

City of Newton, Massachusetts

Department of Planning and Development
1000 Commonwealth Avenue Newton, Massachusetts 02459
617-796-1120

Ruthanne Fuller
Mayor

Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

DATE: June 9, 2023

TO: City Council

FROM: Barney S. Heath, Director of Planning and Development
Katie Whewell, Chief Planner for Current Planning
Cat Kemmett, Senior Planer

SUBJECT: **Petition #201-23**, for SPECIAL PERMIT/SITE PLAN APPROVAL to convert space for use as a church with classroom space, as well as a 72-seat café which will be open to the public, and a waiver of 64 parking stalls

The purpose of this memorandum is to provide the City Council and the public with technical information and planning analysis conducted by the Planning Department. The Planning Department's intention is to provide a balanced review of the proposed project based on information it has at the time of the public hearing. Additional information about the project may be presented at or after the public hearing for consideration at a subsequent working session by the Land Use Committee of the City Council.



1173-1177 Walnut Street

Project Description

Background

The subject property consists of a 10,799 square foot lot improved with a one-story commercial building at the corner of Walnut Street and Floral Street. The space has two street level retail units comprising approximately 4,452 square feet of space and a third basement tenant space of approximately 3,100 square feet.

The site is located in the Newton Highlands village center in an area with a diverse variety of uses including commercial space, single and multifamily homes, and open space. The abutter to the west is an office building, with an auto repair shop to the east, a pub across Floral Street to the southeast, a mixed-use building and four-unit residence across Walnut street, and a two-family residence to the rear. The site and the parcels to the northwest and southeast are in the BU-1 zone. The site also directly abuts the MR-2 zone to the southwest on Floral Street and BU-2 to the east across Walnut Street. The zoning of other nearby properties is a mix of MR-1, MR-2, SR-2, and public use. The MBTA Green line has a D line train stop directly across the street at Newton Highlands and connects to Boston and other Newton stations. MBTA route 59 runs along Walnut Street with a stop at Newton Highlands Station, which connects to the commuter rail, Green Line, and other major bus routes. Newton Highlands Station also has a Bluebikes bikeshare docking station.

Special Permit

The petitioner proposes to convert the basement unit for use as a church with classroom space, as well as a 72-seat café which will be open to the public. The proposed uses require administrative site plan review for a religious institution, a special permit café with over 50 seats, and a waiver of 64 parking stalls.

Religious uses are protected uses and typically fall under the administrative site plan process and are subject to a Dover Waiver issued by the Commissioner of Inspectional Services. Section 6.3.12.B.2.a of the Zoning Ordinance states that a special permit is required for religious institutions that cannot meet the parking regulations in Article 5 of the Zoning Ordinance. The petition is before the City Council due to the additional parking relief necessary.

Analysis

The Planning Department believes this is an appropriate location for a café with associated parking waivers. Though the proposed uses require a significant parking waiver, the location in a village center is well-served by public transit and is in a very walkable area. The neighborhood has several small lots with little to no associated parking carried over from the time predating the parking requirements in the zoning code. The area is well served by several modes of public transit and on-street parking is available in addition to the 15 surface stalls proposed in this project. Creating 64

new parking stalls in a walkable area in such close proximity to the Newton Highlands MBTA stop and the village center would not support the City’s sustainability goals.

I. Zoning Relief Requested:

For more details around the zoning analysis please refer to **Attachment A**.

Zoning Relief		
<i>Ordinance</i>		<i>Action Required</i>
§6.3.12.B.1	Administrative Site Plan Review for a religious institution	A.S.P.R. per §7.5.2
§4.4.1 §6.4.29.C.1	Request to allow a restaurant with more than 50 seats	S.P. per §7.3.3
§5.1.4 §5.1.13	Request to waive 64 parking stalls	S.P. per §7.3.3

II. Criteria for Consideration per §7.3.3. and/or §7.8.2.C.2:

- The site in BU-1 is an appropriate location for the requested parking waivers and restaurant with more than 50 seats (§7.3.3.C.1)
- The requested parking waivers will not adversely affect the neighborhood (7.3.3.C.2)
- The requested parking waivers will not create a nuisance or serious hazard to vehicles or pedestrians (§7.3.3.C.3)
- Access to the site over streets is appropriate for the types and numbers of vehicles involved. (§7.3.3.C.4)
- Literal compliance with the required amount of parking is impracticable due to the nature of the use, or the location, size, width, depth, shape, or grade of the lot, or that such exceptions would be in the public interest, or in the interest of safety, or protection of environmental features (§5.1.13)

