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James Freas  
Acting Director

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**PUBLIC HEARING MEMORANDUM**

Public Hearing Date: March 17, 2015  
Land Use Action Date: March 31, 2015  
Board of Aldermen Action Date: May 4, 2015  
90-Day Expiration Date: June 1, 2015

DATE: March 13, 2015

TO: Board of Aldermen

FROM: James Freas, Acting Director of Planning and Development  
Alexandra Ananth, Chief Planner for Current Planning  
Stephen Pantalone, Senior Planner

SUBJECT: **Petition #38-15**, PAUL LANGIONE, TRUSTEE, for SPECIAL PERMIT/SITE PLAN APPROVAL to extend a NONCONFORMING USE for a for-profit educational purpose, including classrooms and offices, and waivers from parking facility design requirements for dance studios at **38 Border Street**, Ward 3, West Newton, on land known as SBL 33, 15, 23, containing approx. 27,874 sq. ft. of land in a district zoned MANUFACTURING. Ref: Sec 30-24, 30-23, 30-21(b), 30-19(h)(1),(h)(5), 30-19(l)(i),(i)(2)(a), (i)(2b), (i)(2c) (i)(2d), 30-19(j)(1)(a), and 30-19(m) of the City of Newton Rev Zoning Ord, 2012.

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The purpose of this memorandum is to provide the Board of Aldermen and the public with technical information and planning analysis which may be useful in the special permit decision making process of the Board of Aldermen. The Planning Department's intention is to provide a balanced view of the issues with the information it has at the time of the public hearing. There may be other information presented at or after the public hearing that the Land Use Committee of the Board of Aldermen will want to consider in its discussion at a subsequent Working Session.



**38 Border Street**

## EXECUTIVE SUMMARY

The property at 38 Border Street consists of a 27,874 square foot lot in a Manufacturing zoning district, improved with a one-story structure built in 1952. The existing building is nonconforming with regards to the front and side setbacks. The petitioner is proposing to change the use of the site from a nonprofit organization providing rehabilitation services for developmentally disabled teens and adults (The Price Center) to a for-profit educational use (Joanne Langione Dance Center), which is currently located across the street at 35 Border Street. The petitioner is also proposing to re-stripe and make minor modifications to the existing parking lot, and to construct a small vestibule at the entrance on the ground floor and a second-floor addition on the existing building. The petitioner is seeking a special permit to allow for a for-profit educational use in a Manufacturing district, to extend a nonconforming structure, to allow a building height greater than 24 feet, to locate parking in the front, side and rear setbacks, to allow a tandem parking configuration, and to waive landscape screening and interior landscaping requirements for the parking lot.

The proposed vestibule and second-story addition will improve the existing entrance to the building from the parking lot and will create office space for administrative purposes. The modest additions will face the parking lot and will not be visible from nearby residential properties. The petitioner is also proposing to re-stripe the parking lot to create tandem parking, add directional pavement markings, add drop-off parking stalls, create van accessible handicap stalls, and to better define vehicle circulation within the site. The proposed site plan shows 35 parking stalls, including ten tandem stalls, where 11 stalls are required by the Newton Zoning Ordinance (NZO) for the proposed use.

The Planning Department does not have any significant concerns with the proposed use, as the site is located in a mixed use neighborhood and has adequate parking. The Planning Department believes that the proposed modifications to the parking lot will improve circulation within the site, and that the relief requested for perimeter screening and interior landscaping is reasonable due to the size and location of the lot. The petitioner should explain whether they are proposing any pedestrian improvements along their frontage, and should identify the specific types of plantings proposed for the landscaped area.

