



Ruthanne Fuller
Mayor

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

Petition: #286-23
Public Hearing:
09/19/23

Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

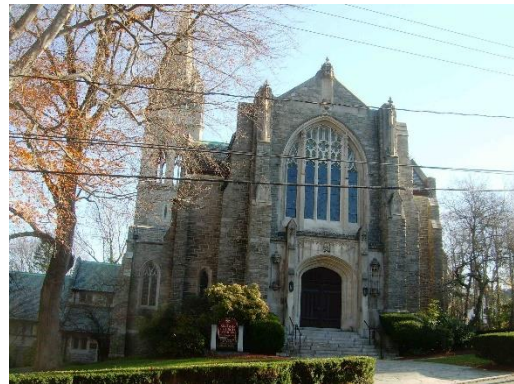
DATE: September 15, 2023

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 #286-23**, for SPECIAL PERMIT/SITE PLAN APPROVAL to allow for-profit and non-profit educational use and to waive 19 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.



60 Highland Street

Project Description

Background

The subject property consists of a 108,768 square foot lot improved with a church constructed in 1915. There are two separate sanctuary spaces in the building. One is occupied by the Second Church congregation and the other by the Congregation Dorshei Tzedek. The Second Church Nursery School operates out of a separate space the petitioner calls the annex.

The site abuts the Massachusetts Turnpike to the north and the other immediate abutters are residential. The rest of the surrounding neighborhood is primarily residential with a mix of single, two, and multifamily dwellings. This site and several others are zoned Multi-Residence 1, and the area also includes parcels zoned Single-Residence 2, Multi-Residence 2, Business-Use 1. To the north across the Turnpike there are Public Use and Business Use zones. The West Newton commuter rail station is 0.2 miles away, and the 553/554 bus running from Waltham to Newton Corner has a stop 0.3 miles away.

Special Permit

The petitioner seeks to allow additional for-profit and new non-profit educational tenants to occupy space in the church building. Per sections 3.4.1, 6.3.14.B.1.b and 6.3.14.B.2, a special permit is required to allow non-profit educational uses requiring a parking waiver and for-profit educational uses in the MR1 zoning district. This petition is before the Committee to allow the proposed for-profit educational use and to waive 19 parking stalls associated with both new educational uses proposed.

Analysis

The Planning Department is not concerned with the proposed educational uses and parking waiver of 19 stalls. The Zoning Ordinance treats the parking requirements as if all uses on site are operating at the same time, resulting in higher parking requirements than the demand associated with such uses. All uses operating at once is unlikely due to the nature of the uses on site. The building is also located close to public transit options and the amenities in West Newton village center. The building and existing uses on the site predate the parking required by zoning in the city, and the amount of existing parking on the site should be sufficient to meet the parking demand of the new uses as their hours of peak parking demand should not conflict with peak parking demand for the religious uses on the site. Also, constructing 19 new parking stalls in such close proximity to public transit does not support the City's sustainability goals.

The Planning Department often evaluates for profit educational uses looking to secure a tenanted space prior the special permit process. Allowing these uses removes a hurdle that often results in these smaller operators locating in other towns due to the lengthy special permit process. Examples of such uses that could locate by allowing this request would include martial arts studios, dance schools, computer/coding schools, and any use that operates with an instructional component to

their business.

I. Zoning Relief Requested:

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

Zoning Relief Required		
<i>Ordinance</i>	<i>Required Relief</i>	<i>Action Required</i>
§4.4.1 §6.3.14.B.1.b §6.3.14.B.2	Request to allow non-profit educational uses requiring a parking waiver and for-profit educational uses	S.P. per §7.3.3
§5.1.4 §5.1.13	Request to waive 19 required 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 MR-1 is an appropriate location for the requested nonprofit and for-profit educational uses and parking waivers. (§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

