



Setti D. Warren
Mayor

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Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date:	March 28, 2017
Land Use Action Date:	June 13, 2017
City Council Action Date:	June 19, 2017
90-Day Expiration Date:	June 26, 2017

DATE: March 24, 2017

TO: City Council

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

SUBJECT: **Petition #39-17**, for a SPECIAL PERMIT/SITE PLAN APPROVAL to waive four parking stalls as well as screening, and lighting requirements for a day care center at **45-47 Bryon Road**, Ward 8, Oak Hill, on land known as SBL 82, 43, 07 containing approximately 10,050 sq. ft. of land in a district zoned Multi-Residence 1. Ref: §7.4.5, §6.3.4.3, §6.3.4.B.3.a, §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, §5.1.13, and §7.3.3.

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.



45-47 Bryon Road

EXECUTIVE SUMMARY

The property located at 45-47 Bryon Road consists of a 21,288 square foot lot improved with a two-family structure constructed in 1977. The site is in a Multi Residence 1 (MR-1) zone in Oak Hill near the intersection of Newton, Brookline, and Boston. Currently, each dwelling unit on site operates a child care facility with ten children. As such, the operations are not regulated by the Newton Zoning Ordinance (NZO). The petitioner is proposing to combine the two operations into one and increase the enrollment to thirty-four students as well as increase the number of employees from five to seven. The resulting size of the child care, with respect to number of students, changes the classification under the NZO from a Large Family Child Care to a Day Care Center. As a result, the new operation is regulated by the NZO with provisions on parking and landscaping.

The petitioner initially filed for the expansion under Administrative Site Plan Review in §7.5.2 of the NZO. This procedure governs the review of uses protected under MGL Chapter 40A, section 3, also known as the “Dover Amendment”. Since these uses are protected from local zoning, applicants may ask the Commissioner of Inspectional Services to waive provisions of the NZO. However, due to the proposed plan and relief requested, the waivers would not be granted by the Commissioner of Inspectional Services. Therefore, the petitioner seeks a special permit to waive four parking stalls to improve the site plan. The petitioner is also seeking special permits to allow parking within setback distances, and waive certain requirements for parking facilities containing more than five stalls.

SIGNIFICANT ISSUES FOR CONSIDERATION:

When reviewing this request, the Council should consider whether:

- Whether literal compliance of the number of parking stalls, vegetative buffer, and pick up/drop-off stall requirements are impractical due to the nature of the use, or the location, size, width, depth, shape, or grade of the lot such that these exceptions will be in the public interest, or the interest of safety, or protection of environmental features (§5.1.13);
- The site is an appropriate location for a day care center use (§7.3.3.C.1).
- The day care center will not adversely affect the neighborhood (§7.3.3.C.2).
- There will be no nuisance or serious hazard to vehicles or pedestrians (§7.3.3.C.3); and
- Access to the site over streets is appropriate for the types and numbers of vehicles involved (§7.3.3.C.4).

I. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The subject property is located on Bryon Road in a MR-1 zone in Oak Hill. The immediate neighborhood is comprised of a mix of land uses including single as well as multi-family residences and open space. The neighborhood also lies near the intersection of Brookline, Boston, and Newton (**Attachments A & B**).

B. Site

The property consists of 10,050 square feet of land, and is improved with a two-story, two-family dwelling circa 1977. The site is predominantly flat with an outdoor play area at the southeast corner of the site. Staff notes there was another play area to the west of the structure which was partially on the abutter's land at 37-39 Bryon Road. This play area will be decommissioned as part of the petition. Both play areas are enclosed with an assortment of metal, wood stockade, and plastic fencing. There is a large paved area at the northwest corner of the site which the petitioner paved in 2016 to meet the parking demand associated with the expansion without the benefit of a permit. This paved area is striped, contains 14 stalls, and is served by the only curb cut for the property which is 20 feet wide.

II. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The principal use of the site will be converted from a two-family use with two Large Family Day Care operations to a day care center. Staff notes day care centers are an allowed use in all zones throughout the City and are therefore not considered a nonconforming use.

B. Building Design

The petitioner is not proposing any alterations to the existing structure. Therefore, the structure will maintain the residential character consistent with the neighborhood and will remain compliant with the dimensional controls for two-family structure on a new lot in the MR-1 zone.

