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Barney S. Heath  
Director

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## PUBLIC HEARING/WORKING SESSION MEMORANDUM

**DATE:** April 22, 2022  
**MEETING DATE:** April 26, 2022  
**TO:** Land Use Committee of the City Council  
**FROM:** Barney S. Heath, Director of Planning and Development  
Katie Whewell, Senior Planner  
**CC:** Petitioner

In response to questions raised at the City Council public hearing, the Planning Department is providing the following information for the upcoming public hearing/working session. This information is supplemental to staff analysis previously provided at the Land Use Committee public hearing.

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### **PETITION #189-22**

**858 Walnut Street**

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**Petition #189-22** for SPECIAL PERMIT/SITE PLAN APPROVAL to waive parking stalls and allow single-level non-accessory parking at 858 Walnut Street, Ward 6, on land known as Section 64 Block 5 Lot 04, containing approximately 23,250 sq. ft. of land in a district zoned BUSINESS UNIT 2. Ref: Sec. 7.3.3, 7.4, 6.3.12.B.2.a, 5.1.4.A, 5.1.13, 4.4.1 of the City of Newton Rev Zoning Ord, 2017.

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The Land Use Committee (the "Committee") held a public hearing on April 5, 2022 on this petition. This memo reflects additional information addressed to the Planning Department as of April 22, 2022.

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### **Background**

The property located at 858 Walnut Street consists of a 23,250 square foot lot improved with a commercial building and surface parking to the rear. The site is in a Business 2 (BU-2) zone in Newton Centre. The petitioner is seeking to locate a religious use within the building. The religious use has a higher parking requirement from the previous personal service use, as such the petitioner requires a special permit for a parking waiver of five parking stalls. The property owner also requires a special permit to formalize a non-accessory parking agreement, which leases 39 of the 63 parking stalls to the market.

City Staff are unconcerned with the five-stall parking waiver and request to allow single-level, non-

accessory parking. The lease agreement with the market has been in existence since at least the early 1990s and has presented no issue that the Planning Department is aware of. As such, the Planning Department is unconcerned with the request to allow single-level, non-accessory parking. When reviewing this petition with the Transportation Division of Public Works, Transportation staff suggested the applicant stay cognizant of any residential street parking restrictions and communicate any present and future restrictions to its members.

**Update**

The Planning Department has not received any new information and/or material at the time of the writing of this memorandum. Members of the Committee directed the Planning and Law Departments to draft conditions meeting the directives of the Committee which included limiting off hours uses, ensuring as of right uses' parking can be contained on site, and ensuring neighborhood contact and communications. Please see attached draft council order that incorporates these conditions.

**ATTACHMENTS**

**Attachment A**                      DRAFT Council Order

CITY OF NEWTON

IN CITY COUNCIL

ORDERED:

That the 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 a SPECIAL PERMIT/SITE PLAN APPROVAL to waive five parking stalls and allow single-level, non-accessory parking 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 five-stall parking waiver and single-level non-accessory parking because the religious use operates when other uses on-site are closed and the single-level, non-accessory parking agreement has been in existence for over 30 years. (§7.3.3.C.1).
2. The five stall parking waiver and single-level non-accessory parking will not adversely affect the neighborhood because the use does not create additional parking demand during peak weekday hours, and the single-level, non-accessory parking agreement has been in existence for over 30 years (§7.3.3.C.2).
3. There will not be a nuisance or serious hazard to vehicles or pedestrians because the driveway locations are being maintained (§7.3.3.C.3); and
4. Access to the site over streets is appropriate for the types and numbers of vehicles involved because the site is not being altered. (§7.3.3.C.4).
5. A waiver of five parking stalls is in the public interest because the use does not create additional parking demand during peak weekday hours. (§5.1.13)

PETITION NUMBER: #189-22

PETITIONER: 858 Walnut Street LLC

LOCATION: 858 Walnut Street, Section 64, Block 05, Lot 04 containing approximately 25,250 square feet of land

OWNER: 858 Walnut Street LLC

ADDRESS OF OWNER: 158 Greenwood Street  
Newton, MA 02459

TO BE USED FOR: Establish religious use

CONSTRUCTION: Internal Modifications

EXPLANATORY NOTES: §4.4.1, §5.1.4, §5.1.4.A, §5.1.13, §6.3.12.B.2.a, §7.3.3 to  
allow a parking waiver of 5 stalls, and to allow single-level,  
non-accessory parking

ZONING: BU-2

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 the following plans:
  - i. "Plot Plan" dated January 15, 1958, signed and stamped by James G. Noonan
  - ii. Usage Plan (floor plans), Newton Minyan, 858 Walnut Street, dated March 4, 2022, prepared by Malcolm A. Blier
2. The parking waiver of five stalls shall only apply to the religious use, any change in use seeking to use the parking waiver, requires an amendment to this Council Order. Any change in ownership shall require the petitioner contact the Planning Department to ensure the site operations still justify the granted relief.
3. The petitioner shall designate a single individual to communicate with neighbors via email for the purpose of addressing neighborhood concerns. The designated individual shall also coordinate a meeting with interested neighbors within three months of commencing operations and shall thereafter meet as necessary to address concerns. The petitioner shall work in good faith to implement measures to address identified concerns.
4. In the event the petitioner intends to make the tenant space available to a third party for a use other than the approved religious institution use, the petitioner shall notify the Planning Department to ensure that the use is an allowed use and that the parking requirements for such use can be met on-site.
5. No building permit shall be issued pursuant to this special permit/site plan approval until the petitioner has:

- a. Recorded a certified copy of this council order for the approved Special Permit/Site Plan with the Registry of Deeds for the Southern District of Middlesex County for both parcels.
  - b. Filed a copy of such recorded council order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
6. No occupancy permit for the use covered by this special permit/site plan approval shall be issued until the petitioner has:
  - a. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development statements by a registered architect certifying compliance with Condition #1.