III. Project Proposal and Site Characteristics

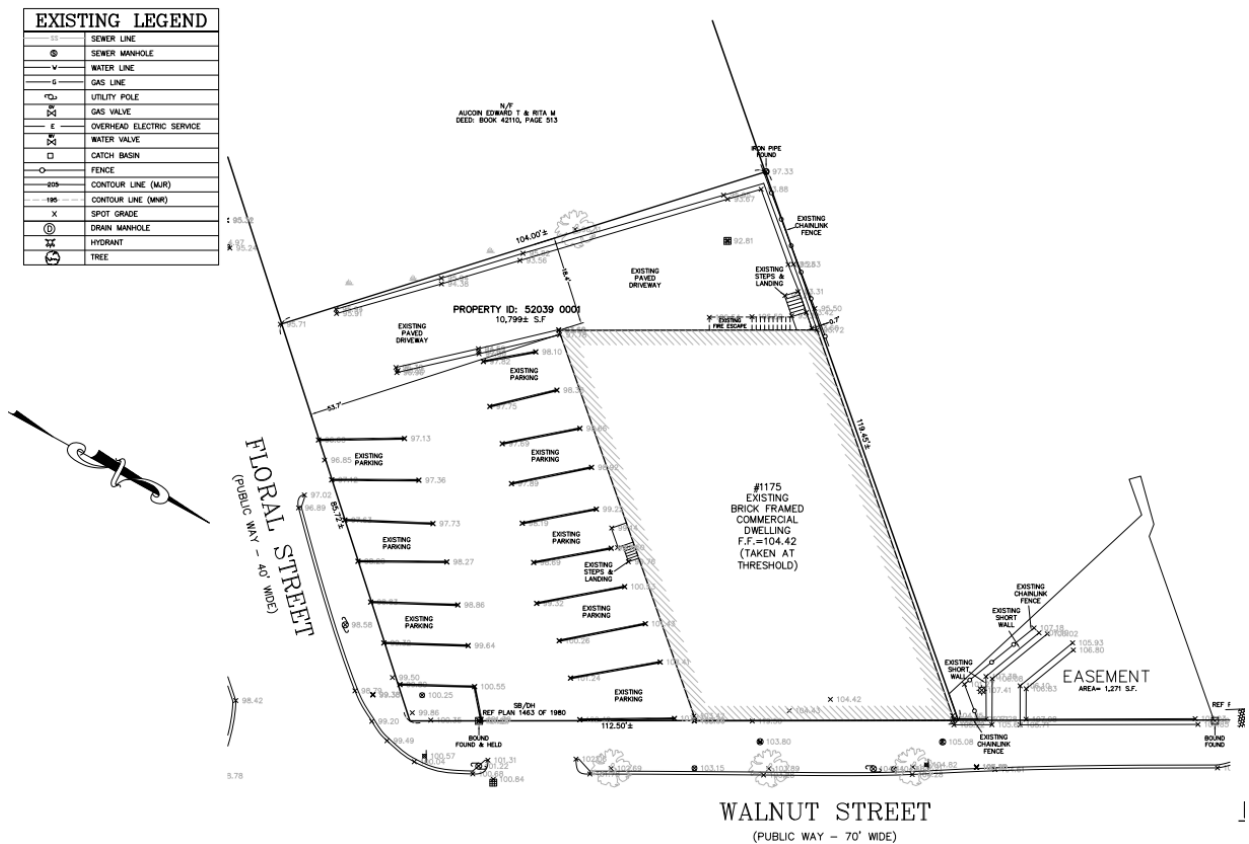
A. Site

The subject property consists of a 10,921 square foot lot improved with a one-story brick commercial building with 4,452 square feet of space at ground level and 3,100 square feet in the basement. One of these ground level tenant spaces is currently vacant and the other is occupied by a nail salon and spa. As is true for many of the commercial buildings in this area, there is no setback from the sidewalk. A short retaining wall and chain link fence extends out from the side of the building toward

Lincoln Street, and another is located at the rear of the property by the driveway. The site has a slope down from the front to the rear of the property.

