



City of Newton, Massachusetts

Department of Planning and Development

1000 Commonwealth Avenue Newton, Massachusetts 02459

617-796-1120

Ruthanne Fuller
Mayor

Barney Heath
Director

PUBLIC HEARING MEMORANDUM

DATE: May 3, 2024

TO: City Council

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

SUBJECT: **Petition #207-24**, for SPECIAL PERMIT/SITE PLAN APPROVAL for a waiver of 15 surface parking stalls as required by the proposed change of use to office space at 1173-1777 Walnut St., Ward 6, Newton, on land known as Section 52 Block 39 Lot 01, containing approximately 10,921 sq. ft. of land in a district zoned Business Use 1. Ref: Sec. 5.1.4, 5.1.13, and 7.3.3 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

The purpose of this memorandum is to provide the City Council and the public with technical information and planning analysis which may be useful in the special permit decision making process of the City Council. The Planning Department's intention is to provide a balanced view of the issues with the information it has at the time of the public hearing. There may be other information presented at or after the public hearing that the Land Use Committee of the City Council will want to consider in its discussion at a subsequent Working Session.



1173-1177 Walnut St.

I. Project Description

Use – office

Zone – Business-Use 1 (BU1)/Village Center 3 (VC3)

Lot size – 10,921 square feet

Existing Nonconformities – site has prior existing nonconforming parking facility.

Proposal- The petitioner is seeking to convert space previously used as a storage to office space, requiring a waiver of 15 parking stalls

Analysis

Planning supports the proposed waiver of 15 parking stalls due to the site’s location in the Newton Highlands Village Center. Further, providing additional parking is not within the public interest because it would require additional paving in an area that was developed before the current parking requirements. This site is part of the Village Center Overlay District, however the property owner has decided not to opt in at this time. The site is across Walnut St. from the Newton Highlands MBTA Station, a BlueBikes bikeshare station, and is serviced by MBTA bus 59. The site is also located a tenth of a mile from the Hartford St. municipal parking lot. Additionally, the two other tenants of the site are personal services and likely have a higher demand for parking outside of traditional business hours when the employees for the petition have the highest demand. The petitioner also reports that the parking plan for the site allocates three spaces for the office, which is sufficient based on their proposed operations and staffing. Given the location and context, an additional 15 parking spaces may not be necessary based on the demand of the uses that share the site. The Zoning Ordinance treats the parking requirements as if all uses are operating on site at the same time, which doesn’t necessarily reflect the operations of the site or the actual parking demand. Underground or above ground parking may also be infeasible given the small site and the removal of commercial or residential space to construct additional parking may be contrary to the City’s goals in the Comprehensive Plan and as stated for Village Centers in Sec. 9.2.1 of the Zoning Ordinances.

II. Zoning Relief Requested:

Zoning Relief		
<i>Ordinance</i>		<i>Action Required</i>
§5.1.4		
§5.1.13	Request to waive 15 parking stalls	S.P. per §7.3.3

