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James Freas
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ZONING REVIEW MEMORANDUM

Date: October 8, 2014

To: John Lojek, Commissioner of Inspectional Services

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

Cc: Jason Rosenberg and Laurence S. L. Lee, attorneys
Sephardic Congregation of Newton, Inc., applicant
Edmund I. Shamsi, owner
Candace Havens, Director of Planning and Development
Ouida Young, Associate City Solicitor

RE: Request to waive the number of required parking stalls, and for other exemptions for parking requirements and dimensional standards for a synagogue

Applicant: Sephardic Congregation of Newton	
Site: 556 Ward Street	SBL: 13032 0002
Zoning: SR2	Lot Area: 12,142 sf
Current use: Single-family residence	Proposed use: Orthodox Synagogue

BACKGROUND:

The subject property consists of 12,142 square feet with an existing single-family dwelling and detached garage, both built in 1923. In 2005, the current owner bought the property with the intention of allowing his congregation, the Sephardic Congregation of Newton, also known as Beit Sasson, to move from the basement at Temple Beth El across the street to its own home in the single-family dwelling. The Congregation consists of approximately 50 family memberships, however there are 30 to 40 families which actively participate in worship services.

The property received a building permit in December 2012 for a 30 foot by 30 foot addition to the rear of the dwelling and two new bathrooms in the basement. At the time of permitting, it was not disclosed that the property was being used as a synagogue. The permit was granted on the assumption of a single-family use of the property, not a synagogue. The exterior has been built but there is a stop work order on completion of the interior until the Synagogue obtains the necessary approvals.

Sephardic Congregation of Newton is an orthodox Jewish synagogue and is a protected organization under the so-called “Dover Amendment.” Under Chapter 40A, Section 3 of the Massachusetts General Laws, no local zoning ordinance can regulate or restrict the use of land or structures for religious purposes on land owned by a religious sect or denomination except that such land or structures may be subject to reasonable regulations including for parking requirements. The proposed site plan provides only five parking spaces – far fewer than are required in the Newton Zoning Ordinance for single use nonprofit religious institution use. The City has requested that the Congregation submit to the special permit process primarily to address this issue. The applicant requires other relief relative to the use of the site for the non-profit religious organization, which can be achieved through “Dover” waivers or as part of the special permit process.

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

- Zoning Review Application, submitted by Laurence Lee, attorney, dated 9/11/2014
- Draft Application for special permit, submitted by Laurence Lee, attorney, dated 9/9/2014
- Assessor’s data, submitted 9/11/2014
- Corporation Summary Sheet, MA Secretary of the Commonwealth
- Articles of Organization, MA Secretary of the Commonwealth
- Article of Amendment, MA Secretary of the Commonwealth
- Title Materials
- Architectural Access Board approval for certain variances
- Newton Department of Inspectional Services, building permits
- Site Plan, signed and stamped by Frank Iebba, surveyor, dated 10/1/2012, 11/19/2012
- Site Plan, signed and stamped by Peter J. Nolan, surveyor, dated 4/15/2014
- Architectural Access Board variance application plans, prepared by DLA Architecture, dated 5/28/2014
- Architectural Plans, signed and stamped by Donald Lang, architect, dated 5/28/2014
 - Existing Basement Floor Plan After Stop Work Order
 - Existing Ground Floor Plan After Stop Work Order
 - Existing Second Floor Plan After Stop Work Order
 - Existing Attic Floor Plan After Stop Work Order
 - Existing Attic Floor Plan (Half Story Analysis)
 - Front and Rear Elevations
 - Side Elevations
 - Proposed Basement Floor Plan
 - Proposed Ground Floor Plan
 - Proposed Second Floor Plan
 - Proposed Attic Plan

ADMINISTRATIVE DETERMINATIONS:

1. The subject site is located in an SR-2 zone. Section 30-5(a)(2) of the Newton Zoning Ordinance allows religious institutions in any zoning district in accordance with the Dover Amendment.
2. Prior to its current use as a synagogue, the property was used as a single-family dwelling. The single-family use of the property required two parking stalls per Section 30-19(d)(1). As a place of assembly, the property requires one stall per each seat, plus one stall for every three employees, per Section 30-19(d)(13). With 94 seats in the sanctuary, and one Rabbi, the applicant requires 32 parking stalls, where five exist on site, and two are credited from the previous single-family use. A special permit is required to waive 26 parking stalls required per Section 30-19(m).