Vehicular access is provided via two curb cuts. One curb cut is located to the left of the main entrance on Walnut Street, leading to a paved surface parking lot with 15 striped parking stalls. The other curb cut is located on Floral Street at the rear of the property at the south corner, which leads to a paved driveway bounded at either side by a retaining wall and the parking lot. There is also a small pedestrian curb cut at the southeast corner of the site for access to the crosswalk across Floral Street.

Existing Conditions



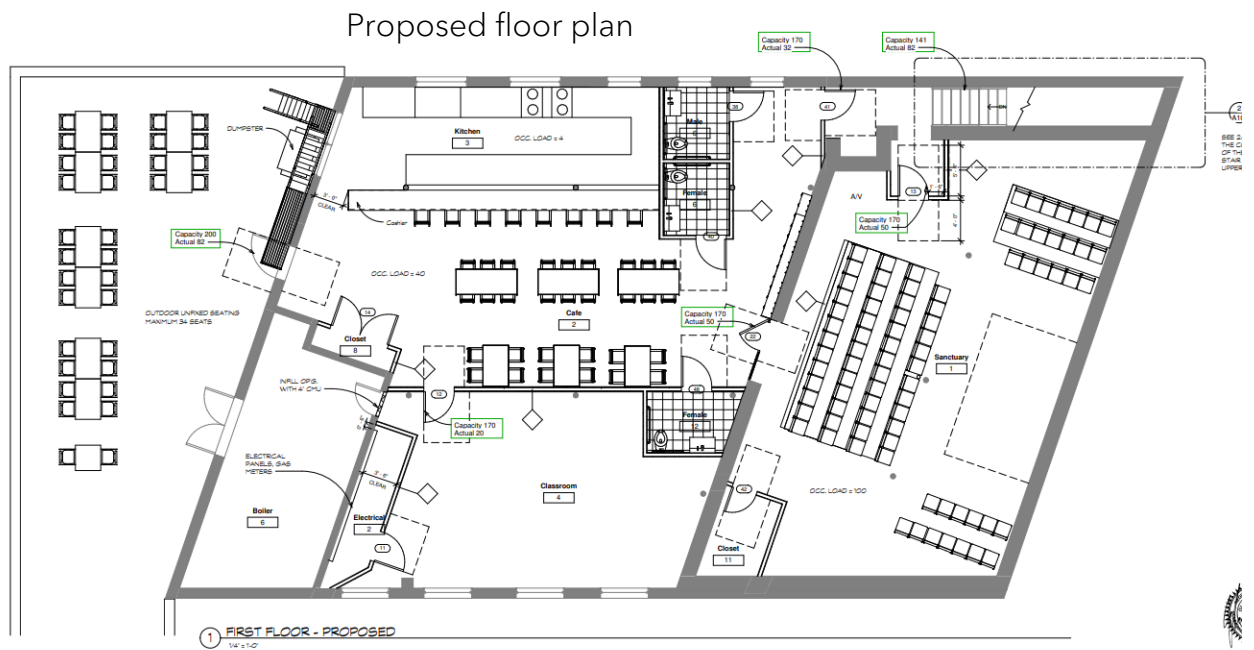
IV. Project Description and Analysis

A. Land Use

If approved the principal use of the site will remain commercial with a new church and café use.

B. Site Design

No new structures are proposed in this petition, and most modifications will be internal. The petitioner proposes to establish a church use in the 4,452 square foot basement tenant space of the building, with a classroom space and café which will be open to the public. As a religious use, this project is subject to the administrative site plan review process. The project needs relief for the café space, which will include 72 seats, because restaurants with more than 50 seats require a special permit.

