total of 14 parking spaces, including a van accessible handicap space, will exist on the property, six spaces in excess of the off-street parking required under the By-Law. For Condition #4 to reflect the requirements of the By-Law and the plans submitted, the Applicant requests that Condition #4 be modified as follows: “That the number of parking spaces shall comply with the applicable provisions of the By-Law.”
7. Under Section 5.1.1.7 of the By-Law, Applicability for Parking Area, the alteration to a parking area containing 5 or more spaces shall adhere to Section 5.1.3 of the By-Law, Parking Plan and Design Requirements unless a Special Permit is granted to waive strict adherence to the Parking Plan and Design Requirements under Section 5.1.1.5 of the By-Law. While the current parking area does not comply with current design requirements, the proposed changes to the parking area will not create or intensify any existing non-conformities. Furthermore, the Design Review Board reviewed the plans and found the proposal an improvement to the site. The Board finds there are special circumstances that justify waiver of the By-Law’s parking plan and design requirements.
8. The Board finds the proposed changes are lawful changes that do not adversely affect or expand the use allowed by the 1969 Variance; that the proposed alteration of Conditions #4 and #5 as set in the 1969 Variance are lawful based on changes in circumstances and applicable law; and that the proposed changes are compatible with the characteristics of the surrounding area, and are in harmony with the general intent and purposes of the By-Law pursuant to the requirements of Sections 7.5, 7.5.2 and 7.5.3 of the By-Law.

Decision:

On the basis of the foregoing findings, following due and open deliberation, upon motion duly

made and seconded, the Board, by unanimous vote, grants the Applicant

(1) a Plan Substitution to *695 Highland Avenue – ZBA Variance – October 14, 1969* (“1969 Variance”) with the plans submitted with the application for 695 Highland Avenue dated October 25, 2024;

(2) Modifications to Condition 4 and 5 of the 1969 Variance as follows:

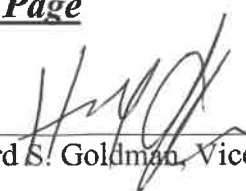
4. That the number of parking spaces comply with the applicable provisions of the By-Law.

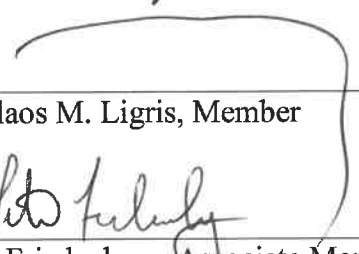
5. This variance is granted for use of the property solely as a bank.

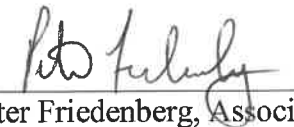
(3) a Special Permit under Sections 5.1.1.5, 5.1.1.7 and 5.1.3 of the Zoning By-Law to waive the strict adherence to the parking and design requirements, subject to the following condition:

1. the shrubs proposed in the Landscape Plan shall be maintained so that they will not obstruct visibility at Putnam Street from the abutting property.

Signatory Page


Howard S. Goldman, Vice-Chair


Nikolaos M. Ligris, Member


Peter Friedenberg, Associate Member

Twenty-Day Appeal Certification

I certify that the 20-day statutory appeal period for this Decision by the Needham Zoning Board of Appeals has passed,

☐ *and there have been no appeals filed in the Office of the Needham Town Clerk or*

☐ *there has been an appeal filed.*

Date

Louise Miller, Town Clerk