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## ZONING REVIEW MEMORANDUM

Date: November 9, 2021

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official  
Neil Cronin, Chief Planner for Current Planning

Cc: 858 Walnut Street LLC, Applicant  
Newton Center Minyan  
Barney S. Heath, Director of Planning and Development  
Jonah Temple City Solicitor

RE: Request to waive five parking stalls and to allow non-accessory parking

Applicant: 858 Walnut Street LLC	
Site: 858 Walnut Street	SBL: 64005 0004
Zoning: BU2	Lot Area: 23,250 square feet
Current use: Tutoring and unmanned server room	Proposed use: Religious institution and unmanned server room

### BACKGROUND:

The property at 858 Walnut Street consists of 23,250 square feet improved with a two-story building constructed in 1955 and a surface parking facility. The petitioner proposes to locate a religious institution in a space formerly occupied by a tutoring center. No exterior changes to the building or parking facility are proposed.

The following review is based on plans and materials submitted to date as noted below.

- Zoning Review Application, prepared by Dahlia Rudavsky, submitted 9/23/2021
- Narrative, prepared by Dahlia Rudavsky, submitted 9/23/2021
- Letter dated 8/17/2020 from Alan Schlesinger, attorney, submitted 9/23/2021
- Parking Management Plan, dated 10/13/2020
- Parking Layout, prepared by David Galler Associates, architect, dated 10/11/1990

**ADMINISTRATIVE DETERMINATIONS:**

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1. The Newton Center Minyan is subject to the administrative site plan review procedure per Sections 6.3.12.B.1 and 7.5.2 of the Newton Zoning Ordinance. This procedure governs the review of uses protected under MGL Chapter 40A, Section 3, also known as the “Dover Amendment”.
2. The applicant intends to introduce a religious institution, replacing the current tutoring center use. At the time the tutoring center began operation, the use was determined to be a personal service business for the purposes of parking, requiring one (1) parking stall per each 300 square feet of gross floor area and one (1) stall per each three (3) employees per section 5.1.4, providing a credit of 18 stalls. The petitioner proposes to introduce a 70-seat religious institution within the 4,575 square foot space with no employees. Per section 5.1.4.A, the proposed religious institution use requires one stall for every three seats, or 23 stalls.

There is an unmanned computer server room utilized by RCN in the 3,600 square foot basement. Per section 5.1.4.A, a telecommunications and data storage facility requires one stall per 2,500 square feet, and one stall per every four employees. Though unmanned, it can be assumed that the facility will have an occasional employee visit. The RCN server room requires three stalls.

There is a lease agreement between the property, the adjacent property at 860-862 Walnut Street (which are under common ownership), and the Whole Foods supermarket at 916 Walnut Street. This agreement dates back to when the Whole Foods property was occupied by a different supermarket tenant (Bread and Circus). The agreement allows the supermarket to use 39 of the 63 total stalls at the shared parking facility between the subject property and 860-862 Walnut Street reducing the parking available to the minyan and server room to 14 stalls.

The change of use from a tutoring service to a religious institution requires application of the formula found in section 5.1.3.B of  $A-B+C$ =required parking. Per this section:

A = The number of off-street parking stalls required under section 5.1.4 for the proposed religious institution of one stall per every three seats.  $70 \text{ seats}/3 = 23$  stalls required. In addition, three stalls are required for the RCN facility, for a total requirement of 26 stalls for the site’s proposed uses.

B = The number of off-street parking stalls required under section 5.1.4 for the previous tutoring service of one stall per every 300 square feet, plus one stall per every three employees at the busiest shift.  $4,575 \text{ square feet}/300 = 16$ . Six employees/one per three employees = 2. In addition, three stalls are required for the RCN facility, for a total site requirement of 21 stalls required for the site’s previous uses.

C = The number of off-street parking stalls available for the site’s uses. There are 13 on-site stalls allocated to the religious institution and one stall allocated to the RCN facility for a total of 14 stalls available to the site’s uses. Other stalls on the premises are separately leased to Whole Foods.

$$A - B + C = 26 - 21 + 14 = 19 \text{ stalls}$$

With 19 stalls required and 14 available, a waiver of 5 stalls is required per sections 6.3.12.B.2.a, 5.1.4 and 5.1.13.

- 3. The existing parking facility is nonconforming with regard to stall dimensions, striping, lighting, and landscaping and has existed in its current condition and configuration for many years. It is accessed by a driveway on the northern property boundary, as well as a larger shared driveway with 860-862 Walnut Street, which is commonly owned. The parking is located behind the buildings and functions as one shared parking facility with 63 stalls, 31 of which are on the petitioner’s site.

No physical changes to the parking areas are proposed.

- 4. A lease agreement is in place between the Whole Foods Market and the subject property (and the adjacent 860-862 Walnut Street) for 39 of the 63 parking stalls (shared between the Walnut properties). The current agreement was formalized in 2008 by the owner of the subject property and Whole Foods, and has been renewed every five years since. The next expiration will be on December 31, 2022 and the petitioner and Whole Foods intend to renew the agreement. Per section 4.4.1, a special permit is required to formalize the single-level non-accessory parking.
- 5. See “Zoning Relief Summary” below:

Zoning Relief Required		
Ordinance		Action Required
§6.3.12.B.1 §7.5.2	To review a religious institution use	A.S.P.R. per §7.5.2
§6.3.12.B.2.a §5.1.4.A §5.1.13	To waive 5 parking stalls	S.P. per §7.3.3
§4.4.1	To allow single-level non-accessory parking	S.P. per §7.3.3

**Next Steps**

Please contact a Planner by calling 617.796.1120 to obtain a copy of the Special Permit Application. If there have been any changes made to the plans since receipt of your Zoning Review Memorandum you must inform the Zoning Code Official to ensure additional relief is not required. You will need an appointment with a Planner to file your Special Permit Application. **Incomplete applications will not be accepted.**

**The following must be included when filing a Special Permit Application:**

6. Two (2) copies of the completed Special Permit Application (signed by property owner)
7. Filing Fee (see Special Permit Application)
8. Two (2) copies of the Zoning Review Memorandum
9. Plans (Thirteen sets signed and stamped by a design professional). Each set shall contain:
  - Site Plans showing existing and proposed conditions (including topography as applicable)
  - Architectural plans showing existing and proposed conditions (including façade materials)
  - Landscape plan (as applicable)
10. One (1) Floor Area Ratio (FAR) Worksheet, (signed and stamped by a design professional)
11. One (1) copy of any previous special permits or variances on the property (as applicable)
12. One (1) copy of any other review/sign-off (Historic, Conservation, Tree Removal, etc. as applicable)
13. Two (2) electronic copies of the application with all above attachments (USB or CD)

Copies of all plans shall either be 8.5 x 11 or 11 x 17, except as requested by staff

Special Permit Sign (\$20 fee)

**Incomplete applications will delay the intake and review of your project.**

Depending on the complexity of the project additional information may be requested to facilitate a full review of the application.

Has the proposed project been presented to and discussed with abutting property owners?      Y/N