C. Site Design

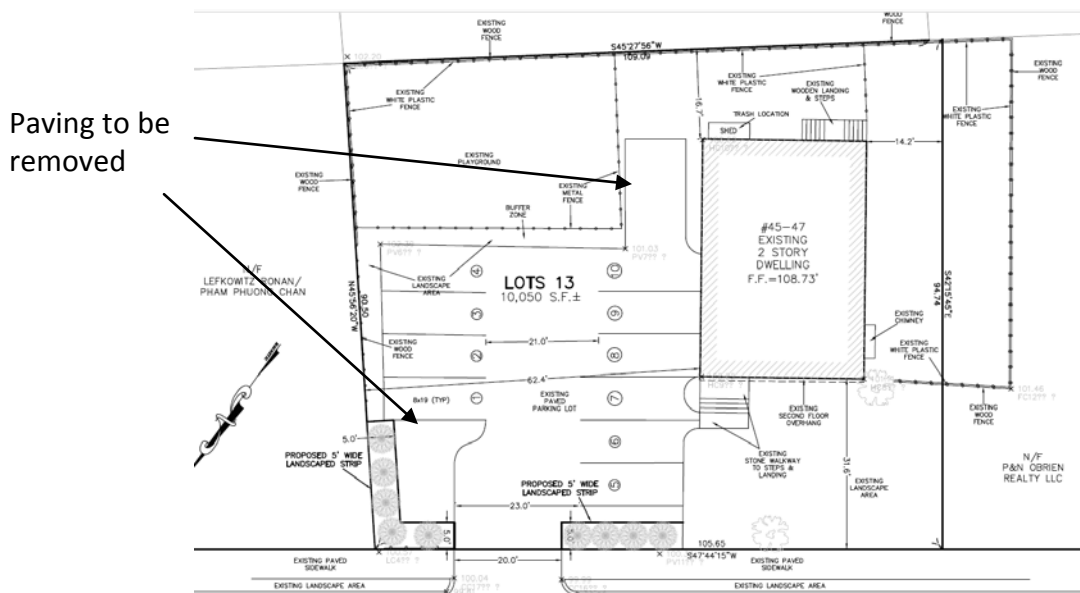
The petitioner seeks to combine the two child care operations into one and increase the number of students from 20 to 34. Additionally, the number of employees on site will increase from five to seven. Section 5.1.4 of the NZO requires that a day care center shall provide one parking stall per each five students for pick-up/drop-off, and one stall per employee, resulting in a requirement of 14 stalls; the proposed site plan shows ten stalls. Additionally, the petitioner has modified the stall dimensions to eight feet wide, where nine feet is required per the NZO and modified the drive aisle

width to 21 feet, where 24 feet is the minimum required per the NZO. Lastly, the four stalls on the left side of the facility and three stalls on the right side labeled “5, 6, and 7” are located within the side and front setbacks distances, respectively.

Currently, the site has fourteen stalls, two of which are located within five feet of the sidewalk. The petitioner proposes to remove these stalls and install a five foot wide landscaped strip to screen the facility from the street and from the abutters at 69-71 Bryon Road. In addition, the plan will remove a space between the outdoor play area and the dwelling which was initially designated as a handicap stall. This stall will be removed as it is not required for a visitor of the site and the lot, with respect to the number of stalls, is not large enough to require one per code.

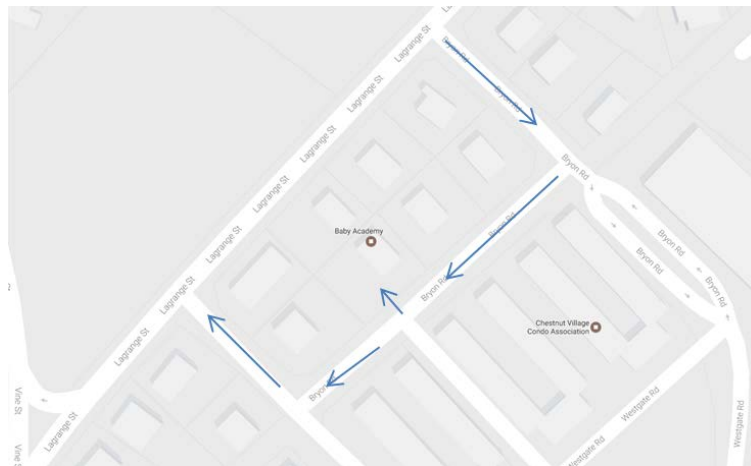
The Planning Department notes parking facilities containing more than five stalls require screening from abutting streets and properties; however there is a choice of how the petitioner can provide this screening. In the below site plan, the petitioner is proposing a landscaped five foot wide buffer. Per the NZO, this buffer must consist of “densely planted shrubs or trees which are at least 3.5 feet tall at time of planting and are a type that may be expected to form a year-round screen”. Staff suggests an open, picket fence may be more appropriate than the proposed five foot landscaped strip as it may provide consistent year-round screening. If a fence is chosen to replace the landscaped strip, the NZO requires a landscaped strip with a minimum width of three feet between the base of the fence and any street or abutting property. Lastly, it is Department policy to encourage green fencing.

