



Ruthanne Fuller
Mayor

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

Petition: #203-24
Public Hearing: 04/23/24

Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

DATE: April 18, 2024

TO: City Council

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

SUBJECT: **Petition #203-24**, for SPECIAL PERMIT/SITE PLAN APPROVAL for Administrative Site Plan Review to allow a daycare use and a Special Permit to waive six 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.



66 Needham Street

Project Description

Current Use: Small retail

Proposed Use: Daycare

Zoning: MU-2

Lot size: 25,753 sq ft

Background

The subject property consists of a 25,753 square foot lot improved with a single-story commercial building constructed in 1955 and 26 surface parking stalls. The petitioner proposes to introduce a daycare center into the space formerly occupied by the retail showroom for Landry's Bicycles.

Daycare centers are an allowed use in all zones and are protected under M.G.L. Chapter 40A, Section 3, known as the Dover amendment, and can be approved without a Special Permit via Administrative Site Plan Review. However, the interpretation by the Commissioner of Inspectional Services is that a special permit is required for the relief to waive required parking stalls is necessary for this use. Because the proposed daycare requires a special permit to waive six parking stalls, a special permit is required.

Analysis

The Planning Department is not concerned with the proposed waiver of six parking stalls, or the relief related to parking and screening requested of the Commissioner of Inspectional Services. The on-site parking will be largely maintained in its current state, and the size and configuration of the site would make it difficult for the applicant to meet the screening requirements for parking facilities accessory to daycare centers.

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>
§5.1.4 §5.1.13	Request to waive 6 parking stalls	S.P. per §7.3.3
§6.3.4.B.3.b	To waive the perimeter screening requirement of §5.1.9	Dover waiver
§6.3.4.B.3.c	To waive §5.1.8 to allow parking in a setback	Dover waiver
§6.3.4.B.3.a	To waive the requirement for a vegetative buffer around the outdoor play area	Dover waiver
§6.3.4.B.3.e	To waive the for a trash location and screening plan	Dover waiver

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

- The site in a Mixed Use 2 district is an appropriate location for the proposed parking waivers (§7.3.3.C.1)
- The requested parking waivers will not adversely affect the neighborhood (7.3.3.C.2)
- The 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 of the number of parking stalls and the screening requirement of parking facilities accessory to a daycare center impracticable due to the nature of the use, or the location, size, width, depth, shape, or grade of the lot such that these exceptions will be in the public interest, or the interest of safety, or protection of environmental features (§5.1.4, §5.1.13, §6.3.4.B.3, §6.3.4.B.3.b, §5.1.9, and §7.3.3)

III. Project Proposal and Site Characteristics

A. Site

The subject property is located on Needham Street in the Mixed Use 2 (MU-2) zone. The properties on the western side of Needham Street are zoned Mixed Use 1 while the eastern side is zoned MU-2. The site is located along the Needham Street commercial corridor, and the neighborhood has a diverse mix of uses including retail, restaurants, health care, and residential uses. The site is 0.1 miles away from a stop for the MBTA 59 bus which runs from Needham Junction to Watertown Square.

The site has a shared access drive with the mixed-use building at 60 Needham Street

and shares the same owner. The building is a single-story structure accessed via a one-way driveway entrance that goes around the back of the adjacent building located at 60 Needham Street, with the exit at the far end of that property. There are 26 parking stalls on the site dedicated to this building, with 14 stalls located adjacent to the main entrance on the side of the building and 12 stalls at the rear of the building. Two of the parking stalls are accessible.

There is a paved sidewalk in front of the property with some decorative plantings along the building frontage. A paved walkway runs along south edge of the building, and there is an additional small area of paved walkway leading out of the secondary entrance at the rear of the building. There are two fences that run along portions of the southern property line separating the walkway from the abutting property, with a chain link fence closer to the street and wood fence towards the rear. Additionally, there is small retaining wall (under four feet in height) at the southwest corner of the rear parking area.

IV. Project Description and Analysis

A. Land Use

If approved the use of the site will change from a retail use to a daycare center.

B. Building and Site Design

To accommodate the needs of the new daycare, the petitioner proposes several changes to the site. Most of the work will be interior to the building, which will be reconfigured to add ten classrooms, an indoor play area, storage and administrative areas, and a kitchen.

