

CITY OF NEWTON

IN BOARD OF ALDERMEN

LAND USE COMMITTEE REPORT

TUESDAY, JULY 30, 2013

Present: Ald. Hess-Mahan (Chairman), Ald. Crossley, Albright, Harney, and Fischman; absent: Ald. Laredo and Schwartz; 1 vacancy; also present: Ald. Gentile
City staff: Alexandra Ananth (Chief Planner for Current Planning), Ouida Young (Associate City Solicitor), Candace Havens (Director of Planning & Development), David Norton (Deputy Commissioner of Inspectional Services), William Forte (Zoning Code Enforcement Agent), Linda Finucane (Assistant Clerk of the Board), Stephen Pantalone (Chief Planner), and Daniel Sexton (Chief Planner)

The public hearing was continued from May 14:

#141-13 ZION YEHOASHUA & NIKZUN GORDON petition for SPECIAL PERMIT/SITE PLAN APPROVAL to re-grade an existing driveway to make it less steep by rebuilding existing retaining walls within the setback at a maximum height of 6 feet and to provide 2 parking spaces with the front setback at 74 NEWTONVILLE AVENUE, Newton, Ward 1, on land known as SBL 12, 21, 25 containing approx. 10,021 sf of land in a district zoned SINGLE RESIDENCE 3. Ref: Sec 30-24, 30-23, 30-19(g)(1), 30-19(m), 30-5(b)(4) of the City of Newton Rev Zoning Ord, 2012.

ACTION: HEARING CLOSED

NOTE: A public hearing was opened and continued on May 14. In attendance were Aldermen Hess-Mahan (Chairman), Laredo, Albright, Crossley, Fischman, and Schwartz; Aldermen Lennon and Linsky were also present. The petitioners purchased this property a year ago. The single-family house, constructed in 1973, sits over ten feet above street grade. The attached two-car garage has a driveway with a significant slope from the garage to the street. The petitioners wish to re-grade the driveway to make it level and propose to do so by rebuilding the existing retaining walls within the setback. The proposed retaining walls will block access to the garage and will create two parking stalls in the front setback. The petitioners are seeking relief to construct retaining walls over four feet in the setback and to create parking for two cars in the front setback. A 42-inch metal railing will be installed on the top of the wall.

The petitioners began this project without a building permit and were subsequently ordered to stop work by the Inspectional Services Department. There are a series of small retaining walls throughout the property to create usable yard area. The petitioners do have a permit to construct the by-right retaining walls behind the house and that work has been allowed to continue.

Although many other houses on the street have similar topography, none have attached garages that have cut off access to the garage in favor of at-grade parking in the front setback. It's unclear what the petitioners plan to do with the former garage space.

Since the petitioners did not submit elevations it's not known if the existing garage doors will be maintained or be removed and what the architectural treatment will be. When asked for clarification, the petitioners said the front of the garage will be finished with sliding doors to mimic the house next door. The Committee asked to see a plan of the proposed finished project.

The Engineering Division's memo dated April 26 noted among other issues that although an infiltration system is shown on the site plan, no calculations had as of that date been submitted for review. It also pointed out that an existing wall along the northwest corner of the property is failing and must be addressed. It is expected that engineering questions will be answered for the working session.

Public Comment:

Pat Hinchy, 103 Bellevue Street, Unit 4, lives in one of six condominiums located on the former Riley Estate that backs up to the petitioners' property. Ms. Hinchy said the Inspectional Services Department has been called many times. The petitioners removed the fence around a pond on the condominium association's property without its permission and cut down a number of trees on both properties and left the trunks on the association's property and floating in the pond. She submitted a number of photos. She's afraid the terraced walls at the rear of the petitioners' property are not secure. The condominium owners are unsure if they have any recourse through the special permit process.

Kate Walker, 71 Newtonville Avenue, the property directly across the street from the subject site, reiterated that the petitioners have shown gross negligence in working without permits, not complying with the noise ordinance, damaging other properties, blocking the sidewalk with construction debris/equipment. The police responded to at least 12 complaints in 2012.