As the driveway is already paved, staff suggests any unnecessary paving be removed from the site to maintain the residential character of the neighborhood. Therefore, staff recommends the petitioner remove the paving in the two noted areas in the below site plan and replace with landscaping prior to the issuance of a building permit.



D. Traffic and Parking

Bryon Road is a horseshoe-type street with two outlets onto LaGrange Street. In an effort to limit congestion in the neighborhood, the existing operations utilized procedures including assigning parents a 15-minute window to pick-up and drop-off their children (**Attachment C**). As part of the expansion, the petitioner has submitted a transportation demand management plan (TDM), to encourage access to the site via the northernmost entrance of Bryon Road. This route results in parents either taking a right-hand turn to access the site or park in front of the facility and use the sidewalk to access the site. Additionally, the route facilitates parking on the right side of the street, as opposed to the left, which mitigates the potential of parents and children walking across the street to access or exit the property. In the same vein, staff suggests an addition to the TDM which calls for all vehicles to exit Bryon Road via the southernmost outlet; this will ensure a circular flow of traffic where vehicles enter from the north and exit to the south. The TDM also appoints a coordinator to work with the parents to ensure compliance with this policy and other goals including carpooling (**Attachment D**).



The TDM is similar in nature to the plan proposed by the day care center at 288 Walnut Street permitted last June. That plan called for parents to utilize a similar circular pattern to access the site. Although that facility was in the heart of the Newtonville commercial district, staff has the same reservations regarding parents using this circular pattern every time to access the site and suggests a staff member be outside during pick-up and drop-off times to enforce this pattern.

The Planning Department was able to observe pick-up and drop-off operations and notes vehicular traffic was steady and most vehicles entered and exited the site without issue; however there was minor spillover onto Bryon Road during pick-up hours. Staff notes the two Large Family Day Care operations are currently operating with fourteen stalls and it is difficult to forecast what, if any, the increase in enrollment will have on operations with four less stalls available and additional

children on site. However, on-street parking is allowed and can likely accommodate any parking spillover without disruption to the neighborhood. Staff notes, “look-back” provisions were conditioned with respect to the day care center at 288 Walnut Street last June. These provisions require the petitioner to appear before the Land Use Committee at six and twelve months after occupancy to provide a report on operations and effectiveness of the TDM; staff suggests the Committee may want to include similar provisions with this petition.

E. Landscaping and Lighting

The petitioner is seeking a waiver of the requirement for a year-round vegetative buffer of at least four feet wide and six feet high along the perimeter of the outdoor play area. Staff notes the existing outdoor play area, and the majority of the lot, is enclosed with a mix of privacy fencing and is not concerned with this waiver due to the presence of such fencing. In addition, the petitioner is seeking a waiver from the lighting requirements of parking facilities containing over five stalls. These requirements state that the “lighting shall be so designed as to maintain a minimum intensity of one-foot candle on the entire surface of the parking facility, and that the light be shielded so as to prevent glare from the light source onto adjacent streets and properties”. Staff notes that there is a light on the east side of the structure providing light to the parking area and believes the lighting should be minimal, as this is a residential neighborhood. Therefore staff is not concerned with this waiver. Lastly, the portion of the lot located between the outdoor play area and parking area, labeled as “Buffer Zone”, includes some small Evergreen shrubs. Staff suggests these be added to the site plan

F. Snow Storage

The Planning Department notes snow storage areas have not been identified on the site plan. Additionally, during a site visit, staff noted that the “Parking Ban” was not implemented on Bryon Road during the winter storm on Tuesday, March 14th. As a result, individuals were responsible for shoveling out their spaces and there was a lack of on-street parking. Since the waiver of four stalls relies on the availability of on-street stalls in close proximity to the site, staff suggests a condition mandating these stalls and the sidewalk along the entire frontage of the property be maintained during snow storms.

