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Mayor

**City of Newton, Massachusetts**  
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**#462-18**

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Barney Heath  
Director

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**MEMORANDUM**

Public Hearing Date: October 23, 2018  
Land Use Action Date: December 11, 2018  
City Council Action Date: January 7, 2018  
90-Day Expiration Date: January 21, 2019

DATE: October 19, 2018

TO: City Council

FROM: Barney S. Heath, Director of Planning and Development  
Jennifer Caira, Chief Planner for Current Planning  
Katie Whewell, Planning Associate

SUBJECT: **Petition 462-18** for a SPECIAL PERMIT/SITE PLAN APPROVAL to allow a veterinary hospital and to waive five parking stalls at **858 Walnut Street**, Ward 6, Newton Centre, on land known as SBL 64, 05, 04 containing approximately 23,250 sf of land in a district zoned BUSINESS 2. Ref: Sec. §4.4.1, §5.1.4, §5.1.13 and §7.3 of Chapter 30 of the City of Newton Rev Zoning Ord, 2015.

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The purpose of this memorandum is to provide the City Council and the public with technical information and planning analysis which may be useful in the special permit decision making process of the City Council. 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 City Council will want to consider in its discussion at a subsequent Working Session.



858 Walnut Street

## **EXECUTIVE SUMMARY**

The subject property at 858 Walnut Street consists of 23,250 square feet improved with a two-story building constructed in 1955 and a surface parking facility. The property is located in the Business Use 2 (BU-2) zoning district in Four Corners. The petitioner proposes to locate a veterinary hospital in the building, requiring a special permit. An existing agreement between the property owner and the grocery store located at 916 Walnut Street reduces the number of stalls available to the petitioner. Therefore, the petitioner requires special permits to locate a veterinary hospital in the BU-2 zone and to waive five parking stalls.

The Planning Department believes the site is a suitable location for the proposed veterinary hospital. There are a mix of uses nearby and a veterinary hospital would fit well into that mix without adversely impacting the area. Additionally, staff is unconcerned with the request for a five-stall parking waiver because the rear parking facility is shared with the adjacent property to the south, because of common ownership, which brings the total number of stalls to 66. This shared parking facility has accommodated the uses on both sites for several years and is likely to accommodate the proposed use.

### **I. SIGNIFICANT ISSUES FOR CONSIDERATION**

When reviewing this petition, the City Council shall consider whether:

- The specific site in a BU-2 zone is an appropriate location for the proposed veterinary hospital use. (§7.3.3.C.1)
- The proposed veterinary hospital will adversely affect the neighborhood. (§7.3.3.C.2)
- The proposed veterinary hospital will create a nuisance or serious hazard to vehicles or pedestrians. (§7.3.3.C.3)
- Access to the site over streets is appropriate for the types and numbers of vehicles involved. (§7.3.3.C.4)
- Literal compliance with the parking requirements 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. (§5.1.4 and §5.1.13)

## II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

### A. Neighborhood and Zoning

The subject property is located on Walnut Street in the BU-2 zone in Four Corners. The properties on the eastern and western sides of Walnut Street are also located in the BU-2 zone, while farther east is a Single Residence 3 and to the west is an Open Space/Recreation zone (**Attachment A**). The properties fronting on Beacon and Walnut Streets are commercial while beyond these properties are single and multi-family uses. Directly to the west is the Newton Cemetery (**Attachment B**).

### B. Site

The site is improved with a two-story structure currently used as a tutoring center on the first floor and an unmanned computer server room in the basement. In the front of the building, there is a porte-cochere that provides drop-off service at the front door and serves as a turnaround to Walnut Street. There are two driveways on either side of the building providing access to the rear parking facility and they both have a moderate downward slope. The rear parking facility contains 28 stalls; however, the parking facility is shared with the adjacent property at 860-862 Walnut Street bringing the total to 66 stalls. There is a small landscaped area at the front of the building, mature landscaping at the northern property line, and the rear boundary is enclosed with stockade fencing.

## III. PROJECT DESCRIPTION AND ANALYSIS

### A. Land Use

The principle land use of the site is and will remain commercial. The proposed veterinary hospital will occupy 4,575 square feet and the RCN server room occupies 3,600 square feet in the basement.