### I. SIGNIFICANT ISSUES FOR CONSIDERATION:

When reviewing this request, the Board should consider whether:

- Literal compliance with the parking requirements of the NZO is impracticable due to the nature of the use, or the location, size, width, depth, shape, or grade of the lot, or that such exceptions would be in the public interest or in the interest of safety or protection of environmental features. (§30-19(m))

- The proposed extension of the nonconforming structure is not substantially more detrimental than the existing structure is to the neighborhood. (§30-21(b))
- The specific site is an appropriate location for the proposed for-profit educational use. (§30-24(d)(1))
- The proposed project, as developed and operated, will not adversely affect the neighborhood. (§30-24(d)(2))
- There will be no nuisance or serious hazard to vehicles or pedestrians (§30-24(d)(3))
- Access to the site over streets is appropriate for the types and number of vehicles involved. (§30-24(d)(4))

## II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

### A. Neighborhood and Zoning

The site is located on Border Street proximate to West Newton's village center. The land uses in the surrounding neighborhood consist of a mix of uses, including commercial, industrial, nonprofit organizations, and single- and multi-family dwellings (**ATTACHMENT B**). The zoning districts in the surrounding neighborhood consist of Multi-Residence 1, Business 1, and Manufacturing districts (**ATTACHMENT C**). The site is zoned Manufacturing.

### B. Site

The site consists of a 27,874 square foot lot, improved with a one-story building constructed in 1952 and a surface parking lot. The existing building is nonconforming as it is located in the front and side setback, and the existing parking lot is nonconforming due to the location of stalls in the front, side, and rear setbacks, the absence of perimeter landscaping, and the absence of interior landscaping islands.

The site borders the Massachusetts Turnpike to the south, vacant land to the west, and a commercial use to the east. The site is relatively flat and is comprised entirely of impervious surfaces. There are no curbed sidewalks along the frontage of the property, and for at least a portion of the frontage there are no pedestrian walkways between the on-street parking and the site.

### III. PROJECT DESCRIPTION AND ANALYSIS

#### A. Land Use

The petitioner is proposing to use the site for the Joanne Langione Dance Center, which is considered a for-profit educational use. The dance center is currently located across the street at 35 Border Street. The Planning Department does not have any concerns with this use, as it already exists in the immediate neighborhood and any expansion in terms of capacity appears to be minimal. Furthermore, the site is located in a neighborhood with a mix of residential, commercial and industrial types of uses.

#### B. Building and Site Design

The petitioner is proposing to construct a 719 square foot vestibule at the entrance to the building, as well as a 1,200 square foot second-floor addition above the entrance to be used for office space. The addition requires relief as the height will be 27 feet, where 24 feet is the maximum allowed by right. The additions will consist of composite metal panels, aluminum storefront, and spandrel panels.

The petitioner is proposing several changes to the site plan, including the use of tandem parking stalls and drop-off parking stalls, the relocation of handicap parking stalls, a new landscaped area in front of the building, a bicycle rack, dumpster, curbing, a designated snow storage area, and a new lamppost with twin lights. The Planning Department recommends that the petitioner screen the dumpster.

The Planning Department believes that the proposed project will improve the appearance of the building and functionality of the site, and will not be substantially more detrimental than the existing conditions are to the neighborhood.

#### C. Traffic and Parking

The petitioner is proposing to re-stripe the parking lot to provide a total of 35 stalls, including ten tandem stalls and two handicap accessible stalls. The petitioner is also proposing to add directional one-way pavement markings and parking stalls designated for drop-off. The Planning Department suggests installing a "Do Not Enter" sign at the exit of the parking lot to reinforce the one-way circulation. The Planning Department believes that the proposed site plan is an efficient use of the available space, and that the modifications will improve circulation within the site.

Based on City staff's site visit and street views from Google maps, it appears the pedestrian walkway directly in front of the building is damaged, and that there is no curbing to separate the walkway from on-street parking. Conversely, along the

street frontage of the parking lot there is curbing but there does not appear to be a pedestrian walkway, as the proposed parking stalls extend very close to the curb. The petitioner should clarify the proposed treatments and consider improving pedestrian access along their frontage as a public benefit.