III. TECHNICAL REVIEW

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

The Zoning Review Memorandum provides an analysis of the proposal with regard to zoning (**Attachment E**). Based on the completed Zoning Review Memorandum, the petitioner is seeking the following relief:

- §7.4.5 and §6.3.4.3 Administrative Site Plan Review for a day care use;
- §5.1.4.A and §5.1.13 to waive four parking stalls;

- §5.1.8.A.1 and §5.1.13 to allow parking within setback distances;
- §5.1.8.B.1, §5.1.8.B.2, and §5.1.13 to waive the parking stall dimensional requirements;
- §5.1.8.C.2 and §5.1.13 to waive the minimum aisle width for two-way traffic;
- §5.1.10 and §5.1.13 to waive the lighting requirements for a parking facility containing more than five stalls;
- §6.3.4.B.3.a and §7.3.3 to waive the screening requirements for outdoor play areas;

B. Engineering Review

Associate City Engineer, John Daghlian, provided an Engineering Review Memorandum providing a brief analysis of the project (**Attachment F**). Mr. Daghlian notes that a drainage analysis may need to be performed as the existing paving was completed without the benefit of a building permit. Staff notes the White Pine trees mentioned in the memo have since been removed. The Engineering Division of Public Works will review this project for conformance with the City of Newton Engineering Standards again, prior to the issuance of a building permit, should this project be approved.

IV. PETITIONER'S RESPONSIBILITIES

At the Land Use Committee's Public Hearing or prior to being scheduled for a continued public hearing, the petitioner should be expected to:

- Update the plan to include snow storage areas, shrubs in "Buffer Zone", and removal of paving not to be used as parking
- Update the Transportation Demand Management Plan (TDM) to include a provision requiring all vehicular traffic to exit Bryon Road via the southernmost outlet.









ATTACHMENTS:

Attachment A:	Zoning Map Proposed Transportation Demand Management Plan
Attachment B:	Land-Use Map
Attachment C:	Pick-up & Drop-off Procedures
Attachment D:	Transportation Demand Management Plan
Attachment E:	Zoning Review Memorandum, dated February 15, 2017
Attachment F:	Engineering Review, dated January 23, 2017
Attachment G:	Draft Board Order

Attachment A Zoning Map Bryon Rd., 45-47

*City of Newton,
Massachusetts*

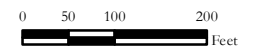
Legend

-  Single Residence 2
-  MR3
-  Single Residence 3
-  Multi-Residence 1
-  Public Use
-  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: January 27, 2017



Attachment B Land Use Map Bryon Rd., 45-47

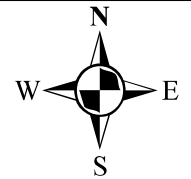
*City of Newton,
Massachusetts*

Legend

Land Use

Land Use

-  Single Family Residential
-  Multi-Family Residential
-  Commercial
-  Open Space
-  Nonprofit Organizations
-  Vacant Land
-  Tax Exempt
-  Building Outlines
-  Surface Water
-  Property Boundaries

