

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 REVIEW to amend Council Order #106-07 to expand the nursery school and to allow parking within the front setback, as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Richard Lipof:

1. The specific site is an appropriate location for the proposed amendments to Council Order #106-07 because the expanded nursery school is accessory to the institutional use, and both uses are allowed in the Single Residence 1 zone. (§7.3.3.1)
2. The use, as developed and operated, due to the proposed amendments to Council Order #106-07 will not adversely affect the neighborhood because the site contains the requisite number of parking stalls for the expanded school. (§7.3.3.2)
3. There will be no nuisance or serious hazard to vehicles or pedestrians because the expanded school will utilize existing access and circulation patterns. (§7.3.3.3)
4. Access to the site is appropriate for the types and numbers of vehicles involved. (§7.3.3.4)
5. Locating parking stalls within the front setback distances is in the public interest because the location allows for: an efficient layout; compliance with the maneuvering aisle width; and for compliance with the number of required parking stalls. (§5.1.8.A.1 and §5.1.13)

PETITION NUMBER: #70-20

PETITIONER: Beth Menachem Chabad

LOCATION: 349 Dedham Street on land known as SBL 83, 36A, 01 containing approximately 33,697 square feet of land

OWNER: Chabad Lubavitch, Inc.

ADDRESS OF OWNER: 491 Commonwealth Avenue

Boston, MA 02215

TO BE USED FOR: Expansion of the nursery school and parking within the front setback distances

CONSTRUCTION: Not Applicable

EXPLANATORY NOTES: §5.1.8.A.1 and §5.1.13 to locate parking within the front setback distances

ZONING: Single-Residence 1 zoning district

This property is governed by Council Order #106-07 which waived 61 parking stalls in conjunction with the construction of a religious institution. Condition #10 of Council Order #106-07 limited the enrollment and the duration of the petitioner's nursery school. This Special Permit/Site Plan approval deletes Condition #10 in its entirety and replaces those restrictions with the restrictions set forth herein. All other conditions of Council Order #106-07 remain in full force and effect.

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. Plot Plan of Land, Existing Conditions, prepared by Spruhan Engineering, P.C., signed and stamped by Christopher C. Charlton, Professional Land Surveyor, dated April 5, 2019
 - b. Plot Plan of Land, Proposed Conditions, prepared by Spruhan Engineering, P.C., signed and stamped by Edmond T. Spruhan, Professional Engineer and Christopher C. Charlton, Professional Land Surveyor, dated June 17, 2019
 - c. Landscape Plan, prepared by Yovel Design, signed and stamped by Ronald P. Jarek, Registered Architect, dated April 30, 2019
 - d. Architectural Plans, Sheets G-102, A-101, and A-301, prepared by Yovel Design, signed and stamped by Ronald P. Jarek, Registered Architect, dated April 30, 2019
2. The nursery school shall be limited to forty-one (41) students. If the petitioner seeks to increase the number of students to more than forty-one (41), it must seek an amendment to this special permit.
3. The petitioner shall comply with all aspects of the Traffic Management Plan, dated December 4, 2020, which is on file with the City Clerk, and said Plan shall be updated to include the following provision which is a condition of this special permit:
 - a. Parents shall be discouraged from utilizing on-street parking stalls on Rachel Road
4. The petitioner shall comply with the City's Tree Preservation Ordinance. Should the trees within the landscape island adjacent to Dedham Street die as a result of the construction

approved by this Order, the petitioner shall notify the Directors of Urban Forestry and the Department of Planning and Development for a plan exhibiting compliance with the Tree Preservation Ordinance.

5. Prior to the issuance of any Building Permit, the petitioner shall obtain a waiver or a variance to reduce the minimum allowed open space from either the Commissioner of Inspectional Services or the Zoning Board of Appeals, respectively.
6. Prior to the issuance of any Building Permit, the petitioner shall provide a final Site Plan for review and approval by the Department of Planning and Development, the Engineering Division of Public Works, and the Fire Department.
7. Prior to the issuance of any Building Permit, the petitioner shall provide a final Landscape Plan for review and approval by the Department of Planning and Development.
8. If required by the City Engineer, the petitioner shall provide a final Operations and Maintenance Plan (O&M) for stormwater management to the Engineering Division of Public Works for review and approval prior to the issuance of any Building Permit. Once approved, the O&M must be adopted by the applicant, incorporated into the deed, and recorded at the Middlesex South Registry of Deeds. A certified copy of the O&M shall be submitted to the Engineering Division of Public Works.
9. 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 council 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 council order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
 - c. Filed with the City Clerk, the Commissioner of Inspectional Services, and the Department of Planning and Development, a statement from the Engineering Division approving the final site plan.
 - d. Obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.
10. No Final Inspection/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 statements by a registered architect and a land surveyor certifying compliance with Condition #1.
 - b. Submitted to the Director of Planning and Development and Commissioner of Inspectional Services, and the City Engineer final as-built plans in paper and digital format signed and stamped by a professional land surveyor.
 - c. Filed with the City Clerk, the Commissioner of Inspectional Services, and the Department of Planning and Development, a statement from the Engineering

Division certifying that the final site construction details have been constructed to the standards of the City of Newton Engineering Division.

- d. Filed with the City Clerk, and the Commissioner of Inspectional Services, a statement from the Department of Planning and Development approving the final location, number and type of plant materials and final landscape features.
11. The landscaping shown on the approved Final Site Plan shall be maintained in good condition. The plantings shall be inspected annually and any plant material that becomes diseased or dies shall be replaced in a timely manner with similar material.