The rear walkway and one parking stall will be removed, and a new play area added in a triangular shaped space between the building and the rear parking area. 1,117 square feet of permeable artificial grass will be installed, and the whole play area will be protected from the adjacent parking lot. A new six-foot-tall chain link fence is proposed between the parking area and play area, which will terminate at the existing wood fence at one end and return to connect to the southeast corner of the building. Per section 6.3.4.B.3.a, a dense year-round buffer at least four feet wide and six feet high is required along the perimeter of any outdoor play area. Because no vegetation is indicated on the submitted plans, a Dover waiver is required from the Commissioner of Inspectional Services.

Per section 6.3.4.B.3.e, a daycare operator must submit a trash location and screening plan to the Director of Planning and Development outlining the means and location

of trash collection and removal, as well as screening. As proposed, the petitioner plans to continue using the dumpster located on the adjacent property at 60 Needham Street, which shares a common driveway entrance and the same building owner. This dumpster area is partially screened by a chain link fence, but no further information regarding trash pickup and removal has been provided.

C. Parking and Operations

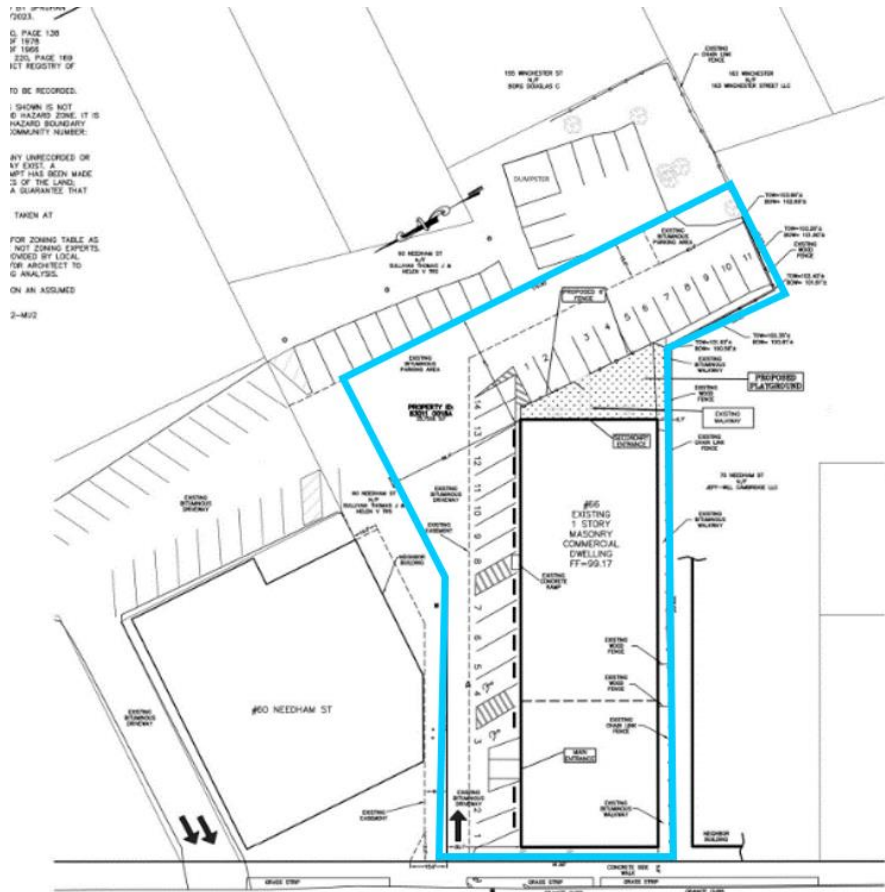
The petitioner also seeks a Dover waiver from the Commissioner of Inspectional Services per section 6.3.4.B.3.c. for the existing parking on site, which is located within the front and side setbacks. Because the proposed use requires compliance with the perimeter landscaping requirements in section 5.1.9, a Dover waiver from the Commissioner of Inspectional Services is required. The parking areas lack the required vegetative screening, and the petitioner is proposing no additional plantings. The Planning Department is unconcerned with this request because the parking facility has existed in its current condition for years.

