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PUBLIC HEARING MEMORANDUM

Public Hearing Date: April 28, 2020
Land Use Action Date: July 14, 2020
City Council Action Date: July 20, 2020
90-Day Expiration Date: July 207, 2020

DATE: April 24, 2020

TO: City Council

FROM: Barney S. Heath, Director of Planning and Development
Neil Cronin, Chief Planner for Current Planning

SUBJECT: **Petition #168-20** for SPECIAL PERMIT/SITE PLAN APPROVAL to change the existing nonconforming salon use to a nonconforming office use at **630-632 Commonwealth Avenue**, Ward 7, Newton Centre, Section 61 Block 01 Lot 06, containing approximately 4,347 sq. ft. of land in a district zoned Single Residence 2. Ref: Sec. §4.4.1, §7.8.2.C.2 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 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.



630-632 Commonwealth Avenue

EXECUTIVE SUMMARY

The subject property located at 630-632 Commonwealth Avenue is a 4,347 square foot lot in the Single Residence 2 (the "SR-2") zone in Newton Centre. The site is improved with a two-story building containing a number of commercial uses, such as retail and office. Commercial uses are not allowed within the SR-2 zone; therefore, the uses are nonconforming. The petitioner is seeking to convert a tenant space, formerly occupied by a salon, into space accessory to their office in the adjacent tenant space. Because neither the salon nor the office is allowed, the petitioner requires a special permit to convert one nonconforming use to another. The Planning Department is unconcerned with the request to establish the office use because the petitioner is not proposing to alter the footprint of the building, and there is no effect on the parking requirement.

I. SIGNIFICANT ISSUES FOR CONSIDERATION

When reviewing this request, the Council should consider whether:

- The change from a nonconforming salon use to a nonconforming office use will be substantially more detrimental than the existing nonconforming use is to the neighborhood (§4.4.1 and §7.8.2.C.2)

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The subject property is a corner lot with frontage on Commonwealth Avenue and Centre Street in the SR-2 in Newton Centre. The SR-2 zone encompasses the immediate area on the northern and southern sides of Commonwealth Avenue west of Sumner Street. To the east of Sumner Street exists a Mutli Residence 1 zone (**Attachment A**). Due to the presence of these zones, the area consists of single and multi-family uses with a few nonconforming commercial uses (**Attachment B**).

B. Site

The site consists of 4,347 square feet of land and is improved with a two-story commercial building. The footprint of the structure consumes much of the lot with a small parking facility at the rear of the site accessed via Rice Street.

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The principal use of the site is and will be commercial.

B. Building and Site Design

The petitioner is not proposing any changes to the site. The petitioner is proposing to renovate the former salon space into a showroom accessory to the the petitioner's office in the adjacent tenant space. As such, all work is internal.

C. Parking and Circulation

The petitioner is not proposing any changes to the parking or the circulation. The former salon use was classified as a personal service which required four parking stalls based on the size of the space (700 square feet) and the number of employees on the largest shift (six). The proposed showroom is classified as office space and it requires three stalls which are less than the four-stall credit afforded by the salon. As such, the parking requirement is satisfied.

D. Landscape, Lighting and Signage

No changes to landscaping or lighting are proposed. The petitioner will be seeking approval from the Urban Design Commission to establish an awning over the vacant tenant space to match the awning outside their existing space.

IV. TECHNICAL REVIEW

A. Technical Considerations (Chapter 30, Newton Zoning Ordinance):

The Zoning Review Memorandum (the "Memorandum") provides an analysis of the petition regarding zoning (**Attachment C**). Based on the Memorandum, the petitioner is seeking the following relief:

- To allow the conversion of one nonconforming use to another (§4.4.1 and §7.8.2.C.2).

B. Other Reviews

This petition does not meet the minimum threshold for review from other City Departments.

V. PETITIONER'S RESPONSIBILITIES

The petition is considered complete at this time.






ATTACHMENTS:

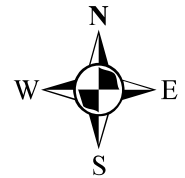
- Attachment A:** Land Use Map
Attachment B: Zoning Map
Attachment C: Zoning Review Memorandum, dated February 25, 2020
Attachment D: DRAFT Order

Attachment A
Zoning Map
Commonwealth Avenue
630-632

City of Newton,
Massachusetts

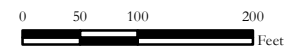
Legend

-  Single Residence 2
-  Multi-Residence 1
-  Building Outlines
-  Surface Water
-  Property Boundaries



The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve applications based solely on GIS data.