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

III. Criteria for Consideration per §7.8.2.C.2:

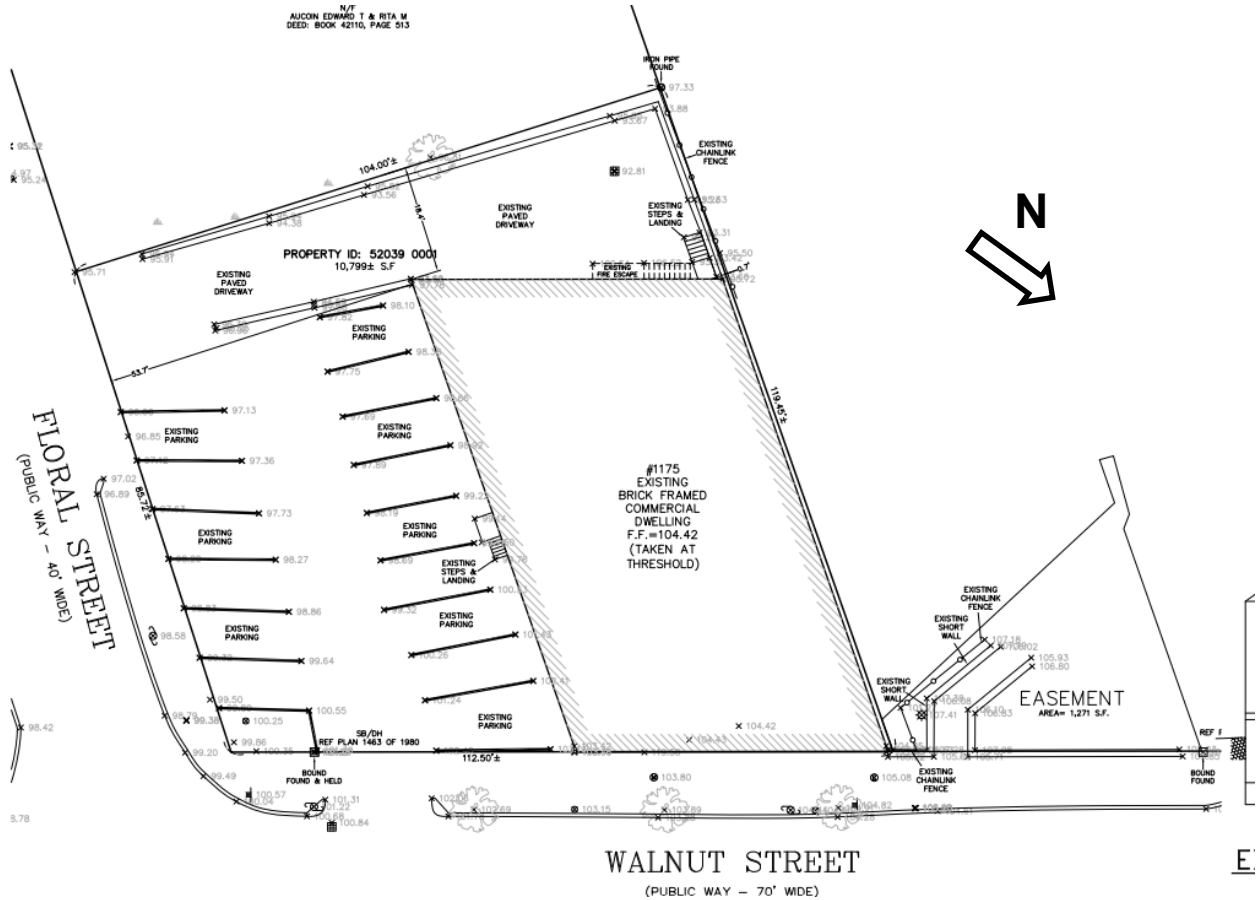
- The site in BU-1 is an appropriate location for the requested parking waivers of 15 spaces. (§7.3.3.C.1)
- The requested parking waiver will not adversely affect the neighborhood. (7.3.3.C.2)
- The requested parking waiver will not create a nuisance or serious hazard to vehicles or pedestrians. (§7.3.3.C.3)
- 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)

IV. Project Proposal and Site Characteristics

This petition is for a parking waiver that corresponds with a change of use and there is no renovation, addition, or changes to the site associated with this Special Permit application. The petitioners are proposing to change the use of the basement of 1173-1177 Walnut St. to an office use and require relief. A prior special permit for a parking waiver associated with a church and café use was approved in 2023. While the previous applicant obtained the special permit it was never exercised thus the parking waiver approved in 2023 is null and there is no parking credit associated with the prior use. Given the space the petitioner seeks to occupy is 3,650 square feet, the petitioners must provide 15 stalls per section 5.1.4 of the Zoning Ordinance. Additionally, there are two other tenants at 1173-1777 Walnut St., these personal services utilize all 15 surface parking stalls on site. Per the Zoning Ordinance, there is no available parking for the proposed use and the tenant is required per the Zoning Ordinance to provide the 15 required parking spaces.

