

#39-17
45-47 Bryon Road

CITY OF NEWTON
IN CITY COUNCIL

April 3, 2017

RECEIVED
Newton City Clerk
2017 APR -5 PM 4: 00
David A. Oison, Clerk
Newton, MA 02459

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 allow a day care center by waiving the associated on-site parking and lighting requirements, the requirement of screening outdoor play areas, and on-site drop-off and pick-up parking requirements of the Newton Zoning Ordinances, as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Marc Laredo:

1. The specific site is an appropriate location for a day care center as day care centers are an allowed use in the Multi-Residence 1 zone. (§7.3.3.C.1)
2. The proposed waivers of parking and screening requirements will not create a nuisance or serious hazard to vehicles or pedestrians as there is sufficient on street parking and the petitioner has identified additional parking for staff off site. (§7.3.3.C.3)
3. Access to the site is appropriate for the types and number of vehicles involved. (§7.3.3.C.4)
4. Literal compliance with the parking, vegetative buffer, lighting, and pick up/drop-off stall requirements is impractical due to the location and the nature of the use. In addition, these exceptions will be in the public interest and maintain the residential character of the neighborhood. (§5.1.13)

PETITION NUMBER: #39-17

PETITIONER: Larisa Bankovsky

LOCATION: 45-47 Bryon Road, on land known as Section 82, Block 43, Lot 07, containing approximately 10,050 square feet of land

OWNER: Larisa Bankovsky

ADDRESS OF OWNER: 45-47 Bryon Road
Newton, MA 02459

TO BE USED FOR: Day Care Center

CONSTRUCTION: Masonry

EXPLANATORY NOTES: §7.4.5 Administrative Site Plan Review for a day care center, §5.1.4.A, §5.1.8.A.1, §5.1.8.B.1, §5.1.8.B.2, §5.1.8.C.2, §5.1.10, and §5.1.13 to waive the parking requirement of the proposed use, §6.3.4.B.3.a to waive the requirement of outdoors screening areas, and §6.3.4.B.3.c to waive the on-site pick-up and drop-off requirement for day care uses

ZONING: Multi-Residence 1 zoning district

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, signed and stamped by Peter J. Nolan, Professional Land Surveyor, dated November 4, 2016.
2. The day care shall be limited to thirty-four (34) students and seven (7) staff members on-site at any one time. If the petitioner would like to increase the number of students to more than thirty-four (34), it must seek an amendment to this special permit.
3. The petitioner shall designate one (1) staff member to assist with drop-off and pick-up during expected peak hours of operation.
4. The petitioner shall distribute the Transportation Demand Management Plan to the parents of the enrolled children bi-annually and said Plan shall be updated to include the following provisions which are conditions of this special permit:
 - a. Access to the site shall be restricted to the northernmost outlet of Bryon Road.
 - b. All vehicular traffic exiting the site shall utilize the southernmost outlet of Bryon Road.
 - c. Pick-up and drop-off shall occur on site or along the southerly side of Bryon Road.
5. The petitioner shall maintain the sidewalk and the southerly portion of Bryon Road along the entire frontage of the property during snow events.
6. At twelve (12) months after receipt of a final certificate of occupancy, the petitioner shall attend a Land-Use Committee hearing to provide an update on:

- a. Peak drop-off and pick-up conditions;
 - b. Status of employee parking demands;
 - c. Traffic circulation; and
 - d. Results of carpooling/ridesharing goals.
7. 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, Engineering Division of Public Works and Fire Department. Said Plan shall show the removal of paving at the southwest and northeast portions of the parking area. In addition, said Plan shall show a combination of fence and landscaped strip to screen the parking facility from Bryon Road.
8. 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 board 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 board order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
 - c. Obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.
 - d. Obtained a written statement from the Engineering Division of Public Works approving the final site plan, including compliance with the City's drainage policy.
9. 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 a statement by a registered land surveyor certifying compliance with Condition #1.
 - b. Submitted to the Director of Planning and Development and Commissioner of Inspectional Services final as-built plans in paper and digital format signed and stamped by a professional land surveyor.
 - c. Filed with the Clerk of the Board, the Department of Inspectional Services, and the Director of Planning and Development a statement by the City Engineer certifying improvements authorized by this Order have been constructed to the standards of the City of Newton Engineering Department.
 - d. Submitted to the Director of Planning and Development evidence of current valid licensure by the Office for Child Care Services.
 - e. Filed with the Department of Inspectional Services a statement by the Director of Planning and Development approving final location, number and type of plant materials, final landscape features, and parking areas.

10. Notwithstanding the provisions of Condition #9e above, the Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy for all or portions of the buildings prior to installation of final landscaping provided that the petitioner shall first have filed a bond, letter of credit, cash or other security in the form satisfactory to the Director of Planning and Development in an amount not less than 135% of the value of the aforementioned remaining landscaping to secure installation of such landscaping.
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.

Under Suspension of Rules
Readings Waived and Approved
24 yeas 0 nays

The undersigned hereby certifies that the foregoing copy of the decision of the Newton City Council granting a SPECIAL PERMIT/SITE PLAN APPROVAL is a true accurate copy of said decision, the original of which having been filed with the City Clerk on April 5, 2017. The undersigned further certifies that all statutory requirements for the issuance of such SPECIAL PERMIT/SITE PLAN APPROVAL have been complied with and that all plans referred to in the decision have been filed with the City Clerk.

ATTEST:



(SGD) DAVID A. OLSON, City Clerk
Clerk of the City Council

I, David A. Olson, as the Clerk of the City Council and keeper of its records and as the City Clerk and official keeper of the records of the CITY OF NEWTON, hereby certify that twenty Days have elapsed since the filing of the foregoing decision of the Newton City Council in the Office of the City Clerk on 4/5 and that NO APPEAL of said decision pursuant to G.L. c. 40A, §17 has been filed thereto.

ATTEST:



(SGD) DAVID A. OLSON, City Clerk
Clerk of the Council