



# Land Use Committee Report

## City of Newton In City Council

**Tuesday, March 27, 2018**

**Present:** Councilors Schwartz (Chair), Lipof, Greenberg, Auchincloss, Kelley, Markiewicz, Crossley, Laredo

**City Staff Present:** Associate City Solicitor Bob Waddick, Chief Planner Jennifer Caira, Senior Planner Neil Cronin

All Special Permit Plans, Memos and Application Materials can be found at [http://www.newtonma.gov/gov/aldermen/special\\_permits/current\\_special\\_permits.asp](http://www.newtonma.gov/gov/aldermen/special_permits/current_special_permits.asp). Presentations for each project can be found at the end of this report.

**#91-18      Petition to Amend Special Permits #273-14(2) & #40-07 on Elm Street**

NICORE CONSTRUCTION CORP./ANTONIO BONADIO petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to amend Special Permit Board Orders #273-14(2) and #40-07 to allow for the location of a new driveway, requiring an amendment to the site plan at 5-7 Elm Street and 11-19 Elm Street, Ward 3, West Newton, on land known as Section 33 Block 23 Lot and Section 33 Block 23 Lot 16, containing approximately 26,320 sq. ft. of land in a district zoned MR2 and MR1. Ref: Sec. 7.3, 7.4, 6.2.B.2 of Chapter 30 of the City of Newton Rev Zoning Ord., 2015.

**Action:**      **Land Use Held 8-0; Public Hearing Closed 03/06/2018**

**Note:**      At the Public Hearing on March 6, 2018, Committee members raised concerns about the proposed elimination of the shared driveway for use by the property owners at 5-7 and 11-19 Elm Street. Due to the site's proximity to an intersection and the petitioner's prior commitment to the consolidation of existing curb cuts, Committee members were reluctant to approve the proposed Site Plan amendment without further review. Councilor Kelley confirmed that the petitioner's attorney, the developer and the neighborhood have been evaluating different options for the driveway. To allow time to revise the proposed Site Plan, Committee members held the item until May 1, 2018.

**#68-18      Petition to allow for profit educational use at 227 Washington Street**

EUI CHOI petition for SPECIAL PERMIT/SITE PLAN APPROVAL to allow a for-profit learning center in the existing day care at 227 Washington Street, Ward 1, Newton, on land known as Section 71, Block 07, Lot 01, containing approximately 5,553 sq. ft. of land in a district zoned BUSINESS 2. Ref: 7.3.3, 7.4, 4.4.1 of the City of Newton Rev Zoning Ord, 2015.

**Action:**      **Land Use Held 8-0**

**Note:** At the public hearing on February 13, 2018, the petitioner, Mr. Eui Choi presented the petition to locate an academy for children at 227 Washington Street. The mixed-use building contains first floor commercial space. Mr. Choi stated that there was previously a daycare in the space, noting that the change to academy use will not require any structural changes and will only require reconfiguration of the interior space. He stated that components of the traffic demand management plan include; encouraging carpooling from nearby schools, transporting groups of children, having staff facilitate pickup/drop-off. Mr. Choi confirmed that he reached out to abutters and did not hear of any opposition for the proposed academy use. The Planning Department raised concerns relative to the number of proposed students (30) at the same time, the limited number of parking stalls available and traffic circulation and safety at the site. Committee members shared the concerns of the Planning Department and asked the petitioner to work with the Planning Department to provide a plan that allows for safe operations at the site.

Since the initial public hearing, the petitioner has worked extensively with the Planning Department, modifying the plans to include staggered start/end times with 15 minute intervals between classes, facilitated pickup/drop-off, transportation (licensed to transport a van of 5 per trip) and a reduction to six students per class. Each class of six students will have two teachers and three classes will run concurrently. The proposed academy will operate from 3:00 pm – 8:00 pm on school days (with the exception of Tuesday because of early dismissal), 9:00 am – 5:00 pm on weekends and from 8:30 pm – 5:30 pm during school vacations and summer.