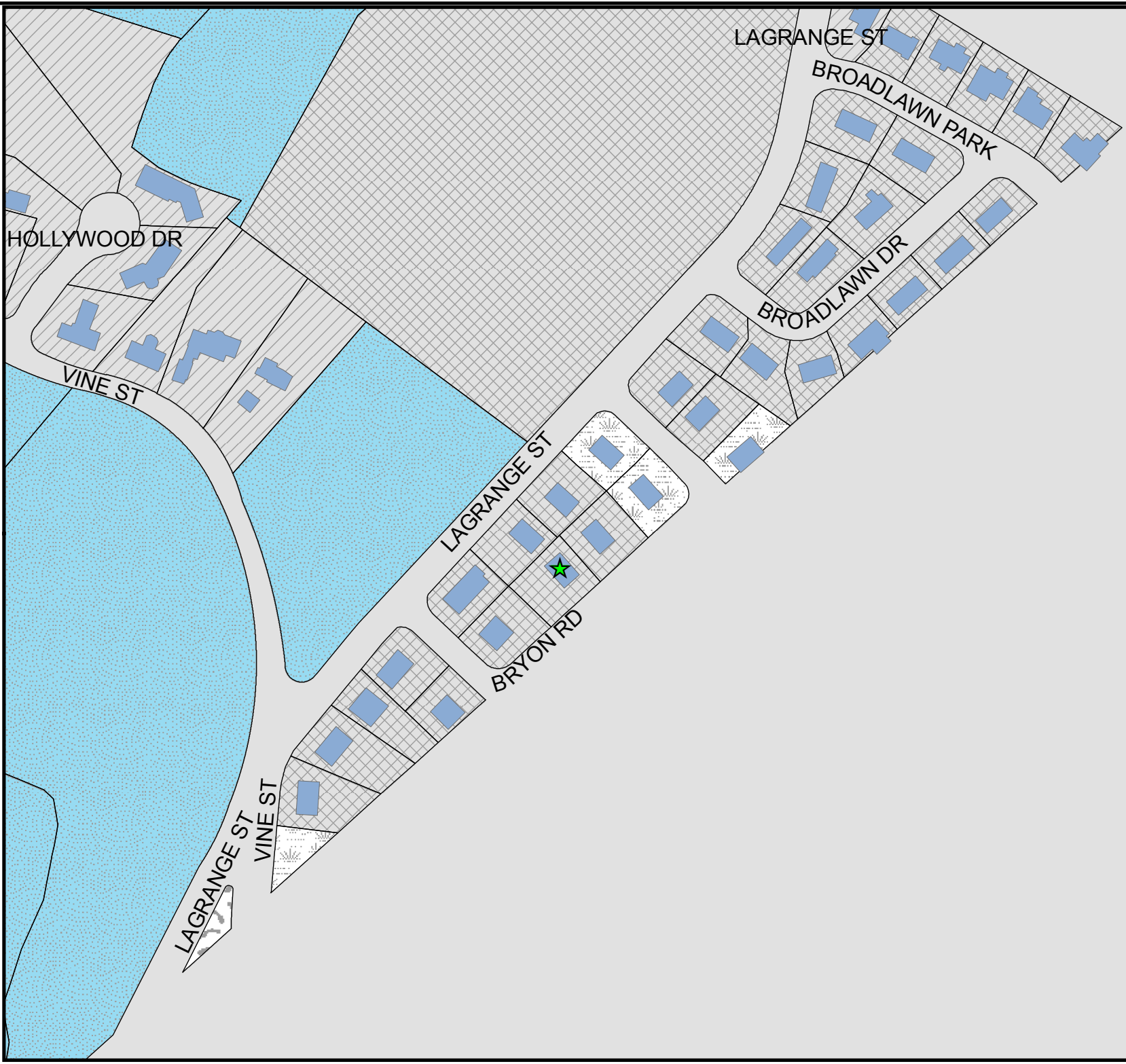


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CITY OF NEWTON, MASSACHUSETTS
Mayor - Setti D. Warren
GIS Administrator - Douglas Greenfield

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Feet

Map Date: January 27, 2017



Attachment C

Pick-up/Drop-off Procedure Details

(45-47 Bryon Road, Rd, Newton MA)

Drop Off Procedure:

- Parents drop of their children between 8am-9:30am Monday - Friday.
- Parents are assigned a previously determined 15-minute window that is convenient for them during which they are asked to drop off their children to help streamline drop-off.
- After the parents park in the parking lot, they bring their child into the daycare. The younger group enters through one door, while the older group enters through a separate entrance.
- Parents put coats in cubbies and after their child enters the play area with the teachers, the parents leave.

Pick Up Procedure:

- Parents typically pick up their children between 4:30pm-6pm Monday – Friday.
- As with the morning, parents are assigned a previously determined 15-minute window that is convenient for them during which they are asked to pick-up their children to help streamline pick-up.
- After the parents park in the parking lot, they come into the school, using the same two entrances as they use for drop off.
- Parents put coats on their child, say goodbye to the teachers, and leave.

Employee Parking:

There are total of 7(including part time employees) employees including the owners, out of the 7 only 3 drive, one resides in the house next door, the other 3 take public transportation. One of the teachers comes midday for music lessons.

Parking Lot:

The parking lot can accommodate 15 cars.

Street Parking:

There is also street parking (6-8 spots) directly outside of the building with no restriction of any street signs or street cleaning.

Attachment D

Transportation Demand Management Plan (TDM)
For the 34-child Day Care Center (Baby Academy, Inc.)
45-47 Bryon Road
Newton (Oak Hill Village), MA

Background

The existing locus at 45-47 Bryon Road contains a two-family dwelling which was erected in 1977. For the past 9 years it has served as the primary residence for the homeowners, Boris and Larissa Bankovsky. M/M. Bankovsky are also principals of Baby Academy Inc., a licensed day care provider. During that time the property has been used for the operation of two daycare facilities, one in each of the residential units catering to different age groups. The second unit was formerly occupied by the Bankovsky's daughter, who operated the other. With the untimely passing of their daughter, the Bankovskys assumed operation of both facilities and now desire to merge them into a single entity with a modest increase in enrollment. It is therefore important to note that they have successfully managed the property as it has been used for a considerable period.

Accordingly, Baby Academy Day Care Center can draw upon its extensive experience to ensure a functional operation. First, to address the crucial drop off and pick up needs of parents in a safe, organized way the following factors have been taken into account in establishing the arrival and departure procedures.

Parking Supply

Based on current parking supply and demand on site and along Bryon Road, we are fully confident that there is enough capacity to meet our operational demands at both morning and evening peak hours.