Given the incompleteness of the plans, the Committee agreed the hearing should be continued to a date to be determined. The Committee asked that the Inspectional Services Department provide it a written summary or that a representative attend the working session to explain the recent history of this property.

Subsequent to May 14, the petitioners revised the site plan which now meets the required dimensions for two parking stalls in the front setback. The Engineering Division of the Public Works Department met with the petitioners on the site and generally approved the revised plan for drainage and safety; however, the revised plan shows ten-foot retaining walls, instead of the six-foot walls requested in the petition. The petitioners need to withdraw this petition and re-file a new petition seeking relief to construct retaining walls a maximum height of ten feet in the setback. The committee closed the hearing.

#180-13 SURGE CAPITAL CORPORATION petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to create garage parking for 2 cars beneath a single-family dwelling currently under construction which will increase the Floor Area Ratio to .48 where .45 is allowed by right at 20 BURRAGE ROAD, Ward 7, on land known as SBL 73, 28, 6, containing approx. 5,771 sf of land in a district zoned SINGLE FAMILY 2. Ref: Sec 30-24, 30-23, 30-15(u) and Table A of the City of Newton Rev Zoning Ord, 2012.

ACTION: APPROVED 4-0 (Ald. Fischman not voting)

NOTE: The public hearing was opened on June 11. In attendance were Aldermen Hess-Mahan (Chairman), Laredo, Albright, Crossley, Schwartz, Fischman, and Harney. The petitioner was represented by attorney Terrence Morris. The subject property is located on a corner lot at Burrage and Alderwood Roads. The petitioner received a demolition permit and then a building permit in November of 2012 for a single-family dwelling that met all zoning requirements; however, the dwelling as built includes a two-car garage in the basement beneath a deck at the rear of the house. This violation resulted in the Inspectional Services Department revoking the original building permit. A conditional building permit was issued in May of 2013 to allow the petitioner to continue work on the interior of the house, but not on the basement garage. The petitioner is now seeking a special permit to convert the existing basement space into a two-car garage, which conversion requires relief to increase the floor area ratio (FAR) from .45 to .48 where .45 is the maximum allowed by right.

The Planning Department is troubled by the suggestion that it is of no consequence to disregard the dimensional controls contained in chapter 30; however, ultimately, the immediate abutters will be the most inconvenienced by the elimination of the garage and parking for only one car on the site. Alternatively, the petitioner could reduce the size of the house in other ways, such as eliminate a bedroom or a portion of a bedroom or reconstruct another portion of the house to reduce the FAR of the house so that a special permit is not necessary.

Alderman Laredo too is troubled. He received a call from a neighbor concerned that different plans had been shown at different stages; the petitioner does something else and then seeks permission. The existing driveway is shared via an easement with 41 Alderwood Road. Mr. Morris believes the Planning Department memorandum dated June 7 misrepresented the situation; the existing house does not violate the FAR. The cease and desist was for lack of a second parking space.

Alderman Crossley agreed that the petition is troubling. The house presents as massive; it could have been designed with adequate parking.

Public comment:

Ronald and Diane Sostek, 41 Alderwood Road, said it was a difficult situation. The easement for their shared 84-foot driveway has been in place for over 80 years and there has never been in the seventeen years they have lived here a problem sharing the driveway. The petitioner constructed two retaining walls; there is no room for snow storage. The driveway used to allow two cars to pass but now only accommodates one. Both sides of the driveway were destroyed in installing the drainage system. They submitted photographs. They do not want the petitioner to do any more work on the driveway. The damage has affected their access to their own property.

Silka Rothschild has lived at 46 Alderwood Road for twenty years. At least three houses in the neighborhood sustained damage from demolition and construction. There was no notice of demolition. Damage included cracks in walls and broken windows. Another neighbor had a cabinet fall off a wall. When asked to examine the damage to her house, the petitioner reportedly responded "your house, your problem." She has observed violations of the cease and desist order and believes the petitioner should have been fined more than a \$1,000. It is upsetting that the petitioner is seeking permission after the fact.