Mr. Choi presented the attached presentation and provided examples of similar and prior uses, emphasizing that the similar uses are comparable in nature, on/adjacent to busy roads, do not have intervals between classes and did not require special permits. The petitioner's analysis of Mathnasium (Centre Street) and All that Jazz (Watertown Street) are shown on the presentation. Mr. Choi noted that the site at 227 Washington Street was previously used for a high turnover pediatric dental office, which operated without incident. Mr. Choi demonstrated that the proposed pickup/drop-off plan, indicating that cars will enter through one curb cut and exit through another. He reiterated the plan to encourage carpooling and noted that staff not using public transportation will be required to park off-site. While it was noted that there are seven stalls on site; one stall will be used for the academy van and two others are not usable because of the proposed pickup/drop-off circulation plan.

Committee members asked the Planning Department for clarification with regard to the petitioner's analysis of comparable businesses as well as the Zoning Requirement for a for-profit educational use. Chief Planner Jennifer Caira explained that while a for-profit educational use has always required a Special Permit, the Department of Inspectional Services' interpretation of what constitutes a for-profit educational use changed in 2015. Prior to 2015, some for-profit educational uses were interpreted as service uses. As of 2015, ISD's interpretation of the for-profit educational use requiring a Special Permit, has been consistently applied since 2015 and is based on the definition of a school. Ms. Caira explained that when Mathnasium opened, it was considered a service use, although it falls clearly within the definition of a for-profit educational use.

Committee members questioned why service uses and schools are treated differently and why for-profit educational uses are treated differently than non-profit educational uses. Ms. Caira explained

that schools are treated differently than service uses because where students are involved there is more sensitivity related to traffic circulation and safety. She noted that non-profit educational uses are protected under the Dover Amendment and are reviewed under Administrative Site Plan Review. She stated that a Special Permit is required to provide an additional layer of review for for-profit educational uses. Ms. Caira confirmed that the analysis for non-profit educational uses and for-profit educational uses is the same.

Senior Planner Neil Cronin provided an overview of the request and stated that given the level of turnover, site limitations and number of students, the Planning Department remains concerned that the site cannot accommodate the proposed use. Mr. Choi confirmed that the concurrent classes would be separated by a five minute interval (starting at 3:00 pm, 3:05 pm, 3:10 pm) followed by the 15 minute interval. He noted that the Planning Department did not provide feedback to whether the five minute intervals were an improvement over 18 students coming at one time with 20 minute intervals between classes. Mr. Choi confirmed that when the daycare was operating at the site, up to 23 children were in attendance (capacity of 29). A Committee member noted that for the daycare use, drop-off and pickup is staggered during approximately one hour in the morning and one hour in the evening, which is less intense than the proposed plan.

Committee members remained concerned about the limited number of parking stalls on site, the number of students/parents accessing the site at one time and the safety of entering and exiting the site. Committee members asked that the Planning Department analyze whether the proposed use can operate and the site at any intensity, so the petitioner can decide whether to pursue the Special Permit. Additionally, it was requested that Planning provide guidance so that the petitioner can create a safer plan, if it is attainable. Committee members asked that the petitioner submit details of the class times, accurate parking dimensions, details of the TDM and details regarding the off-site parking for staff. The Committee asked that the Planning Department provide an analysis of the site plan, number of parking spaces at the site, how access will operate through the curb cuts, the site lines and the location of the site on the corner lot. Councilor Greenberg motioned to hold the item which carried unanimously.

The Committee adjourned at 8:30 pm.

**Respectfully Submitted,**

**Greg Schwartz, Chair**

# Special Permit for Arbor Learning Center

221-227 Washington St. Newton, MA 02458



## Arbor Learning Center Overview (1)

- ◆ A small academy providing instruction in various academic subjects to school-age children during the school year and running a camp during school vacations for camps.
- ◆ Most subjects will be taught in 50 minute sessions of up to 18 students while science classes will be taught in 1 hour 20 minute lab/interactive sessions of up to 7 students.