D. Landscape Screening

The petitioner is proposing landscaping along the streetscape in front of the existing building. The petitioner provided a rendering of the landscaping (**ATTACHMENT D**) which shows shrubs and three trees, but does not identify the specific types of plantings or indicate whether they are installing a grass area around the plantings. The petitioner should provide additional information on the treatment in this area, as there appears to be limited space to provide both landscaping and a pedestrian walkway. The following Google Street View image from 2011 shows the frontage in front of the building without snow.



IV. TECHNICAL REVIEW

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

The Zoning Review Memorandum (**ATTACHMENT A**) provides an analysis of the proposal with regard to zoning. Based on this review, the petitioner is seeking a Special Permit/Site Plan Approval for the following reliefs:

- §30-5(a)(2), to allow for a for-profit educational use in the manufacturing

district

- §30-21(b), to extend a nonconforming structure
- §30-15 Table 3, to allow a building height greater than 24 feet but less than 36 feet
- §30-19(h)(1) and §30-19(m) to locate parking in the front, side and rear setbacks
- §30-19(h)(5) and §30-19(m), to allow tandem parking
- §30-19(i) and §30-19(m), to waive the landscape screening and interior landscaping requirements

B. Engineering Review

No engineering review is necessary as the existing site is entirely comprised of impervious surface.

V. PETITIONER'S RESPONSIBILITIES

The petitioner should provide additional details on the treatment along the frontage of the property, including pedestrian improvements and landscaping materials. The petitioner should also consider installing a "Do Not Enter" sign at the exit of the parking lot and screening the dumpster.

**ATTACHMENTS:**

- Attachment A:** Zoning Review Memorandum  
**Attachment B:** Land Use Map  
**Attachment C:** Zoning Map  
**Attachment D:** Landscaping Rendering



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**ATTACHMENT A**

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James Freas  
Acting Director

**ZONING REVIEW MEMORANDUM**

Date: February 12, 2015

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official  
Alexandra Ananth, Chief Planner for Current Planning

Cc: G. Michael Peirce, Attorney for the applicant  
James Freas, Acting Director of Planning and Development  
Ouida Young, Associate City Solicitor

**RE: Request to extend a nonconforming structure, to exceed building height, to allow a for-profit educational use, and for a waiver from various parking facility requirements**

Applicant: Langione Family Realty Trust	
Site: 38 Border Street	SBL: 33015 0023
Zoning: MAN	Lot Area: 27,874 square feet
Current use: Non-profit education	Proposed use: For-profit education and office

**BACKGROUND:**

The property at 38 Border Street consists of a 27,874 square foot lot improved with a single-story commercial building built in 1952 and a surface parking area located in the Manufacturing district. The building was previously occupied by the Barry Price Center, a non-profit educational program for adults with disabilities. The applicant proposes to relocate a dance instruction studio from 35 Border Street to the existing building. They plan to construct a small first floor addition of an entrance vestibule, a small second floor addition of an office, and to also relocate two handicapped parking stalls within the reconfigured parking lot on site.

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

- Zoning Review Application, prepared G. Michael Peirce, Attorney, dated 12/30/2014
- FAR worksheet
- Plot Plan Showing Proposed Conditions, signed and stamped by David A. Dwyer, dated 12/29/2014
- Proposed Floor Plans and Elevations, signed and stamped by Vivian D. Low, architect, dated 12/29/2014
- Landscape Plan, prepared by Fisher Design Group, dated 1/23/2015
- Parking calculations, prepared by G. Michael Peirce, attorney, dated 1/29/2015