Jim Allen, 20 Alderwood Road, is disturbed by what looks like a heliport in the front yard. Nobody parks in the front yard; it is a disgrace to the street.

James Mullarkey, 36 Burrage Road, shares the same concerns expressed by his neighbors. He was not notified of the demolition. He believes the city is a victim of a bait and switch. The driveway was wide enough to accommodate two cars, two-ways. Now it can only accommodate one. This was done so the petitioner could construct a deck to maximize the most bang for the sale buck.

Karen Bottar, 172 Cotton Street, spoke in support of her neighbors. The project shows basic disrespect for the neighborhood.

In addition the committee received letters from the Caplan family at 8 Burrage Road, Roxanne Milner at 12 Burrage Road, and Anne Lowenthal at 15 Burrage Road all of whom share the same concerns expressed by the speakers.

The Committee voted to continue the hearing to a date to be determined and asked that a representative from the Inspectional Services Department be present at the working session.

This evening Deputy Commissioner of Inspectional Services David Norton joined the committee. Mr. Norton explained that several engineering issues depend on whether a special permit is granted, for example, if it is approved the petitioner will most likely need a larger drainage system because of the additional impervious surface. He pointed out that the petitioner will have to obtain an amended building permit to include the garage and the additional FAR.

Attorney Franklin Schwarzer who represents Mr. & Mrs. Sostek, the abutters at 41 Alderwood Road, reported that he and his clients and the Inspectional Services Department met with the petitioner in an attempt to reconcile their differences. He believes the agreements they negotiated as enumerated in his letter of July 25, 2013 assuage his clients' concerns. The petitioner is no longer represented by counsel.

Ms. Ananth distributed a draft board order that included those conditions. Alderman Harney questioned the appropriateness of including such specific conditions. He could not recall doing so in any other special permit. Other members agreed. Ms. Young was uncomfortable, as well. Conditions such as moving the retaining wall and the number of feet it may or may not extend into the driveway are revisions that will be shown on a revised site plan. More problematic were conditions relative to actual costs for snow removal and for reconstructing the driveway. Such specificity is outside the realm of zoning enforcement and puts the city in the position of being a moderator between two parties. Private agreements have been referenced in prior special permits and Ms. Young and Ms. Ananth agreed to rework the conditions.

Alderman Albright moved approval of the petition finding the proposed increase in FAR from .45 to .48 is consistent with and not in derogation of the size, scale, and design of other structures in the neighborhood; there will be no increase in the footprint or the bulk and massing of the structure; the structure meets all other dimensional requirements including lot coverage and open space. Conditions in the special permit include maintaining the area between the driveway and retaining wall flat, without obstruction, and completing reconstruction of the driveway before the garage doors are installed. The petitioner needs to submit a revised site plan. The motion to approve carried 4-0, with Alderman Fischman not voting.

#178-13 RIVERSIDE CHILDREN’S CENTER /THE UNION CHURCH OF WABAN
petition to AMEND SITE PLAN APPROVAL #704-83, granted on 12/19/83 for a nursery school for no more than 15 children, to increase the enrollment to a maximum of 55 students and for a SPECIAL PERMIT/SITE PLAN APPROVAL to waive 8 parking stalls and for associated waivers including parking within front and side setbacks and within 5’ from a street; required dimensions for parking stalls and minimum aisle width; landscape screening and interior landscaping requirements; lighting requirements including waiving barriers at edges of surfaced areas; minimum 3-foot wide curb ramps; bicycle parking facilities at 14 COLLINS ROAD, Ward 5, Waban, on land known as SBL 55, 48, 36 and 37, Ref: Sec 30-24, 30-23, 30-5(a)(3)(d)(iii), 30-19(d)(16), 30-19(h)(1), (2)(a), (2)(b), (3)(a), (i)(1), (i)(1)a, (i)(2), (j)(1)a, (j)(1)b, (j)(2)e, (j)(2)f, (k), and 30-19(m) of the City of Newton Rev Zoning Ord, 2012.