## Arbor Learning Center Overview (2)

- ◆ Summer camps will be run like the daycare was run in the past.
  - ◆ Transportation
  - ◆ Differences of drop-off times by family
  - ◆ 2 different pick-up times: 3:30pm and 5:30pm
- ◆ We will facilitate pick-up and drop-off with staff members just as during the school year.

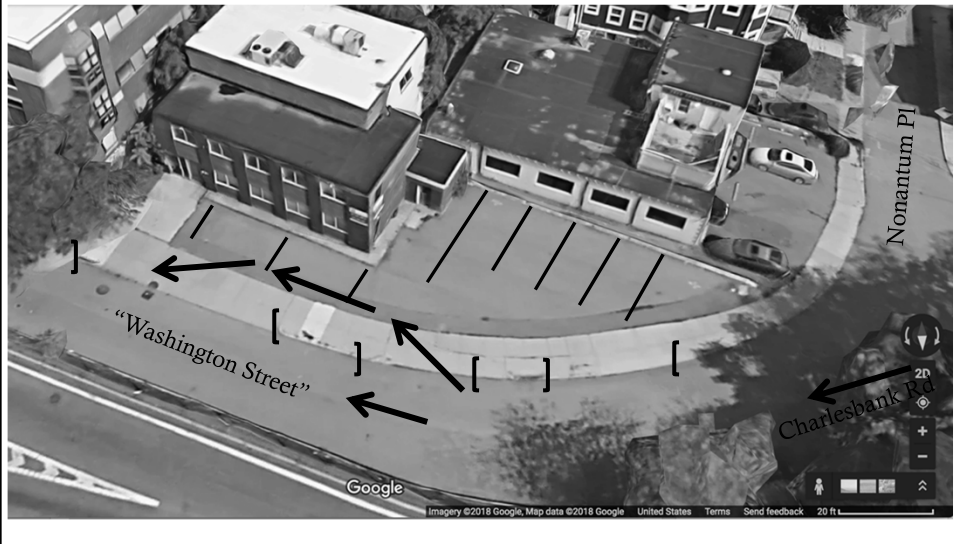
## Regarding the Memo



# View of the Site



# Drive Thru Lane



## Addressing Concerns (1)

- ◆ High Turnover:
  - ◆ 6 children per class (which is less than the number of parking spots we have on site)
  - ◆ Transportation
  - ◆ Encourage carpooling among parents and students.
  - ◆ Request parents to park offsite if they want to stay with the student at the center.
  - ◆ Pediatric dentist use prior to daycare use also had high turnover (up to 11 families every 15/30 minutes implying 40 people or more could be moving in and out every hour) without any issues
    - ◆ Why is this an issue now? We feel unfairly discriminated against.

## Addressing Concerns (2)

- ◆ Lack of Parking? Physical Limitations of the site?:
  - ◆ Pediatric dentist use prior to daycare use had high parking credits (up to 11 spots allowed in the same space as now) without any issues
    - ◆ Again, why is this an issue now? We feel unfairly discriminated against.
  - ◆ Other high-traffic businesses would be okay but not ours?
    - ◆ (i.e. Dunkin Donuts)
- ◆ Queuing or “live-parking” :
  - ◆ Pick-up and drop-off not at the same time
  - ◆ Dedicate two parking spots in front as drive-thru lane.
  - ◆ A staff member out to assist with pick-up and drop-off.

## Addressing Concerns (3)

- ◆ One-way streets/densely developed neighborhood:
  - ◆ When enrollment has increased, logistics of transportation will be easier to maintain and incentivize.
  - ◆ One-way streets are preferable in front of locations serving many children to ensure safety. (see following slides)
    - ◆ This is why the pediatric dentist office was located here, and again there were no issues with the dentist office in the decades it operated.