## **ADMINISTRATIVE DETERMINATIONS:**

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1. For-profit educational uses are allowed by special permit in in the Manufacturing district pursuant to Section 30-5(a)(2), which allows educational uses either by right or by special permit throughout the City.
2. The existing structure is one story with a height of 20 feet. The applicant proposes to add a second story addition which would increase the height to 27 feet. Two stories are allowed by right, however the maximum by-right height is 24 feet. To construct a second story up to 27 feet, but not exceeding 36 feet, requires a special permit per Section 30-15, Table 3.
3. The existing building is nonconforming due to an 8.3 foot front setback, where 15 feet is required, and due to a 4.9 foot side setback where half the building height is required. The existing setback requirement is 10 feet, after the proposed addition the side setback requirement will be 13.5 feet. A special permit is required to extend a nonconforming structure, per Section 30-21(b) of the Ordinance.
4. The for-profit educational use requires one parking stall per each employee of the dance school per Section 30-19(d)(16). The applicant anticipates six employees for the dance school, requiring six parking stalls. Part of the second floor addition includes a 1,200 square foot office space for one of the owners for his business unrelated to the dance school. Section 30-19(d)(11) requires one parking stall per each 250 square feet of office space, requiring five stalls. In total, the two uses will require 11 parking stalls. There are 35 stalls on site, which is more than enough to satisfy the parking requirements for these uses.
5. The applicant proposes to reconfigure the existing parking lot to accommodate better flow for drop-off and pick-up of students of the school, but will maintain the same number of parking stalls (35). The new plan creates a one-way loop through the lot, with tandem parking for employees, and a drop-off area at the front entrance. It also relocates the two handicapped parking stalls to an area adjacent to the front entrance and ramp. These changes make the parking lot more conforming than what exists currently.
6. Section 30-19(h)(1) requires that no parking be located in a setback. Several parking stalls are proposed to be located in the front and rear setbacks. A special permit is required to waive this provision.
7. There are ten parking stalls arranged in a tandem configuration (five and five). The tandem stalls are intended for employee parking. Section 30-19(h)(5) requires a waiver under Section 30-19(m) to allow for tandem parking.
8. Section 30-19(i)(1) requires parking lots be screened from abutting streets and properties. The parking area extends to the sidewalk with no landscaping or screening present. To the rear, the property abuts, but does not have access to, Washington Street, where there is a vegetative buffer. To maintain the present condition along the streetscape, a special permit to waive the requirements of section 30-19(i)(1) is necessary.



9. Section 30-19(i)(2) requires interior landscaping for facilities greater than 20 stalls. There is no interior landscaping on site, and a special permit is required to waive these provisions.

10. See “Zoning Relief Summary” below:






<b>Zoning Relief Required</b>		
<i>Ordinance</i>	<i>Required Relief</i>	<i>Action Required</i>
§30-5(a)(2)	To allow for a for-profit educational use in the MAN district	S.P. per §30-24
§30-21(b)	To extend a nonconforming structure	S.P. per §30-24
§30-15, Table 3	To allow a building height greater than 24 feet but less than 36 feet	S.P. per §30-24
§30-19(h)(1), §30-19(m)	To locate parking in the front, side and rear setbacks	S.P. per §30-24
§30-19(h)(5), §30-19(m)	To allow tandem parking	S.P. per §30-24
§30-19(i), §30-19(m)	To waive the landscape screening and interior landscaping requirements	S.P. per §30-24

# Land Use Map 38 Border Street

City of Newton,  
Massachusetts

## Legend

### Land Use

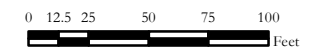
-  Single Family Residential
-  Multi-Family Residential
-  Commercial
-  Industrial
-  Nonprofit Organizations