CITY OF NEWTON, MASSACHUSETTS
 Mayor - Setti D. Warren
 GIS Administrator - Douglas Greenfield



Map Date: April 24, 2020












Attachment B
Land Use Map
Commonwealth Avenue
630-632

*City of Newton,
 Massachusetts*

Legend

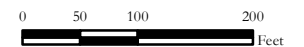
Land Use

-  Single Family Residential
-  Multi-Family Residential
-  Commercial
-  Mixed Use
-  Nonprofit Organizations
-  Vacant Land
-  Building Outlines
-  Surface Water
-  Property Boundaries



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ZONING REVIEW MEMORANDUM

Date: February 25, 2020

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official
Neil Cronin, Chief Planner for Current Planning

Cc: Sasha Durand, Cordis Management
Liz Caan & Co., Applicant
Barney S. Heath, Director of Planning and Development
Jonah Temple, Associate City Solicitor

RE: Request to change from one nonconforming use to another

Applicant: Liz Cann & Co.	
Site: 632 Commonwealth Ave	SBL: 61001 0006
Zoning: SR-2	Lot Area: 4,347square feet
Current use: Salon	Proposed use: Interior Designer

BACKGROUND:

The property located at 632 Commonwealth Avenue consists of a 4,347square foot lot improved with a multi-tenanted two-story commercial building constructed in 1920 in the Single Residence 2 zoning district. There are several tenant spaces within the existing building, with a mix of office, retail and personal service uses. The petitioner seeks to allow the conversion of an existing 700 square foot salon into a library and samples showroom to be used by an interior designer with an office already within the building.

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

- Zoning Review Application, prepared by Sasha Durand, submitted 2/12/2020
- Title Survey, prepared by R.E. Cameron & Associates, Inc, dated 9/2010

ADMINISTRATIVE DETERMINATIONS:

1. The property is located in the Single Residence 2 zoning district and has been used for commercial purposes continuously since as early as 1913. Per section 3.4.1, commercial uses are prohibited in the SR-2 zoning district. As such, the proposed office use is not permitted in the district, and the existing salon use is legally nonconforming. A special permit per section 7.8.2.C.2 is required to change from one nonconforming use to another.

There have been multiple special permits issued to various tenants within the larger building for conversion of one nonconforming use to another, and several for signage, the bulk of which were issued between 1972 and 1974. There are no special permits relative to use for this particular space.

2. The existing salon requires one parking stall per every 300 square feet plus one stall per every three employees at the largest shift per section 5.1.4. With 700 square feet and up to six employees at the largest shift, the salon use provides a parking credit of four stalls. Per section 5.1.4 an office use requires one stall per every 250 square feet, producing a requirement of three stalls. The parking credit from the salon use satisfies the parking requirement for the proposed office use and no waiver is required.

See “Zoning Relief Summary” below:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§3.4.1 §7.8.2.C.2	Request to allow the conversion from one nonconforming use to another	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 the change of use from a nonconforming salon use to a nonconforming office use, as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Rick Lipof:

1. The proposed nonconforming office use will not be substantially more detrimental than the existing nonconforming salon use is to the neighborhood because all changes to the structure are internal and there is no effect on the parking requirement.

PETITION NUMBER: #168-20

PETITIONER: Liz Caan

ADDRESS OF PETITIONER: 1066 Centre Street
Newton, MA 02459

LOCATION: 630-632 Commonwealth Avenue, Section 61, Block 01, Lot
06 containing approximately 4,347 square feet of land

OWNER: Dennis Dyer

ADDRESS OF OWNER: P.O. Box 404
Watertown, MA 02471

TO BE USED FOR: Office

CONSTRUCTION: Interior renovations only

EXPLANATORY NOTES: Special permit per §4.4.1 and §7.8.2.C.2 to allow the conversion of one nonconforming use to another

ZONING: Single Residence 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 the following plans:
 - a. A plan entitled "New Office Space, Liz Caan & Co.," unsigned and unstamped, dated February 10, 2020
2. No building permit shall be issued pursuant to this special permit/site plan approval until the petitioner has:
 - a. recorded a certified copy of this Order for the approved special permit/site plan with the Registry of Deeds for the Southern District of Middlesex County;
 - b. filed a copy of such recorded Order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development; and
 - c. obtained a statement from the Director of Planning and Development that all plans are consistent with Condition #1.
3. No occupancy permit for the use covered by this special permit/site plan approval shall be issued until the petitioner has:
 - a. filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement certifying compliance with Condition #1.