The site is a 10,921 square foot corner lot located at the corner of Floral St. and Walnut St. The site is improved with a single-story commercial building with three tenant units. There are two street-level retail units, currently used as personal services, occupying approximately 4,452 square feet. The third unit is in the basement and occupies approximately 3,650 square feet. Parking is located on the east side of the lot with a curb cut along Floral St. and a curb cut along Walnut St. There is a small retaining wall that serves as a barrier between the parking and the loading/unloading area at the south of the lot that services the basement unit.

Proposed Site Plan



I. Interdepartmental Review

No departmental review is required.

II. Petitioner's Responsibilities

The petition is complete.

ATTACHMENTS:

ATTACHMENT A: Zoning Review Memorandum

ATTACHMENT B: DRAFT Council Order



Ruthanne Fuller
Mayor

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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: April 1, 2024

To: Anthony Ciccariello, Commissioner of Inspectional Services

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

Cc: Hunter Guarino, Midnight Mansion
Haemee, Inc, Applicant
Barney S. Heath, Director of Planning and Development
Jonah Temple, Deputy City Solicitor

RE: Request for a Special Permit to waive 15 parking stalls

Applicant: Haemee, Inc	
Site: 1173-1177 Walnut Street	SBL: 52039 0001
Zoning: BU1	Lot Area: 10,799 square feet
Current use: Mixed commercial	Proposed use: Mixed commercial with church and cafe

BACKGROUND:

The property 1173-1177 Walnut Street consists of a 10,921 square foot lot at the corner of Walnut and Floral Streets. The site is improved with a one-story commercial building containing two street-level retail units comprising approximately 4,452 square feet of space and a third tenant space of approximately 3,650 square feet in the basement. The petitioner proposes to convert the basement space for use as an office. The proposed office requires a special permit to waive 15 parking stalls.

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

- Zoning Review Application, prepared Hunter Guarino, 3/19/2024

ADMINISTRATIVE DETERMINATIONS:

1. The petitioner proposes to introduce an office use into the 3,650 square foot basement space. While the space had been previously used by a church, the only legal use has been storage. As such, there is no parking credit associated with the space. Per section 5.1.4, an office use requires one parking stall per every 250 square feet, resulting in a parking requirement of 13 stalls. While there are 15 surface parking stalls on site, they are allotted to the two existing personal service uses on the upper level to satisfy their parking requirement, leaving none available for the proposed business’s requirement per section 5.1.4. A special permit to waive the 15 stalls for the proposed office use is required per section 5.1.13.

See “Zoning Relief Summary” below:

Zoning Relief		
<i>Ordinance</i>		<i>Action Required</i>
§5.1.4 §5.1.13	Request to waive 15 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 allow a waiver of 15 parking stalls by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Andrea Kelley:

1. The site in BU-1 is an appropriate location for the requested parking waivers of 15 spaces because the site is located in a village center with access to public transit and the area has a diverse mix of uses with varying parking demands. (§7.3.3.C.1)
2. The requested parking waiver will not adversely affect the neighborhood because the site is in a Village Center with close proximity to public transit options and public parking. (§7.3.3.C.2)
3. The requested parking waiver will not create 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 as parking demand is mitigated by proximity to public transit and by the different peak demand for parking between uses on the site. (§7.3.3.C.4)
5. A waiver of 15 parking stalls is in the public interest because constructing 15 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: #207-24

PETITIONER: Hunter Guarino

LOCATION: Section 52 Block 39 Lot 01, containing approximately 10,921 sq. ft. of land

OWNER: Haemee, Inc

ADDRESS OF OWNER: 1 Terrace Road
Weston, MA 02493

TO BE USED FOR: Office use of basement level tenant space

RELIEF GRANTED: Special Permit per §5.1.4 and §5.1.13 for a waiver of 15 parking stalls

ZONING: Business Use 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 Peter Nolan Associates, LLC, signed and stamped by Peter J. Nolan, Professional Land Surveyor, dated October 24, 2022
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 certifying compliance with Condition #1.