### B. Building and Site Design

The petitioner is not proposing any physical changes to either the building or site.

### C. Parking

There are 28 parking stalls on site, however the parking facility is shared with the adjacent property at 860-862 Walnut Street because the two lots are under common ownership; therefore, the parking facility contains 66 stalls. The property owner has an agreement with the grocery store at 916 Walnut Street to lease 39 of the 66 stalls in the parking facility. This agreement has been in existence for several

decades and it reduces the total number of available stalls from 66 to 27.

Veterinary hospitals do not have a specific parking demand as other uses in the Newton Zoning Ordinance (Ordinance). As such, the Commissioner of Inspectional Services determined the use to be a service use for the purposes of determining the parking demand which is one stall per 300 square feet plus one stall per three employees. The Petitioner is occupying 4,575 square feet of space and intends to have five employees at the highest shift, resulting in a demand of 18 stalls. The unmanned server room does not have any leased stalls but requires three stalls per the Ordinance. The total demand for the two uses is 21 stalls where 16 are available per the lease, requiring a waiver of five stalls. The Planning Department believes the shared parking facility will be able to accommodate the five stall waiver due to the mix of uses utilizing the facility. Additionally, the porte-cochere at the front of the building will provide convenient access for clients picking up and dropping off animals.

D. Consistency with the Business Use 2 Zone

Historically, veterinary hospitals were an as of right use only in the Manufacturing zone. In 1996 the Zoning and Planning Committee (ZAP), recommended a change in the Ordinance to allow veterinary hospitals by special permit in the Mixed Use and Business Use 2 zones because veterinary hospitals were found to be compatible uses to the uses allowed in those zones and because of the need for veterinary hospitals due to the high percentage of domestic animals in the City. ZAP determined that when making this change the two factors to consider were traffic and parking. As stated above, the planning department believes the shared parking facility is sufficient to accommodate the proposed veterinary hospital. Additionally, staff believes the traffic associated with the use will not adversely impact traffic in the area.

E. Landscape Screening

A landscape plan is not required with this petition.

IV. TECHNICAL REVIEW

A. Technical Considerations

The Zoning Review Memorandum provides an analysis of the proposal regarding

zoning (**Attachment C**). Based on the Memorandum, the petitioner is seeking the following relief:

- Section §4.4.1 of Section 30, to locate a veterinary hospital in the BU-2 zone.
- Section §5.1.4 and §5.1.13 of Section 30, to waive five parking stalls.

B. Newton Historical Commission

This petition does not meet the minimum threshold for review from the Chief Preservation Planner.

C. Engineering Review

This petition does not meet the minimum threshold for review from the Engineering Division of Public Works.

PETITIONERS' RESPONSIBILITIES

The petition is considered complete at this time.

**ATTACHMENTS:**

- Attachment A:** Zoning Map  
**Attachment B:** Land Use Map  
**Attachment C:** Zoning Review Memorandum, dated October 4, 2018  
**Attachment D:** DRAFT Council Order

# ATTACHMENT A

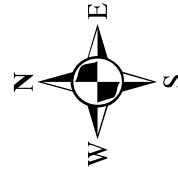
## Zoning

858 Walnut St.

City of Newton,  
Massachusetts

### Legend

- Single Residence 2
- Multi-Residence 1
- Multi-Residence 3
- Business 1
- Business 2
- Open Space/Recreation
- Public Use



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 - Ruthanne Fuller  
GIS Administrator - Douglas Greenfield

0 12.5 25 50 75 100 125 Feet

Map Date: September 26, 2018



# ATTACHMENT B

## Land Use

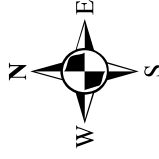
858 Walnut St.