ACTION: APPROVED 4-0-1 (Fischman abstaining)

NOTE: The public hearing was opened and closed on June 11. In attendance were Aldermen Hess-Mahan (Chairman), Laredo, Albright, Crossley, Schwartz, Fischman, and Harney. The petitioner was represented by attorney Stephen Buchbinder. In 1983 the Union Church received a special permit to operate a nursery school in the basement of the Church, with the number of students not to exceed 15. Subsequently, the Riverside Children’s Center (RCC) replaced the nursery school. Currently, it has an enrollment of 52 students and 19 teachers. The maximum capacity of the school in accordance with its state license from the Department of Early Education is 55 students. When the increase in use was discovered in December of 2012 the city issued a notice of violation to the school. The school is seeking to amend the 1983 special permit to reflect the increased number of students and to amend the site plan to add the additional required parking stalls.

The proposed site plan adds eight stalls on the site for a total of 22 parking stalls where 30 stalls are required. Parking is proposed within the front and side setbacks, including some less than five feet from the street. Waivers are also sought for the width and depth of parking stalls; the minimum required aisle width; interior landscaping; landscape screening and lighting; the requirement for barriers at edges of landscape areas; the 3-foot wide curb ramps, and for bicycle parking facilities.

A landscape architect has been lined up and a landscape plan will be provided for the working session.

The site has two curb cuts off of Collins Road. The southernmost cut leads to an eight-stall parking area south of the church and a paved access road that circles behind the building and exits at the northern end of the site. A number of parking stalls are scattered around this access road which culminates in an additional parking area containing eight stalls north of the church building. The third curb cut is in the middle of the property just north of the front entrance for the church, where there are a few more parking stalls as well as HP stalls. There is two-hour on-street parking.

Mr. Buchbinder explained that the petitioner explored off-site parking but decided instead to provide safe parking contained on the site. To achieve this goal, the petitioner developed with VHB an interim plan, which has been in effect since February of 2013, and a long-term plan. As part of this plan, an RCC staff member regularly monitors parking activity at the site during the

critical morning peak period. While several RCC parents drop off their children during this time (which coincides with the peaks of the neighboring Angier School and Jams Pre-School), activity is more evenly distributed compared to a standard school with a rigid start time. Implementation of the permanent parking will provide a total of 22 parking spaces. With a maximum of 12 teachers typically being on-site during the morning drop-off period there should still be 10 parking spaces available for parent use at any one time. Data from RCC and observations by VHB confirm that most RCC parents are under typical conditions only on site for 15 minutes. That translates into each of the 10 available parent parking spaces being capable of accommodating four vehicles over the course of an hour. This in turn results in an hourly capacity of 40 parked vehicles for parents, which exceeds the maximum hourly demand of 24 parent-vehicles based on RCC records. The clearly defined parking layout and circulation pattern represent a marked improvement compared to the existing condition in which the parking space striping is faded and circulation is compromised as a result of the necessary tandem parking arrangement being provided on an interim basis. There is a low weekday demand associated with the church; two spaces are assigned for the Pastor and staff. The dimensional waivers sought are necessitated by getting as much parking on the site as possible.

There has been a concerted effort to get cars off the street, but parking is allowed on public streets. Several Aldermen expressed concern that the three separate entrances pose a safety issue and were concerned about the parallel parking. Mr. Buchbinder pointed out that a walkway hugs the building.

The new Angier School will also impact traffic and parking demand in the area. The city's Transportation Division has met with the both the Angier Working Group and Angier School Building Committee and is evaluating the intersection of Collins Road and Beacon Street for future improvements.