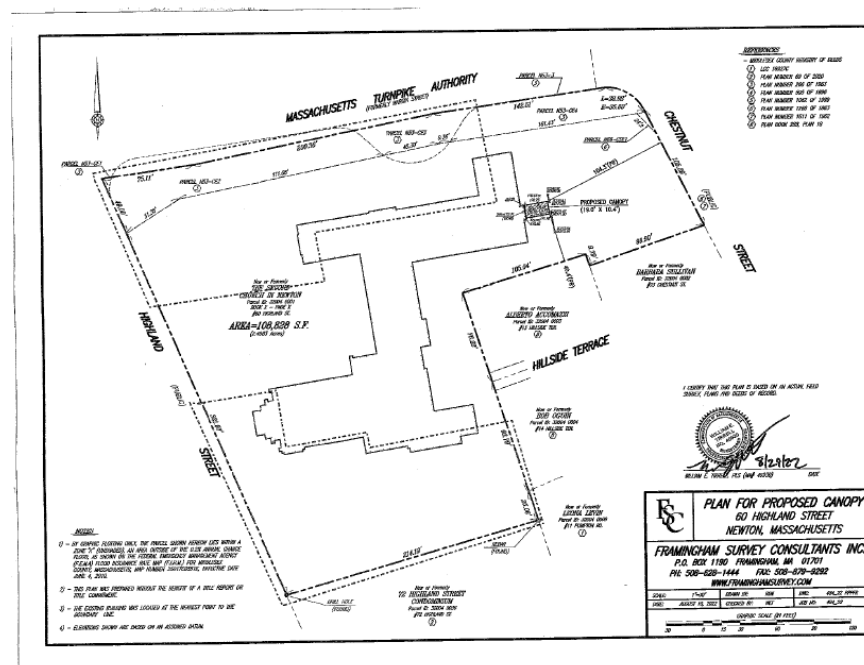
A. Site

The subject property consists of a 108,768 square foot lot located between Highland Street and Chestnut Street, with frontage on each street. The building is approximately 56,808 gross square feet in size. The main entrance of the building is on Highland Street, with a secondary entrance on Chestnut Street. The larger sanctuary space of the church was built circa 1916 and the second sanctuary and annex space were added in 1935. A chain link fence runs along the north side of the

site and a stone retaining wall is located along the south side close to Chestnut Street. The grade of the site generally slopes from the south side of the site down to the north side. Several trees are located along the perimeter of the site.

Vehicular access is provided via three curb cuts, with one on Highland Street and the other two on Chestnut Street. These curb cuts lead to a paved driveway running the length of the north side of the site and two main parking areas, one each on Chestnut Street and Highland Street. In total there are 62 striped parking stalls within this surface lot, which are shared among the existing uses in the building.

Existing Conditions



IV. Project Description and Analysis

A. Land Use

If approved the use of the site will expand from religious use and preschool use to religious use, preschool use, and for-profit educational use.

B. Site Design

The petitioner proposes to expand the uses allowed on the site to include a new for-

profit educational tenant and allow for a future educational use. A special permit is required to allow non-profit educational uses requiring a parking waiver and for-profit educational use in the MR-1 zoning district. No new structures are proposed in this petition.

The petitioner intends to rent vacant space in the annex to educational tenants unaffiliated with the church. They have secured Play2Learn, a for-profit pediatric occupational therapy practice, as a tenant. According to the narrative submitted by Play2Learn, their services are available to children from birth up to age 18 and include physical, social, and emotional therapy for young people that is supplemental to the support they receive at school. The scope of their work does not include medical procedures or administering medications and is conducted primarily one-on-one or in small groups.

The petitioner also seeks to allow flexibility to allow future non-profit educational uses in the four remaining vacant classroom spaces in the annex but has not yet secured a tenant for that space. Though the details of how that future tenant will use the space have yet to be determined, the Planning Department is not concerned with the proposed nonprofit educational use in the four vacant classrooms in the annex. With a maximum of four classrooms and four employees, this future use will need to be fairly small scale, and a non-profit educational use is complementary to the other educational institutions on the site. The Planning Department often evaluates these types of uses looking to secure a tenanted space prior the special permit process. Allowing these uses remove a hurdle that often results in these uses locating in other towns due to the lengthy special permit process to locate smaller operators that operate with an instructional component to their business.

C. Parking and Circulation

The total parking requirement for the religious and preschool uses that currently occupy the site is 601 stalls. Because the existing uses in the building predate the parking requirements established in the zoning code, the on-site parking facility consisting of only 62 stalls is legally nonconforming. Utilizing the A+B-C formula in §5.1.3.B, the parking requirement for the proposed new uses on the site is 19 parking stalls for the 15 employees associated with Play2Learn and accounting for four employees in the four remaining classrooms that the petitioner intends to rent to a future non-profit educational tenant. This requires a waiver of 19 parking stalls, as no additional parking is proposed to accommodate these new uses. As proposed, the surface parking area and curb cuts on Highland Street and Chestnut Street will remain unchanged.

Because the work that Play2Learn engages in is focused on individual and small group learning and by appointment only, the parking needs for the use should be able to be met by the existing parking on the site. Play2Learn is open Monday to Friday during

typical weekday hours and is thus unlikely to negatively impact peak parking demand for the religious uses on the site on the weekend. Public transit options in the form of the commuter rail and the express bus are also available close to the site as an alternative mode of transportation.

Should this petition be approved, the Planning Department encourages the petitioner to work with any potential future tenant of the unoccupied classroom space to ensure that there are no significant overlaps between pick up and drop off times for their students that would conflict with the other uses on the site.