**ATTACHMENT B**

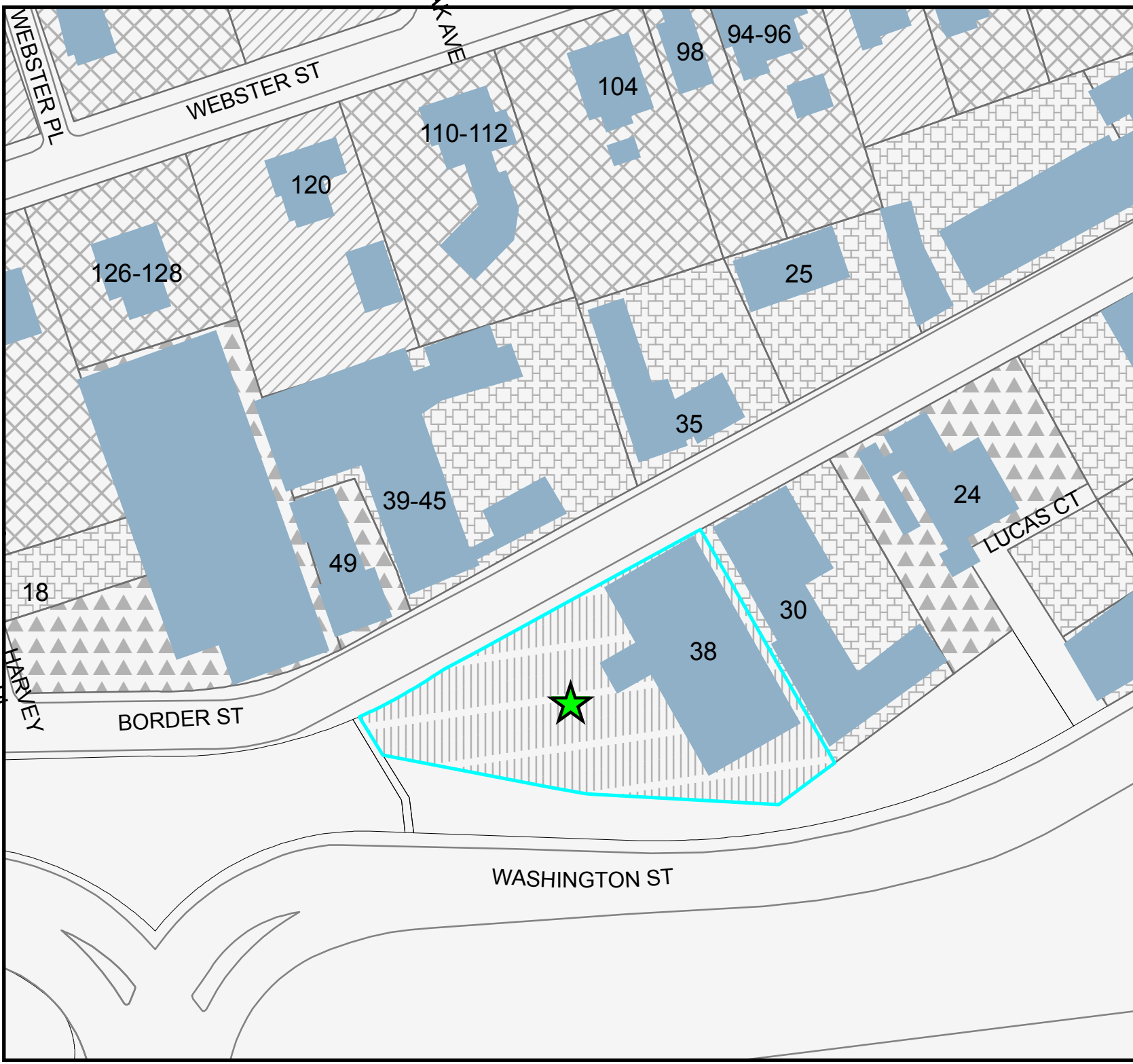


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve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

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Mayor - Setti D. Warren  
GIS Administrator - Douglas Greenfield






Map Date: February 20, 2015



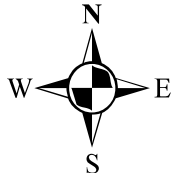
# Zoning Map 38 Border Street

City of Newton,  
Massachusetts

**Legend**

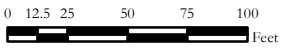
-  Multi-Residence 1
-  Business 1
-  Manufacturing

**ATTACHMENT C**



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CITY OF NEWTON, MASSACHUSETTS  
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Map Date: February 20, 2015





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Joanne  
Langjone  
Dance  
Center