Public Comment:

Lisa Spector, 161 Manchester Road, said this is a great business that's been in the community for over 30 years. Designated parent parking will be an additional benefit.

Jack Maypole, 101 Windsor Road, is a pediatrician and physician consultant to four child care centers including RCC where he also on the Board of Directors. RCC offers topnotch care and enhances the community.

Bindiya Stancampiano, 1451 Beacon Street, said that RCC is a real community and as such has worked hard with parents to address the parking issues. It is a first rate daycare and preschool.

Carol McCarthy, 71 Collins Road, a 17-year resident and neighbor of the school has never had any communication from RCC. She explained that her complaint stemmed from her driveway being blocked. She has seen parents dropping off their children in the middle of the street. She acknowledged, however, that the interim plan has improved the situation over the past few months.

In addition, 30 letters in support of the petition were submitted to the Board.

Subsequent to the public hearing the petitioner submitted a revised site plan showing 10 parking spaces reserved for staff. A landscape plan which identifies trees to be removed and proposed screening of parking area was also submitted and a tree removal permit has been issued. VTP has resolved drainage issues with the City Engineering Division. The Fire Department has stamped the proposed plans. Ten parking stalls, including the parallel stalls that

several members expressed concern about, will be designated for teachers. Directional signage includes a “do not enter” sign on the one-way drive and “no live parking” sign so parents will have to walk their children into school. A question arose as to the building’s capacity, but Mr. Forte said that issue is addressed in the issuance of a certificate of occupancy and periodic mandated inspections by various agencies including Inspectional Services and the Fire Department.

Alderman Crossley moved approval of the petition finding that increasing the enrollment to a maximum of 55 students will not adversely affect the neighborhood; reconfiguration of the parking layout and improved site circulation will help keep parking on the site and minimize congestion on surrounding streets, helping mitigate traffic congestion at the intersection of Beacon Street and Collins Road; the waiver of eight parking spaces and dimensionals will not create a nuisance or hazard. The motion to approve carried 4-0, with Alderman Fischman abstaining because he missed most of the discussion.

#416-12(3) MAIN GATE REALTY petition to AMEND Special Permit/Site Plan Approval for a Change in Nonconforming Use #416-12, granted on 2/10/13 for retail and/or office uses, to allow a massage therapy business at 242-244 COMMONWEALTH AVENUE, Ward 7, Chestnut Hill, on land known as SBL 61, 13, 11, containing approximately 7,452 sq. ft. of land in a district zoned MULTI RESIDENCE 1. Ref: Sec 30-24, 30-23, 30-21(b)(1) of the City of Newton Rev Zoning Ord, 2012.

ACTION: APPROVED 5-0

NOTE: Present at the public hearing, which opened and closed on July 9, were Aldermen Hess-Mahan (Chairman), Laredo, Albright, Crossley, Harney, Schwartz, and Fischman. The petitioner, Wally Zainoun of Main Gate Realty, was granted a special permit on February 19, 2013 to extend the existing nonconforming uses of office and retail to permit the use of the entire building for office and/or retail uses; to permit a four-stall parking facility in a required front setback; and, to erect a freestanding sign of up to 15 square feet. The petitioner is seeking to amend the special permit to allow a service use. The building was constructed in 1922 prior to zoning and is located in a Multi Residence 1 District. Historically, the building has housed two tenants, which over the years have included a grocer, drug store, gift shop (for which a special permit was granted in 1973), insurance office, and poster shop. The petitioner’s realty business is located in the east side of the building and the proposed massage therapy center would be located in the west side. Owner Wally Zainoun of Main Gate Realty and prospective tenants Jovie Zhou and partner Sean Boutin were present. Ms. Zhou provided her educational background and explained the different types of treatment the center will offer. She has been employed at a salon in Chestnut Hill for the past seven years and licensed as a massage therapist for two years. Mr. Boutin has been a licensed massage therapist in Massachusetts for ten years.