3. The existing curb cut is 14 feet wide, where the minimum width required for an entrance and exit driveway for two-way traffic is 20 feet per Section 30-19(h)(4)a). The applicant requires a "Dover waiver" from the Commissioner of Inspectional Services to reduce the width requirement for the entrance drive to 14 feet.
4. The entrance drive narrows to 9 feet along the existing structure's handicapped ramp before opening up at the rear for parking. The minimum width for two-way maneuvering aisle is 20 feet according to Section 30-19(h)(3)b). The applicant requires a "Dover waiver" from the Commissioner of Inspectional Services to reduce the minimum driveway width.
5. There are four outdoor parking stalls located at the rear of the property measuring 9 feet by 18 feet, where 19 feet is required by the Ordinance per Section 30-19(h)(2)(b). Per section 30-19(h)(2)(d), where stalls head into a curb which bumpers can overhang, the stall length may be reduced by 2 feet. While there are no physical curbs, the space is available for the front bumpers to overhang. Should the Commissioner of Inspectional Services not find this extra space satisfactory to meet the overhang requirement, a "Dover waiver" is required to reduce the parking stall length to 18 feet.
6. The applicant intends to maintain the use of the existing detached garage, with some storage space and one parking stall. The proposed handicapped parking stall will block the garage door when in use. Section 30-19(h)(5)a) requires that parking facilities be designed so that each vehicle can move in and out of the space without requiring to move another vehicle. The applicant must seek a "Dover waiver" from the Commissioner of Inspectional Services to allow the stall within the garage to be blocked by other vehicles.
7. Section 30-19(i)(2) requires interior landscaping for facilities requiring greater than 20 stalls. There is no interior landscaping on site, and a "Dover waiver" from the Commissioner of Inspectional Services is required to waive these provisions.
8. No lighting is shown on the submitted plans. Section 30-19(j)(1) addresses the requirements for lighting of parking facilities. The applicant shall either comply with the provisions of the Ordinance, or should seek for a "Dover waiver" from the requirements of 30-19(j)(1).
9. Section 30-19(k) requires bicycle parking facilities. There is currently no bike parking on site, or indicated in the submitted plans. A "Dover waiver" from this section is required.
10. The dimensional requirements for a single-family dwelling in the SR2 district differ from those for a Single Use Institution. The new use requires that the structure is subject to the dimensional requirements in Section 30-15, Table 2 (Dimensional Regulations for Religious and Non-Profit Educational Uses) for a Single Use Institution in the SR-2 zone.
11. At the time the building permit was issued in 2012, the submitted plans represented an open space of 52%. However, current plans show the open space at 42%, where a Single Institution Use requires 50%. The applicant must obtain a "Dover waiver" to waive the open space requirement for a single use institution in the SR2 district.

12. The minimum lot area required for a single use institution in the SR2 district is 15,000 square feet. The existing lot consists of 12,130 square feet. The applicant must obtain a “Dover waiver” to waive the lot area requirement for a single use institution in the SR2 district.
13. The existing use as a single-family structure meets the district side setback requirement of 7.5 feet. However, as a single use institution, the structure is required to meet a 15 foot side setback. The existing structure sits 12.6 and 14.3 feet from the side lot lines. The applicant must obtain a “Dover waiver” to reduce the required side setback requirement.
14. The existing detached garage required 5 foot setbacks when associated with the single-family use. As the single institution use, the setback requirement for all structures is 15 feet from the side and rear lot lines. The structure is situated at 5.5 feet from the rear lot line, and 7.8 and 8.8 from the side lot lines. The applicant must seek a “Dover waiver” to reduce the setback requirements for the existing detached garage under the new use as a single use institution.
15. As building permit number 12120375, issued on December 21, 2012 was granted for a “One family” use, the applicant must ensure that the building permit is amended so as to reflect the accurate use of the site as a synagogue.

SR-2 Single Use Institution	Required	Existing	Proposed
Lot Area	15,000 square feet	12,130 square feet	No change
Setbacks			
• Front	30 ft.	34.5 feet	No change
• Side	15 ft.	12.8 feet	7.9 feet*
• Rear	15 ft.	56.1 feet	5.5 feet*
Floor Area Ratio	.33	N/A	.53
Building Height	36 feet	33 feet	No change
Maximum Number of Stories	3	2.5	No change
Maximum Building Lot Cov.	30%	26%	No change
Minimum Open Space	50%	42%	No change

*The 5 foot setback for the existing detached garage is no longer applicable when the main structure is no longer used as a single-family residence. The garage must meet the setback requirement for single use institutional structures in the SR2 district.

1. See “Zoning Relief Summary” below:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§30-19(d)(13) §30-19(m)	Waive 26 parking stalls	S.P. per §30-24
§30-19(h)(4)a)	Waive the minimum width for an entrance/exit drive	Dover waiver
§30-19(h)(3)b)	Waive the minimum width for a two-way maneuvering aisle	Dover waiver
§30-19(h)(2)d)	Waive the 19 foot parking stall length requirement	Dover waiver
§30-19(h)(5)a)	Allow parking stalls requiring moving vehicles for access	Dover waiver
§30-19(i)(2)	Waive requirements for interior landscaping for parking facilities	Dover waiver
§30-19(j)(1)	Waive lighting requirements for parking facilities	Dover waiver
§30-19(k)	Waive bicycle parking facility requirements	Dover waiver
§30-15, Table 2	Allow for reduction of minimum open space to 42%	Dover waiver
§30-15, Table 2	Allow for reduction of minimum lot area to 12,130 sq. ft.	Dover waiver
§30-15, Table 2	Allow for reduced side yard setbacks	Dover waiver
§30-15, Table 2	Allow for reduced rear yard setback	Dover waiver