## Underwood School





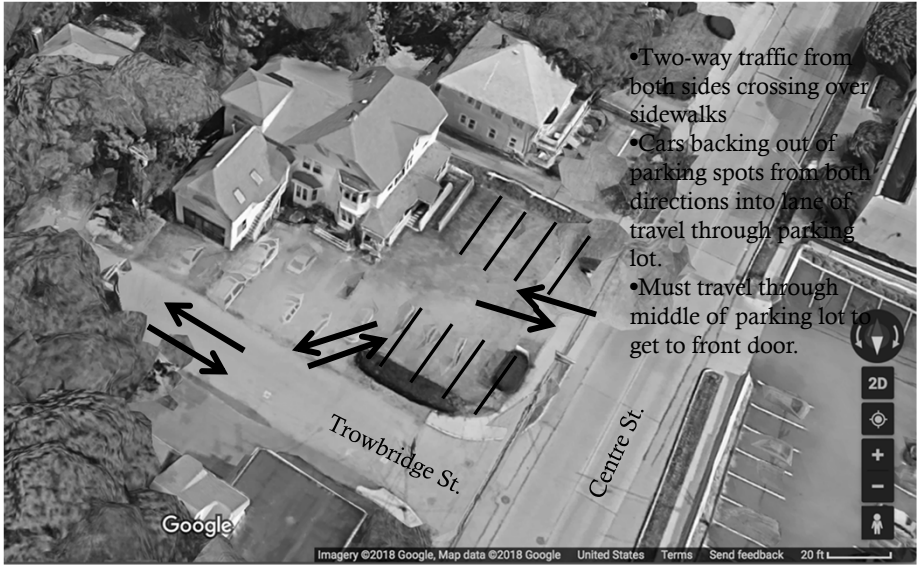
## Bigelow School



## Mathnasium Newton Center

- ◆ Providing the same kind of service, Mathnasium schedules their classes on the half hour (3:30pm – 4:30pm then 4:30pm – 5:30pm) without any gap between classes.
- ◆ As of early March 2018, there were several days that were fully booked.
- ◆ Capacity of up to ~27 students turnover of up to 54 students coming in and out.
- ◆ No issues reported or known regarding safety of students.
- ◆ Being allowed to operate without special permit

# Mathnasium Newton Center



# Arbor L.C. vs Mathnasium

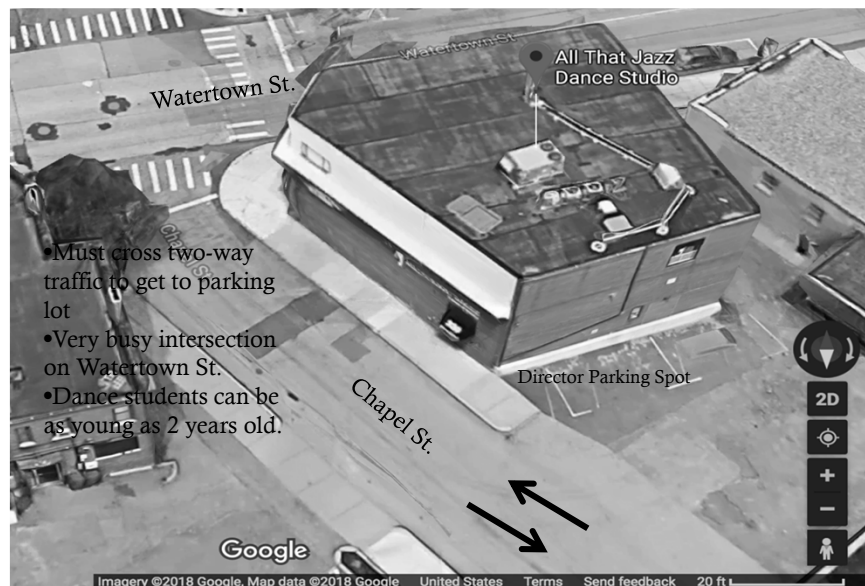
	<b>Arbor Learning Center</b>	<b>Mathnasium</b>
Abutting Streets	1 way	2 way
Gap between classes	15 minutes	none
Total students moving at any time	6 students	54 students
Speed Limit	25mph	35mph
Drive-Thru Drop-off Lane	Yes	none

- ◆ Mathnasium has been operating for many years and there have not been any issues known.
- ◆ Our location seems safer than the Mathnasium location.