Parking Lot:

As shown on the Site plan accompanying the petition, the parking lot can accommodate 10 parking stalls. There are a total of seven (7) full and part-time, employees including the owners. Of the seven (7) only three (3) drive to the site, including the part-time music teacher who arrives midday at off peak hours. One employee resides next-door. The other 3 take public transportation. As a result, there are six spaces on site, which can be reserved for parents/caregivers who are transporting younger toddlers and may need more "hands-on" drop-off time due to seasonal or other considerations (e.g., conferences et al).

Street Parking

Curbside parking on Byron Road is entirely unrestricted. As a result there are typically 7-8 spaces available during peak hours of arrival and departure. Accordingly, we have designed the following arrival and departure procedures.

Drop Off Procedure

- Parents drop off their children between 8:00am-9:30am. Parents have assigned pre-determined 15-minute drop-off windows that are convenient for them during which they are asked to drop off their children to help streamline drop-off.
- After the parents park either in the parking lot or on the street, they bring their child into the daycare. The younger group enters through one door, while the older group enters through a separate entrance.
- Parents put coats in cubbies and after their child enters the play area with the teachers, the parents leave.

Pick Up Procedure:

- Parents typically pick up their children between 4:30pm-6:00pm. Parents have assigned pre-determined 15-minute pick-up windows that are convenient for them during which they are asked to pick up their children to help streamline pick-up.
- After the parents park in the parking lot or on the street, they come into the school, using the same two entrances as for drop off.
- Parents put coats on their child, say goodbye to the teachers, and leave.

These procedures have been instituted to create conditions that will allow for a safe operation. The requested parking waiver of 4 spaces is in some ways a theoretical number. The practical reality is that a child care center of this size can reasonably operate with access to 10 spaces, and that availability is well-demonstrated in this plan.

To the extent possible Baby Academy Inc, Inc. proposes the following measures to make parents and employees aware of options that will further reduce reliance on auto usage to the site.

Baby Academy Inc will assign a TDM coordinator who will be the contact and staff person responsible for implementing each of the following measures:

1. To maintain an updated on-site kiosk or bulletin board with information related to prospective ridesharing or carpooling arrangements for parents and staff.
2. To maintain and update the Baby Academy Inc website with a separate, easy-to-locate web page that will allow parents to post and seek out potential ridesharing and carpooling opportunities.
3. To include an invitation for parents to consider ridesharing and carpooling as part of the official course registration application used to enroll children.
4. The coordinator will provide a parking and access plan to all employees and parents that will identify at a minimum the following:
 - a. That access to the site is to be channeled onto Bryon Road so as to uniformly approach the school from the northernmost entrance to Bryon Road in a one-way traffic

flow so that the passenger side of the vehicle is oriented to the curbside for ease and safety of passenger discharge.

- b. That all parental vehicular access from the west or north using Vine Street to LaGrange Street is to proceed past the southern entrance to Bryon Road approximately 150 yards turning left onto the northernmost entrance in a one-way traffic flow so as to achieve the desired traffic flow and parking/discharge protocol. Direct access from Lagrange Street to Bryon Road headed south is to be prohibited.
- c. The location of the designated drop off and pick up parking spaces along Bryon Road
- d. The designated locations for employee parking on site.
- e. That the staff will be available to assist with the drop off and pick up of children from the Bryon Road parking spaces in both the morning and afternoon peak hours on a continuing basis as necessary.



Setti D. Warren
Mayor

Attachment E

City of Newton, Massachusetts
Department of Planning and Development
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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM
Administrative Site Plan Review

Date: February 15, 2017

To: John Lojek, Commissioner of Inspectional Services

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

Cc: Larisa Bankovsky, applicant
Margarita Druker, agent
Barney S. Heath, Director of Planning and Development
Ouida Young, Associate City Solicitor

RE: **Site Plan Review to locate a day care center at 45-47 Bryon Road**

Applicant: Larisa Bankovsky	
Site: 45-47 Bryon Road	SBL: 82043 0007
Zoning: MR1	Lot Area: 10,050 square feet
Current use: Family day care	Proposed use: Day care center

BACKGROUND:

The applicant currently operates two family child care facilities on the property (one in each residential unit) with ten children each, while living in one of the units. The applicant proposes to terminate the residential use of the property and use it in its entirety for a day care center enrolling 34 children. The day care center will be staffed with seven employees, including the owner.