There will not be more than three clients and three staff on-site at any one time. Sessions will be by appointment only, with no overlap. Hours proposed are Monday through Friday from 9:30 AM to 9:00 PM, Saturday from 9:30 AM to 6:00 PM, and Sunday from 11:00 AM to 6:00 PM. The parking area has four parking stalls and is legally nonconforming. The petitioner has in accordance with special permit #416-12 striped the stalls. No changes to the parking are proposed. Two parking spaces will be allocated for each use. Parking is also available on both sides of Commonwealth Avenue. There should be no impact on residential neighbors as the east

side of Manet Road is resident permit parking and parking is prohibited on the west side, all days.

Public Comment:

Renee Delinsky has been Ms. Zhou's nail client for several years. Ms. Zhou is a draw at the salon where she is currently employed and very professional. Although she is sad to lose her, she supports Ms. Zhou in her new endeavor.

Sheryl Weinstein said Ms. Zhou is professional, hardworking, and ethical. She looks forward to being a client and will refer her patients for therapy.

Lyn Segal, a seven-year client, agreed. Ms. Zhou studied hard to make this happen and the studio will be an asset to the city and business community.

Janet Razulis, 266 Commonwealth Avenue, said she had no opinion, although she wanted to know if there is a difference between a massage parlor and medical massage therapy.

Alderman Laredo reported that he had had prior communication from a neighbor, but he has no particular concerns. Alderman Harney wanted to ensure that should the special permit be granted it would not include manicures, a very different type of business. In response to Alderman Harney, Mr. Boutin confirmed that massage therapists are required to be licensed by the state and the city.

This evening the committee reviewed a draft board order and Alderman Crossley moved approval of the petition finding that a massage therapy use or a similar low-impact service business at this location would not be substantially more detrimental to the neighborhood than previous uses because it would generate approximately the same traffic and parking demand as prior businesses. The motion to approve carried 5-0.

#217-13 JEAN TEILLON, CHUNGDAHM READWRITE/DAN WOOLEY & JOHN FINLEY, III, TRUSTEES c/o CREATIVE DEVELOPMENT CO., LLC. petition for a Special Permit/Site Plan Approval for a for-profit educational use formerly occupied by the non-profit Newton Community Service Center at 1254 CHESTNUT STREET/70 LINDEN STREET, Ward 5, Newton Upper Falls, on land known as SBL 51, 35 and 34, 1 and 2, containing approximately 93,480 sq. ft., in a district zoned MANUFACTURING. Ref: Sec 30-24, 30-23, 30-5(b)(2) of the City of Newton Rev Zoning Ord, 2012.

ACTION: APPROVED 5-0

NOTE: Present at the public hearing, which was opened and closed on July 9, were Aldermen Hess-Mahan (Chairman), Laredo, Albright, Crossley, Harney, Schwartz, and Fischman. The petitioner was represented by attorney G. Michael Peirce. The site consists of two lots with a large office/manufacturing building. The previous long-term tenant in this space was Newton Community Service Center's teen center, an after school non-profit educational use. The petitioner, Readwrite, is a for-profit educational use which provides reading and writing services primarily to elementary and junior high school students as well as SAT preparation for high school students. Currently, other tenants include manufacturing and office uses. The proposed use is a by-right use in a business zone but requires a special permit to locate in a Manufacturing zone. The proposed special permit is solely for a change of use. There are no exterior changes proposed to the building or the site.

The site is actually two properties: 1238 Chestnut Street is a large multi-tenanted property and 70 Linden Street, the abutting property, is essentially a large parking lot. Both properties have been in common ownership since prior to zoning. There are almost 190 parking stalls between the two properties. The proposed use focuses primarily on children ages 3 through 14, generating little actual parking demand other than for staff. Classes for high school students are at times when most other tenants have ceased business, mostly after 4:00 PM and in the evening. There are 27 metered on-street parking spaces on the south side of Chestnut Street across the street from the property, which both the petitioner and Planning Department observed are underutilized. The petitioner has agreed to a fifteen minute break between classes to ensure an orderly transition. Mr. Peirce submitted schedules of classes by student, grade, and day of the week for fall of 2013. There was no public comment.