## All That Jazz

- ◆ Again providing the similar service, All That Jazz holds classes of up to 12 students.
- ◆ No staggering of class start times.
- ◆ Capacity of up to ~12 students turnover of up to 24 students coming in and out.
- ◆ No parking lot for parent use other than public parking across a two-way street.
- ◆ Being allowed to operate without special permit.

## All That Jazz



## Conclusion

- ◆ Other businesses providing same service are operating without special permits and without any issues
- ◆ Past uses at current site also had no issues and were not a concern
- ◆ Safety issues brought up either do not seem significant or seem invalid

## Department of Planning and Development



**PETITION #68-18**  
227 WASHINGTON STREET

SPECIAL PERMIT/SITE PLAN  
APPROVAL TO ESTABLISH A FOR-  
PROFIT EDUCATIONAL USE



MARCH 27, 2018

## Requested Relief

- Special Permit/Site Plan Approval to allow a for-profit educational use. (§4.4.1)

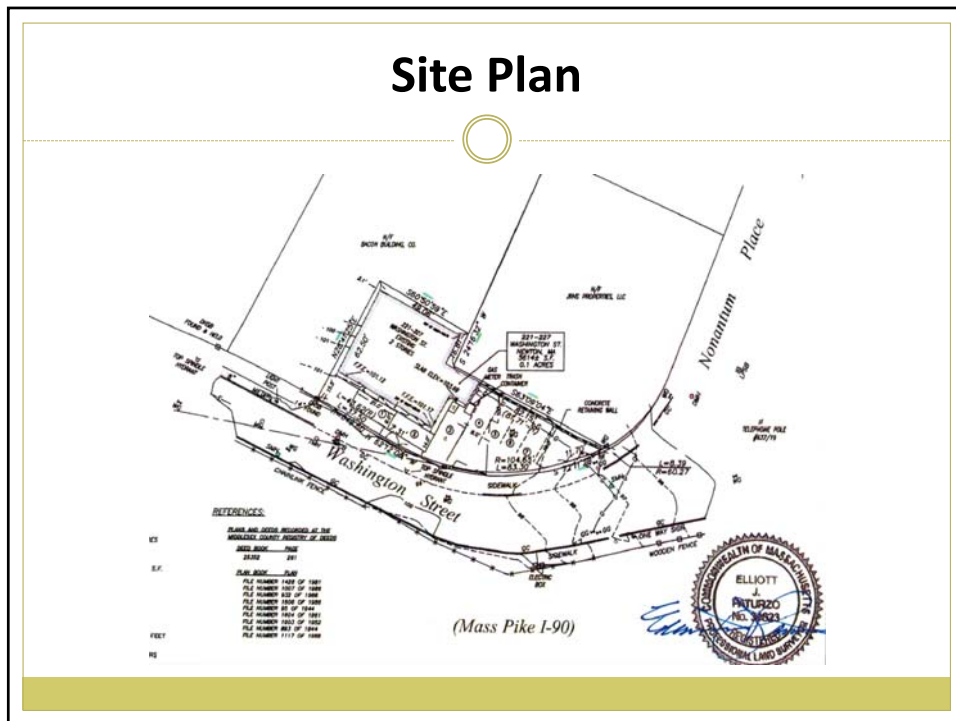
## Criteria to Consider

- The specific site is an appropriate location for the proposed for-profit educational use. (§7.3.3.C.1)
- The proposed for-profit educational use will not adversely affect the neighborhood. (§7.3.3.C.2)
- There will be no 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)

## AERIAL



## Site Plan



## Operational Revisions

- Reduced enrollment from 30 children per session to 18 children per session.
- Session times staggered by 15 minutes.
- Dedicate one staff member to assist with pick-up and drop-off.
- All 11 employees will be required to park off site.
- Offer transportation for up to ten children to the site.

## Planning Department Analysis

Staff has concerns the site cannot adequately accommodate the number of vehicle trips to the site given the proposed intensity of use. Specifically,

- Queuing or “live parking” on Washington Street.
- Vehicles encroaching into the sidewalk to exit the site.
- Restricted access from neighborhood streets which may be impacted due to turnover, or queuing on Washington Street.