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

- Zoning Review Application, prepared by Margarita Druker, agent, dated 9/21/2016
- Proposed parking area plan, signed and stamped by Peter J. Nolan, surveyor, dated 9/9/2016, revised 11/04/2016
- Pick-up and Drop-off Procedure Details, submitted 9/21/2016

ADMINISTRATIVE DETERMINATIONS:

1. The proposed day care center is subject to the administrative site plan review procedure per Section 7.4.5 and the standards for day care centers found in Section 6.3.4.3 of the Newton Zoning Ordinance. These procedures govern the review of uses protected under MGL Chapter 40A, section 3, also known as the "Dover Amendment".
2. The subject site is located in the Multi Residence 1 zoning district and must comply with the dimensional standards of Section 3.2.3. As no changes are proposed to the footprint of the building, there are no issues with regard to dimensional controls for the building.
3. The applicant is proposing 34 students and seven staff members for the day care facility. Section 5.1.4 of the Ordinance requires that a day care center provide one on-site parking stall per each five students for drop-off, and one stall per each employee. Per the Ordinance, the applicant is required to provide seven stalls for drop-off and seven stalls for employees, for a total of 14 stalls. There are 10 stalls on the site. A waiver of four stalls is required per Section 5.1.4.A.
4. Section 5.1.8.A.1 states that no parking stall shall be located within any setback distances from streets and side lot lines, and may not be located within five feet of a street. The applicant's parking is located directly on the front lot line, as well within the side setback, requiring a Dover waiver.
5. Section 5.1.8.B.1 and 2 requires that parking stalls measure 9 feet wide by 19 feet long. Typical measurements shown on the plan have parking stalls at 8 feet wide. To the extent that the stalls do not meet the dimensional requirements of Section 5.1.8.B.1 and 2, a Dover waiver from the Commissioner of Inspectional Services is required.
6. Section 5.1.8.C.2 requires a minimum width of 24 feet for a two-way maneuvering aisle with 90 degree parking. The plans show an aisle width of 21 feet at the shortest distance. A Dover waiver from the Commissioner of Inspectional Services is required to waive the aisle width for two-way traffic from 24 feet to 21 feet.
7. No lighting is shown on the plans, per Section 5.1.10. Presuming that children will be picked up after dark in the winter months, a waiver from the lighting requirements of Section 5.1.10 is necessary from the Commissioner of Inspectional Services.
8. Section 6.3.4.B.3.a requires a year-round vegetative buffer at least four feet wide and six feet high along the perimeter of any outdoor play area. One outdoor play area is shown on the proposed plans, however no vegetative buffers are shown. The applicant must either meet these requirements or seek a Dover waiver.
9. Per Section 6.3.4.B.3.d, the operator of a day care center must submit to the Director of Planning and Development a parking and drop-off management plan addressing employee parking, as well as alleviation of congestion during peak hours.

10. Before the issuance of a final Occupancy Permit, the operator of a day care shall provide to the Director of Planning and Development a current valid license by the Office of Child Care Services per Section 6.3.4.B.3.f.

Administrative Site Plan Review

Ordinance		Action Required
§7.4.5 §6.3.4.3	Administrative Site Plan Review for a day care use	A.S.P.R. per §7.4.5
§5.1.4.A §5.1.13	To waive four parking stalls	S.P. per 7.3.3 or Dover Waiver
§5.1.8.A.1	To allow parking within a setback	S.P. per 7.3.3 or Dover Waiver
§5.1.8.B.1 §5.1.8.B.2	To waive the parking stall dimensional requirements	S.P. per 7.3.3 or Dover Waiver
§5.1.8.C.2	To waive the minimum aisle width for two-way traffic	S.P. per 7.3.3 or Dover Waiver
§5.1.10	To waive the lighting requirements for a parking facility	S.P. per 7.3.3 or Dover Waiver
§6.3.4.B.3.a	To waive the vegetative buffer for outdoor play areas at a day care	S.P. per 7.3.3 or Dover Waiver

CITY OF NEWTON
ENGINEERING DIVISION

MEMORANDUM

To: Health Barney, Director of Planning

From: John Daghlian, Associate City Engineer

Re: Administrative Site Plan Review – 45 - 47 Bryon Road

Date: January 23, 2017

CC: Lou Taverna, P.E., City Engineer
Shawna Sullivan, Associate City Clerk
Alexandra Ananth, Chief Planner
Neil Cronin, Senior Planner

In reference to the above site, I have the following comments for a plan entitled:

45-47 Bryon Road
Prepared by: Peter Nolan & Associates, LLC
Dated: 11- 4 - '16

Executive Summary:

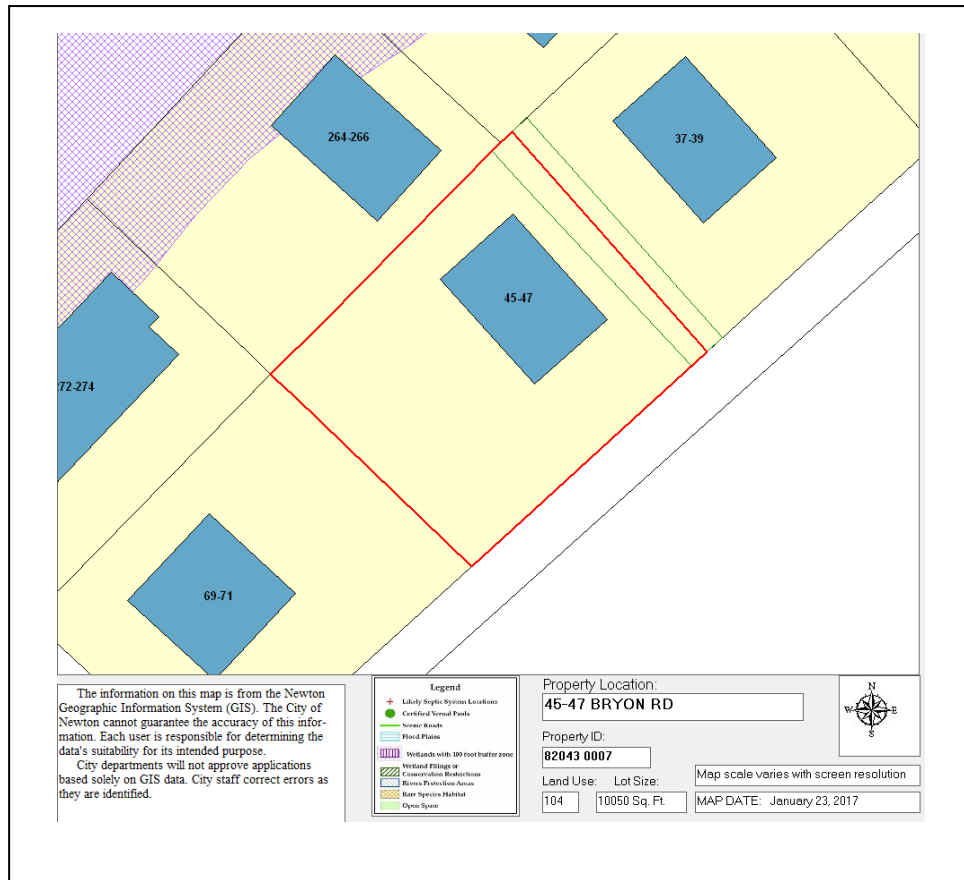
Based on a site visit conducted today, the safety & integrity of three existing trees that are strapped together, is a concern, [see photo below]. The three white pines are strapped together, juxtaposed to the dwelling and directly behind the stockade fence is a play area for children of the day care. At the time of the visit children were outside playing within the existing playground. I would strongly recommend for the safety of the children that these three trees be cut down immediately. White pines have a very shallow root system and these trees are top heavy.

Based on the City's GIS plans a City sanitary sewer easement traverses this site, however; the site plan does not show this easement. (See GIS plan below). An existing wood and plastic fence that encloses the playground area encroaches the property to the west #37-39 Byron Road; does the day care have access rights onto #37-39's property?

The parking lot and driveway has no drainage collection system, clarification is needed as to when the parking lot was expanded, which would have triggered stormwater collection and infiltration improvements.



White Pine trees strapped together photo take Jan-23-2017



City GIS Map shows a sewer easement between #37-39 & 45-47 Byron Road

This concludes my review, if the plans are updated or additional information is submitted I reserve the right for addition comments.

Requirements:

1. If the day care is to be renovated by more than 50% the water service shall be renewed to current City Standards.
2. Prior to an Occupancy Permit being issued, the Applicant's Engineer shall submit to the Engineering Division an As Built drawing in digital and hard copy formats.

If you have any questions or concerns please feel free to contact me @ 617-796-1023

CITY OF NEWTON
IN CITY COUNCIL

April 3, 2017

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 requirement, 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 day care center will not adversely affect the neighborhood as this site has accommodated day care uses for many years. (§7.3.3.C.2)
3. The proposed waivers of parking and screening requirements will not create a nuisance or serious hazard to vehicles or pedestrians as the petitioner has employed procedures regarding pick-up and drop-off and will institute a transportation demand management plan to limit congestion. (§7.3.3.C.3)
4. Access to the site is appropriate for the types and number of vehicles involved. (§7.3.3.C.4)
5. 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 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.
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.

10. Notwithstanding the provisions of Condition #14 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 provide 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.