This evening Alderman Crossley said she is pleased to see this under-tenanted building being occupied and moved approval of the petition finding that the site is an appropriate location for a for-profit educational use; the use will not adversely affect the neighborhood; and there is more than adequate parking available. The motion to approve carried 5-0.

#325-06(3) RUSSIAN SCHOOL OF MATHEMATICS/RJ WELLS MANAGEMENT, LLC. petition to AMEND Special Permit/Site Plan Approval #325-06, granted on 12/18/06 for a for-profit education use, a waiver of parking provisions, and two free-standing signs, in order to increase the class size from 10 to 15 students; increase the number of classes at a time from 10 to 17; allow up to 28 employees on-site at a time; allow a revised parking, drop-off, and pick-up plan with a new driveway; and a revised lighting plan and a revised directional and signage package at 200 WELLS AVENUE, Ward 8. Ref: Sec 30-24, 30-23 of the City of Newton Rev Zoning Ord, 2012.

ACTION: HELD 5-0

NOTE: Present at the public hearing, which was opened and closed on July 9, were Aldermen Hess-Mahan (Chairman), Laredo, Albright, Crossley, Harney, Schwartz, and Fischman. The petitioner was represented by attorney Stephen Buchbinder. This building, constructed under special permit #188-79, is located in the Wells Avenue Office Park. The petitioner (RSM) has operated here since being granted special permit #325-06 in 2006. The special permit limits the petitioner's operations including the number of students per class, the number of employees on site at any time, the maximum number of students on site at any time, hours of operation, and drop-off and pick-up operations. In January 2013 the Inspectional Services Department cited RSM for two sheds that were built illegally on the site, as well as for various operational issues. The school has enjoyed great success and now has 17 locations in 6 states, but it is operating at this site beyond the scope of many of the conditions in special permit #325-06.

The petitioner is seeking to:

- allow up to 200 students in the school at any given time;
- to allow for up to 15 students per class;
- to allow for up to 17 classes to occur at any one time;
- to allow for up to 28 employees on the site at any one time.

To accommodate the intensification, the petitioner is also seeking to amend the site plan to connect two separate parking areas (Lot A = 50 stalls and Lot B = 14 stalls) located on each side

of the building with a driveway in order to facilitate parking operations; to construct a new fenced in play area; and, to legalize the storage sheds. The proposed driveway will allow additional live drop off of students and eliminate queuing on Wells Avenue. A crosswalk monitored by staff will allow students to cross to the proposed play area. The sheds are used to store toys, balls, sports equipment, etc.

The petitioner submitted a Traffic Assessment Memorandum from VHB and a memo from Lou Mercuri of Planning Horizons. The memos appear to support this request; however, recommendations include trimming existing trees along the frontage, relocating the stop sign, relocating the freestanding sign, and restricting parking along the south side of Wells Avenue frontage to improve the sight lines for cars exiting the site. The main entrance is located on the south side of the building in the center close to parking Lot A, with two other entrances on either side of the building. Both parking areas have a pedestrian walkway leading to the building entrances. RSM leases 24 spaces for staff off site on an adjacent lot to the south; however, it is a private arrangement and is not considered accessory parking because those spaces are not necessary to meet the required parking, which RSM could provide on-site.

Special permit #325-06 waived 12 parking stalls; however, due to the reduction of office space, a parking waiver is no longer required because RSM serves students under 14 which use has a lower parking requirement than office use. The various other waivers from dimensional controls are still applicable.

Currently the building is shared by four tenants: RSM, on the first and second floors, Dance Fever, a for-profit dance studio for students ages four through adult (special permit #324-06) in the other wing of the first and second floors, and two commercial office tenants on the second floor. There are no exterior changes proposed to the building.