The proposed hours for the daycare are from 8 AM -6 PM Monday through Friday and will be closed on holidays. The maximum number of staff members at peak hours will be 18 employees and 110 children. The previous retail use in the 9,512 square foot space required one stall per every 300 square feet plus one stall per every three employees, resulting in a credit of 34 stalls. A daycare center requires one parking stall per every five children plus one stall per employee. With 110 children and 18 employees proposed, the daycare center requires 40 parking stalls. Applying the 34-stall credit from the retail use, a waiver of six stalls is required.

According to a narrative provided by the petitioner, the daycare has a dedicated “app” (cellphone application) for parents and guardians that will be used to coordinate drop-off and pickup. Based on communication through the app, a teacher or teacher’s aid will greet the child in the morning at the door or escort the child in the afternoon to the waiting parent/guardian in the lobby.

Based on a narrative provided by the petitioner, eight of the 18 employees arrive at the site using MBTA Bus line #59, while two others carpool. Parking for those arriving by car will be restricted to the 11 spaces located behind the building. Parking spaces 1-14 (located near the main entrance of the building) will have signage indicating that they are reserved as temporary use for daycare drop-off and pick up only during the hours of 7:30 AM-10 AM and 4 PM - 6 PM. The Department believes a waiver of six stalls is reasonable given the parking needs of the use which can be met by the parking that existing spaces on site, and the close location of the site to public transit.

Proposed Site Plan



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



Ruthann Fuller
Mayor

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

Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: March 25, 2024

To: Anthony Ciccariello, Commissioner of Inspectional Services

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

Cc: GJE & M J&HM TRS, Broadway Saugus Trust, Sullivan Trust T/C, Applicants
Terrence P. Morris, Attorney
Barney S. Heath, Director of Planning and Development
Jonah Temple, Deputy City Solicitor

RE: Request for an Administrative Site Plan Review to allow a day care use and a Special Permit to waive 6 parking stalls

Applicant: GJE & M J&HM TRS, Broadway Saugus Trust, Sullivan Trust T/C	
Site: 66 Needham Street	SBL: 83011 0018A
Zoning: MU2	Lot Area: 25,753 square feet
Current use: Retail	Proposed use: Day care center

BACKGROUND:

The property at 66 Needham Street consists of 25,753 square feet improved with a single-story commercial building constructed in 1955 and 26 surface parking stalls. The petitioner proposes to introduce a day care center into the space formerly occupied by the retail showroom for Landry's Bicycles. The proposed day care use requires a special permit to waive the required number of parking stalls.

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

- Zoning Review Application, prepared by Terrence P. Morris, attorney, completed 2/27/2024
- Proposed Plot Plan, signed and stamped by Edmond Spruhan, engineer and Christopher C. Charlton, surveyor, dated 11/30/2023, revised 2/23/2024
- Existing and Proposed First Floor Plan, signed and stamped by Richard A Volkin, engineer, dated 7/3/2023

ADMINISTRATIVE DETERMINATIONS:

1. The proposed day care center 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 petitioner proposes to operate a day care center with 110 children and 18 employees in the commercial space formerly occupied by Landry’s Bicycle. The petitioner intends to remove one stall, with the space to be used as a pathway from the parking to the building’s rear entrance, leaving 25 stalls. The previous retail use in the 9,512 square foot space required one stall per every 300 square feet plus one per every three employees, resulting in a credit of 34 stalls. Per section 5.1.4, a day care center requires one parking stall per every five children plus one stall per every employee. With 110 children and 18 employees proposed, the day care center requires 40 parking stalls. Applying the 34 stall credit, a waiver of 6 stalls is required per section 5.1.13.
3. Section 6.3.4.B.3.b requires that day care centers comply with the parking requirements of section 5.1. Additionally, it specifies that day care centers shall comply with the provisions of section 5.1.9 relative to the screening of parking areas. The existing parking facility has no vegetative screening and the petitioner is proposing no changes. However, because the proposed use specifically requires compliance with the perimeter landscaping of section 5.1.9, a Dover waiver from the Commissioner of Inspectional Services is required.
4. Section 6.3.4.B.3.c requires that the petitioner provide one parking stall per every five children served by the day care center. The petitioner satisfies this requirement with 25 stalls available for the 110 children. Additionally, this section requires that the parking provided for drop-off and pick-up comply with the parking setbacks, and dimensional and design standards of section 5.1.8. The parking exists and will not be modified for the proposed use. The petitioner seeks a Dover waiver from the Commissioner of Inspectional Services to allow for the existing parking to be located within the front and side setbacks, per section 6.3.4.B.3.c.
5. The petitioner proposes to construct an outdoor play area between the building and the parking area. Per section 6.3.4.B.3.a, a dense year-round buffer at least four feet wide and six feet high is required along the perimeter of any outdoor play area. No vegetation is indicated on the submitted plans, requiring a Dover waiver from the Commissioner of Inspectional Services.
6. Per section 6.3.4.B.3.e, the day care operator must submit a trash location and screening plan to the Director of Planning and Development outlining the means and location of trash collection and removal, as well as screening. Should the day care operator opt not to provide such information, a Dover waiver from the Commissioner of Inspectional Services is required.

Zoning Relief Required		
<i>Ordinance</i>	<i>Required Relief</i>	<i>Action Required</i>
§5.1.4 §5.1.13	Request to waive 6 parking stalls	S.P. per §7.3.3
§6.3.4.B.3.b	To waive the perimeter screening requirement of §5.1.9	Dover waiver
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§6.3.4.B.3.a	To waive the requirement for a vegetative buffer around the outdoor play area	Dover waiver
§6.3.4.B.3.e	To waive the for a trash location and screening plan	Dover waiver

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 for Administrative Site Plan Review to allow a daycare use and a Special Permit to waive six parking stalls as recommended by the Land Use Committee for the reasons given by the Committee, through its Chair, Andrea Kelley:

1. The site in a Mixed Use 2 district is an appropriate location for the proposed parking waivers because the site is in an area with public transit options available as an alternative to driving. (§7.8.2.C.1)
2. The proposed parking waivers will not adversely affect the neighborhood because the nature of the daycare use means that much of the parking is only available temporarily for pickup and drop off, and there is adequate long-term parking for staff. (7.3.3.C.2)
3. There will not be a nuisance to vehicles or pedestrians because the existing curb cuts and access points 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 six parking stalls is in the public interest because constructing additional parking stalls would require an increase in impervious paving on the site and on-site parking is available. (§5.1.13)

PETITION NUMBER: #203-24

PETITIONER: GJE & MJ & HM TRS, BROADWAY SAUGUS TRUST, AND SULLIVAN TRUST T/C

LOCATION: 66 Needham Street, Ward 8, Newton Highlands, on land known as Section 83 Block 11 Lot 18A, containing approximately 25,753 sq. ft. of land

OWNER: GJE & MJ & HM TRS, BROADWAY SAUGUS TRUST, AND SULLIVAN TRUST T/C

ADDRESS OF OWNER: PO Box 122
Newton MA 02456

TO BE USED FOR: To allow for-profit educational use, non-profit educational use requiring parking waivers, an agricultural use on less than three acres, and a waiver of 6 parking stalls.

RELIEF GRANTED: Special Permit per §7.3.3 to waive 6 parking stalls (§5.1.4, §5.1.13) and administrative site plan review to waive the perimeter screening requirement of §5.1.9 (§6.3.4.B.3.b), to waive §5.1.8 to allow parking in a setback (§6.3.4.B.3.c), to waive the requirement for a vegetative buffer around an outdoor play area (§6.3.4.B.3.a), and to waive the requirement for a trash location and screening plan (§6.3.4.B.3.e)

ZONING: Multi-Use 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:
 - a. A site plan signed and stamped by Edmond T. Spruhan, Registered Civil Engineer, and Christopher C. Charlton, Professional Land Surveyor, dated November 29, 2023
2. The day care center shall be limited to one hundred and ten (110) students and to eighteen (18) staff members on site at any one time. If the petitioner would like to increase the number of students or staff, it must seek an amendment to this special permit.
3. No building permit (other than a demolition permit) or certificate of occupancy 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.