

Terrence P. Morris, Esq.
Law Offices of Terrence P. Morris LLC
57 Elm Road
5 Newton, MA 02460
617 202-9132

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By hand and electronic transmission

Gregory Schwartz, Chair
Land Use Committee
Newton City Council
1000 Commonwealth Avenue
Newton, MA 02459

Re: 145 Wells Avenue (the "Property")
Amendment to Special Permit #257-13(4)

Dear Chair Schwartz:

I represent the owner of 145 Wells Avenue, Wells Avenue Business Center LLC. The property at 145 Wells Avenue consists of an 86,256 square foot lot in a Limited Manufacturing zoning district in the Wells Avenue Office Park ("Office Park"). There is a two-story commercial building located on the site that contains approximately 17,700 square feet of space. In 2013, the Board of Aldermen voted to amend the deed restriction governing the Office Park to permit a for-profit day care use which was followed by administrative site plan approval for approximately 12,000 square feet of the building to be used as a day care center, Newton Child Care Academy ("NCA").

In October 2014, the Board of Aldermen again voted to amend the deed restriction and grant a special permit to allow the balance of the building (5,700 sf) to be used for a "place of amusement". The special permit, Board Order #257-13(4) also provided for an increase in the maximum capacity for the day care center from 70 to 120 children and from 12 to 17 staff. This increase in capacity resulted in the need for a waiver of seven (7) parking spaces, which was granted based upon a finding that the uses will not be open to users (patrons/staff) at the same time.

The permit also contained conditions on the hours of operation and number of persons who could be present at any one time in each part of the facility to ensure that the two uses would be compatible and that the initial finding remained valid. The most elementary indicia of compatibility begins with the fact that the amusement center operates at days and times when the day care center is closed, i.e., after 6:00PM Monday-Friday and on weekends and holidays.

Despite the increased allowance, the current use as a day care center is operating at 50% capacity with a maximum of 60 children and 12 staff on site at any one time. There are no plans in the foreseeable future to increase the number beyond 99 children. At the current numbers, it is operating at a level that has yet to activate the parking waiver. To the contrary there is a surplus of two parking stalls based on the number of children (60 vs. 70). In the summer months the number of participants drops even lower as families opt out of day care in favor of summer programs that provide more varied experience focused on field trips and other outdoor activities, both on- and off-site, that include in part recreation, education and amusement. Similarly, the amusement center, aka "Jump N' Slide, has experienced a decline in the number of events/parties for the same reasons.

To offset this downturn, in March 2017, the owner who operates both NCA and Jump 'N Slide, under affiliated companies, sought and received a consistency ruling from the Land Use Committee to operate a 9-week summer program from June through August, that makes use of the physical plant/site containing both activity centers from 9:00AM to 4:00PM (with extended hours of 8:00AM to 5:00PM) Monday-Friday for a maximum of 30 children ages 6-12 and a maximum of five staff members.

Having operated the Amusement Center at this location for several years, it has become apparent to the owners that the parking requirements set forth in the zoning ordinance based on the number of seats for this type of use do not accurately correlate with the nature of the use. Simply stated there is no correlation with the number of children using the facility and the number of cars parked in the lot. As a practical matter kids arrive and are dropped off in groups by carpool or bus. For that reason the limitation on number of children/customers to 30 at any one time is unrealistic.

Accordingly, this is a request to extend hours of operation from the currently-approved time of 6:00-9:00 PM to 10:30AM-9:00PM during the week (M-F) and from 9:00-7:00 PM to 9:00PM-9:00PM during the weekend and holidays for the following reasons:

1. Growing Demand for the Services. Over the past 3 years of operation they have been receiving requests for birthday celebrations during the week. The place of amusement has come to be known us as an "indoor playground" to local communities, families and care-givers who want to bring their kids for play time. Parents/caregivers, coming to and going from, the Day Care Center use the parking lot only for drop-off/ pick-up at indicated peak times.
2. Reduced Demand for Parking. Based on actual experience in operation the parking lot has been underutilized and rarely, if ever, used to full capacity. The most recent survey of actual usage conducted in January, 2018 confirmed what has been evident from extended observation to be the case for quite some time (see attached).

3. School and Camp Trips. We would like to offer our space for school field trips and kids' day camps. The biggest advantage is that they arrive by bus and drop off the children for later pick-up, so there should not be any competition for the parking spaces.
4. New Programs. Jump'n'Slide expects to open new programs, such as arts and crafts, photography classes, acting classes during the week and offer space for "Mommy" groups during the daytime.

To effect this change Board Order #257-13(4), which was issued on October 6, 2014, will need to be amended, more specifically as follows: (1) Condition #5 which in addition to reciting the aforesaid limitation on hours of operation, states that "the bouncy house and the daycare uses shall not be open to uses at the same time" and omits holiday hours; and (2) Condition #4, which limits the number of children/customers allowed on site at any one time to 30.

Thank you for your consideration.

Sincerely,

Terrence P. Morris

Terrence P. Morris

Enclosures (2)

Cc: Land Use Committee
Nadia Khan, Clerk of Committee
Andrian Shapiro, Wells Avenue Business Center