Several Committee members said they are pleased the business is so successful but are troubled over the significant growth beyond what was allowed in the special permit. Mr. Buchbinder acknowledged it was like a runaway train and the petitioner going forward would be mindful to follow the conditions of a special permit should it be granted. Of the seventeen schools, nine schools are located within ten miles of Newton. The additional schools have slowed down growth at this site. Alderman Harney asked whether the petitioner has complied with Condition 12., which requires the annual filing of an actual class schedule or any notice that the class schedule has been altered. What about the summer camp referred to in Condition 14? Was a Transportation Demand Management Plan ever filed?

Public Comment

Jim Baskin has two children who attend the school. Before moving to Newton he used to drive them to RSM three times a week. Parents often carpool. He believes the new plan will improve parking and circulation and reduce tension over drop off and pickup.

There was a show of hands from approximately 70 people in support of the petition, with none opposed.

This evening Zoning Enforcement Agent Bill Forte joined the committee. Mr. Forte explained that the original enforcement call was about traffic and he went to the site with a police officer. Wells Avenue was very chaotic between the general traffic including trucks and buses, as well as cars associated with the RSM queued with their doors open, etc. The petitioner hired a police detail and the traffic and parking situation were under control in the span of

several weeks. However, other violations of the special permit were noted. Mr. Forte stressed that the petitioner has been forthright and cooperative throughout the process.

As to whether the drop off and pickup will work, Ms. Ananth said the goal is to keep drop off and pickup as isolated as possible. The drop off/pickup is one way; the parking areas two-way. The petitioner will notify all the families. Signage will provide direction and it will be used all the time by the same people who are familiar with it. The approximately 24-foot wide driveway for the parking areas is standard, providing 12-foot exit/entry lanes. There was a suggestion that the three spaces closest to the building on Lot A be dedicated to teacher parking to provide easier access and egress from the lot.

Mr. Forte raised an accessibility issue. He believes the building requires an elevator. Architect Donald Lang, who is a consultant to RSM, believes the building is exempt. The Chairman pointed out that this is under the purview of the state Architectural Access Board (ABB) not the Board of Aldermen. The petitioner will go the ABB and will install an elevation if a waiver cannot be obtained.

The petitioner submitted schedules of classes, students, and teachers. The committee discussed how to enforce the limit of 200 students. The Chairman suggested periodic affidavits signed under penalty of perjury to corroborate the class enrollment. Mr. Forte suggested semi-annual reports.

Alderman Fischman is concerned whether the lighting in the parking areas and on Wells Avenue, particular at the curve, is adequate. Would mitigation be in order? Mr. Buchbinder said that the petitioner's lighting consultant is in the process of preparing a plan and would be at the site on July 31 at 8:30 PM. He invited Alderman Fischman and anyone else to the site. Mr. Buchbinder will also ask VHB to talk with the city's Director of Transportation and the Commissioner of Public Works.

The petitioner has suggested it will implement the following as of September 2013:

- Give carpooling parents priority when creating a new class schedule
- Reserve spaces closest to the entrance in Lot B for staff who carpool
- Reserve spaces closest to the entrance in Lot A for carpool pickups
- Create an electronic message board for parents who wish to connect to carpool

Alderman Fischman said he was not prepared to vote this evening and moved to hold the petition, which motion carried 5-0.

Mr. Buchbinder said the petitioner is anxious to undertake work as soon as possible. A revised site plan and lighting plan will be prepared for the next working session.

#325-06(4) RUSSIAN SCHOOL OF MATHEMATICS /RJ WELLS MANAGEMENT, LLC requesting that the restriction adopted by Board Order #276-68(3), dated November 18, 1968, and subsequent amendments be further amended to reflect the amendments proposed in petition #325-06(3) and to legalize an existing shed and construct a fenced-in play area ancillary to the for-profit school at 200 WELLS AVENUE, Ward 8. *NOTE: Public Hearing not required.*

ACTION: HELD 5-0

Respectfully submitted,
Ted Hess-Mahan, Chairman