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 B: DRAFT Council Order



Ruthanne Fuller
Mayor

City of Newton, Massachusetts
Department of Planning and Development
1000 Commonwealth Avenue Newton, Massachusetts 02459

Attachment A

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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: July 13, 2023

To: Anthony Ciccariello, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official
Katie Whewell, Chief Planner for Long Range Planning

Cc: Laurance Lee, Attorney
The Second Church in Newton
Barney S. Heath, Director of Planning and Development
Jonah Temple, Deputy City Solicitor

RE: Request to allow a for-profit educational use and to waive 19 parking stalls

Applicant: The Second Church in Newton	
Site: 60 Highland Street	SBL: 32004 0001
Zoning: MR1	Lot Area: 108,768 square feet
Current use: Religious use and preschool	Proposed use: Religious use, preschool and for-profit education

BACKGROUND:

The property at 60 Highland Street consists of a 108,768 square foot lot in a M1 zone improved with a church constructed in 1915. A large addition of an “education wing” was constructed in 1938 and has been used continuously for a preschool since then. The petitioner seeks to allow other for-profit and non-profit educational tenants in a section of the Church building known as the “Annex,” requiring a special permit for the proposed use and to waive required parking stalls.

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

- Zoning Review Application, prepared by Laurance Lee, attorney, dated 6/2/2023
- Parking Calculations, prepared by Laurance Lee, attorney, submitted 6/2/2023
- Floor plans, signed and stamped by Richard T. Hardaway, architect, dated 5/27/2021

ADMINISTRATIVE DETERMINATIONS:

1. The petitioner seeks to allow for the flexibility for-profit and non-profit educational uses within existing unused classrooms. The petitioner is currently leasing space to Play2Learn, a for-profit educational use providing pediatric occupational therapy supplemental to that which is provided in academic settings. Additionally, the Church seeks to generally allow educational uses within four unused classroom spaces on site (without tenants specified at this time). Per sections 3.4.1, 6.3.14.B.1.b and 6.3.14.B.2, a special permit is required to allow non-profit educational uses requiring a parking waiver and for-profit educational use in the MR1 zoning district.
2. There are two separate sanctuary spaces within the Church, occupied by the Second Church congregation and the Congregation Dorshei Tzedek. The Second Church Nursery School is housed in the Annex. The Church seeks to allow non-profit educational uses into the vacant classroom spaces of the Church. There are 62 parking stalls available on site for use by all of the existing uses which require a total of 601 stalls, per section 5.4.1. These uses predate the parking requirement. The petitioner seeks to introduce educational uses into vacant space within the building. The Church has secured Play2Learn as a tenant, but seeks to allow other educational uses within four additional classrooms, with one instructor expected per each room. Per the chart below, a waiver of 19 stalls is required to accommodate the proposed educational uses per section 5.1.13.

Existing Uses		Parking	Total
Second Church	685 seats 6 employees	1 per 3 seats 1 per 3 employees	490 stalls
Second Church Nursery School	13 employees	1 per each employee	
Congregation Dorshei Tzedek	278 seats 14 employees	1 per 3 seats 1 per 3 employees	98 stalls
Subtotal			601 stalls
Proposed Uses			
Play2Learn	15 employees	1 per each employee	15 stalls
TBD Education	4 employees	1 per each employee	4 stalls
Subtotal			19 stalls
TOTAL			620 STALLS

Zoning Relief Required		
Ordinance	Required Relief	Action Required
§4.4.1 §6.3.14.B.1.b §6.3.14.B.2	Request to allow non-profit educational uses requiring a parking waiver and for-profit educational uses	S.P. per §7.3.3
§5.1.4 §5.1.13	Request to waive 19 required parking stalls	S.P. per §7.3.3

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 extend a nonconforming residential use to allow for-profit and non-profit educational uses and to waive 19 parking stalls as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Richard Lipof:

1. The site is an appropriate location for the proposed nonprofit and for-profit educational uses and 19-stall parking waiver because it is located close to a commuter rail station, and the site has historically accommodated both religious and educational uses. The uses proposed are unlikely to operate all at the same time, thus resulting in a lesser parking demand than the Ordinance requires. (§7.8.2.C.1)
2. The proposed educational uses and parking waiver will not adversely affect the neighborhood because peak traffic demand will not be impacted. (7.3.3.C.2)
3. There will not be a nuisance to vehicles or pedestrians because the existing curb cuts and driveway access will be 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 19 parking stalls is in the public interest because constructing additional parking stalls would require an increase in impervious paving on the site. (§5.1.13)

PETITION NUMBER: #286-23

PETITIONER: The Second Church in Newton

LOCATION: 60 Highland Street, Ward 3, West Newton, on land known as Section 32 Block 04 Lot 01, containing approximately 108,768 sq. ft. of land

OWNER: The Second Church in Newton

ADDRESS OF OWNER: 60 Highland Street
Newton, MA 02465

TO BE USED FOR: To allow for-profit educational use and non-profit educational use requiring parking waivers, and a waiver of 19 parking stalls

RELIEF GRANTED: Special Permit per §7.3.3:

- To waive 19 parking stalls (§5.1.4, §5.1.13)
- To allow non-profit educational uses requiring a parking waiver and for-profit educational uses (§4.4.1, §6.3.14.B.1.b, §6.3.14.B.2)

ZONING: Multi Residence 1

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 Framingham Survey Consultants, signed and stamped by William E. Tirrell, Professional Land Surveyor, dated August 29, 2022
 - b. A set of floor plans prepared by Richard T. Hardaway, architect, signed and stamped, dated May 27, 2021
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.