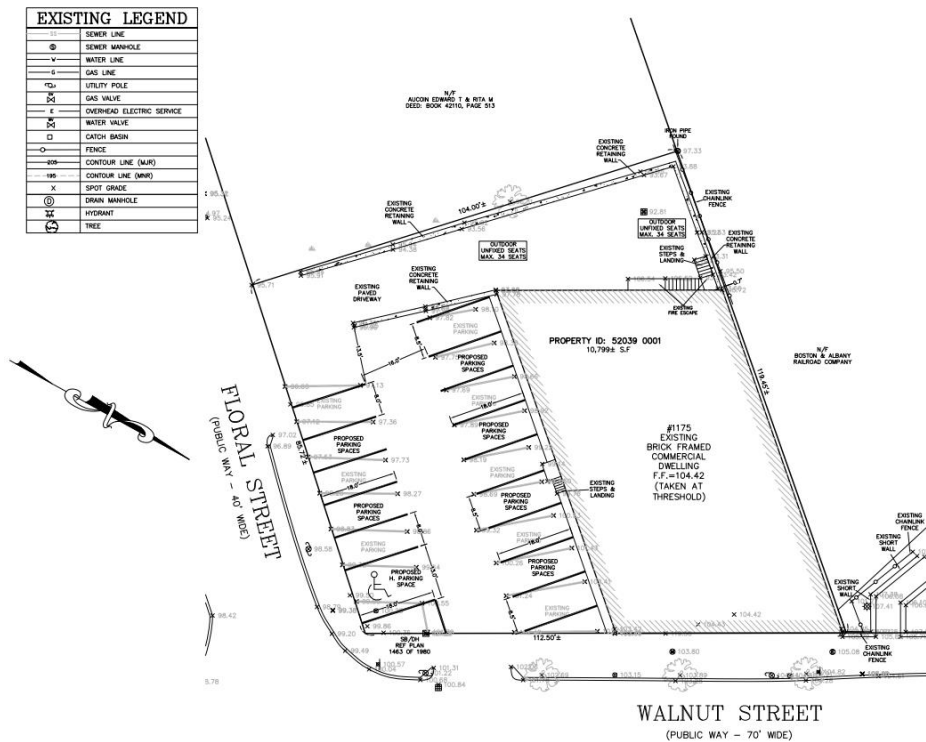


The design for the interior includes a 72-seat sanctuary and 554 square foot classroom which will be used concurrently with the sanctuary during services. The café space will have 38 indoor seats, kitchen space, and 34 unfixed outdoor seats in the driveway area leading to the rear door from Floral Street.

C. Parking and Circulation

There are currently 15 parking stalls in the surface lot on the site. Utilizing the A+B-C formula in §5.1.3.B, the parking requirement is 79 parking stalls for the proposed religious use, 72-seat café, classroom space, and the personal uses associated with the other tenants in the building. This requires a waiver of 64 parking stalls.

Proposed Conditions



The curb cuts on Floral Street and Walnut Street will remain unchanged. The plan proposes to retain the same 15 parking stalls in the surface lot, but with a slightly different configuration. One parking stall will be converted into an accessible parking stall where there is currently no accessible parking in the lot. The Planning Department has informed the petitioner that as proposed, the accessible stall does not meet the accessibility requirements of the Massachusetts Architectural Access Board and would require a waiver. Staff recommend the petitioner consult with their design team to create an alternative design with a compliant van-accessible stall, which will be required to obtain a building permit. Additionally, staff recommend the petitioner consider pavement markings or other similar means to delineate a for pedestrians planning to access the outdoor dining area from the parking lot.

For visitors driving to the site, parking is available nearby in multiple locations including in the surface lot, at metered street parking on several streets in the vicinity,

and in the Hartford Street municipal lot. The petitioner expects that some café patrons and church members will walk, bike, or use public transit to access the site. As an abutter to an MBTA stop in a vibrant village center, the site is well-served by public transit options and will be a walkable distance from patrons of restaurants and shops in Newton Highlands and for some residents in the nearby residential districts. Should this petition be approved, the Planning Department recommends that the petitioner communicate information about these alternative modes of transportation to church members and café clientele to ensure adequate parking will be available for those who require use of the limited on-site parking.

D. Operations

Church worship activities on the site will occur primarily on Sunday mornings. The petitioner has stated that the operating hours of the café space will be limited to weekends, but the architectural plans submitted note that the restaurant uses will occur primarily during business hours Monday-Saturday. The Zoning Ordinance does not contemplate the hours of operation of uses when considering the parking and use requirements, so any discrepancy in hours would not impact the zoning relief required with this petition. Staff request that the petitioner clarify the proposed hours of operation for the café to better understand the parking needs and availability on weekends.

The outdoor dining area will be in close proximity to residences in the abutting MR zone. The petitioner has stated that the outdoor dining area will only operate during the summer, and music will not be piped outdoors, which will serve to mitigate noise disturbance to abutters. No permanent outdoor lighting is proposed for the outdoor patio space.

V. Interdepartmental Review:

No interdepartmental review is required at this time.

VI. PETITIONER'S RESPONSIBILITIES

The petition is considered complete.

ATTACHMENTS:

Attachment A: Zoning Review Memorandum
Attachment C: DRAFT Council Order

#201-23
1173- 1177 Walnut Street

CITY OF NEWTON

IN CITY COUNCIL

ORDERED:

That the City Council, finding that the public convenience and welfare will be substantially served by its action, that the use of the site will be in harmony with the conditions, safeguards and limitations set forth in the Zoning Ordinance, and that said action will be without substantial detriment to the public good, and without substantially derogating from the intent or purpose of the Zoning Ordinance, grants approval of the following SPECIAL PERMIT/SITE PLAN APPROVAL to allow a restaurant with more than 50 seats, a waiver of 64 parking stalls, and site plan review as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Richard Lipof:

1. The specific site is an appropriate location for the proposed restaurant with 72 seats and 64-stall parking waiver because it is located in a village center with access to public transit and the area has a diverse mix of uses. (§7.3.3.C.1)
2. The proposed restaurant and parking waiver will not adversely affect the neighborhood because the site is in a walkable area that is in close proximity to public transit options. (§7.3.3.C.2)
3. There will not be a nuisance to vehicles or pedestrians because the existing curb cuts and driveway access are being maintained. (§7.3.3.C.3)
4. Access to the site over streets is appropriate for the types and numbers of vehicles involved. (§7.3.3.C.4)
5. A waiver of 64 parking stalls is in the public interest because constructing 64 additional parking stalls would require a substantial increase in impervious paving on the site and the site is within a village center with access to public transit (§5.1.13)

PETITION NUMBER: #201-23

PETITIONER: Haemee, Inc

LOCATION: Section 52 Block 39 Lot 01, containing approximately 10,799 sq. ft. of land

OWNER: Haemee, Inc

ADDRESS OF OWNER: 1 Terrace Road

Weston, MA 02493

TO BE USED FOR: Use of basement level tenant space for a religious use with classroom space, a 72-seat café, waiver of 64 parking stalls, and site plan review

RELIEF GRANTED: Administrative Site Plan Review per §7.5.2 for a religious institution (§6.3.12.B.1), Special Permit per §7.3. to allow a restaurant with more than 50 seats (§4.4.1 and §6.4.29.C.1), waiver of 64 parking stalls (§5.1.4 and §5.1.13)

ZONING: Business Use 1 District

Approved, subject to the following conditions:

1. All buildings, parking areas, driveways, walkways, landscaping and other site features associated with this special permit/site plan approval shall be located and constructed consistent with:
 - a. Site plan prepared by Peter Nolan Associates, LLC, signed and stamped by Peter J. Nolan, Professional Land Surveyor, dated January 25, 2023
 - b. A set of architectural drawings prepared by Glenn Knowles & Associates, signed and stamped by Glenn Knowles, Registered Architect, dated June 7, 2023:
 - i. "Existing and Demo" (Sheet A101)
 - ii. "Proposed" (Sheet A102)
2. No building permit (other than a demolition permit) and unless otherwise specified shall be issued by the City pursuant to this Special Permit/Site Plan Approval unless all applicable terms and conditions have been complied with and the Petitioner has:
 - a. Recorded a certified copy of this Special Permit/Site Plan Approval at the Middlesex South Registry of Deeds and filed proof of such recording with the City Clerk and submitted a copy with the building permit application.
 - b. Obtained a written statement/sign off from the Planning Department that confirms the Building Permit plans are consistent with plans approved in Condition #1 including all dimensional requirements.
3. No certificate of occupancy (temporary or final) shall be issued by the City pursuant to this Special Permit/Site Plan Approval unless all applicable terms and conditions have been complied with for the portion of the project for which occupancy is requested and the Petitioner has:

- a. Filed with the building permit record statements by a registered architect (or professional engineer) and a professional land surveyor (or professional engineer) certifying compliance with Condition #1.