*City of Newton,  
Massachusetts*

### Legend

#### Land Use

- Single Family Residential
- Multi-Family Residential
- Commercial
- Open Space
- Nonprofit Organizations

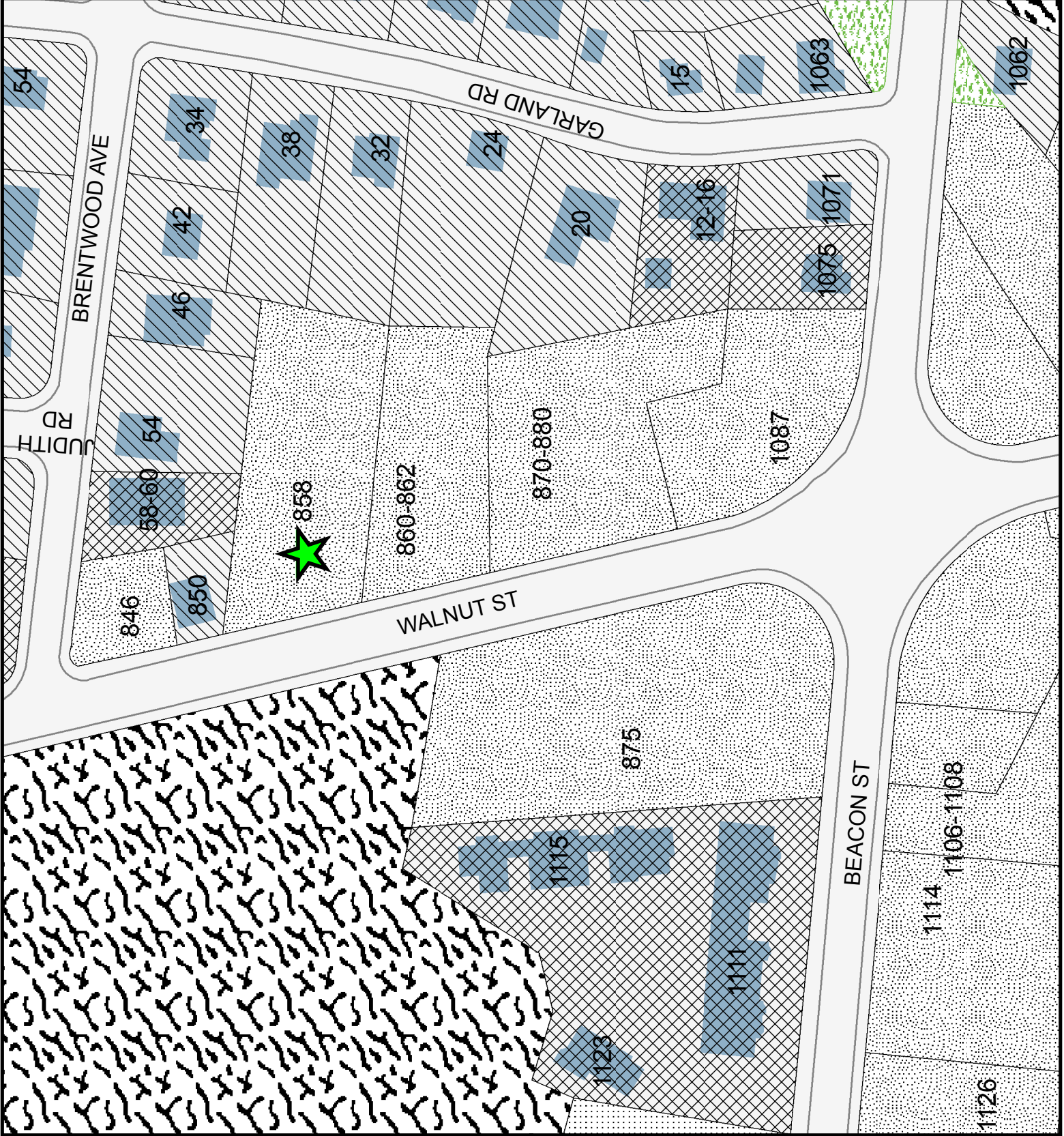


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0 12.5 25 50 75 100 125 Feet

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**Barney S. Heath**  
Director

## ZONING REVIEW MEMORANDUM

Date: October 4, 2018

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official  
Jennifer Caira, Chief Planner for Current Planning

Cc: Isaac Maxmen, Applicant  
Barney S. Heath, Director of Planning and Development  
Ouida Young, Acting City Solicitor

**RE: Request to allow a veterinary hospital in an existing building in the Business 2 District and to waive five parking stalls**

| Applicant: Isaac Maxmen                      |  |
|--|--|
| Site: 858 Walnut Street                      | SBL: 64005 0004  |
| Zoning: BU-2                                 | Lot Area: 23,250 square feet                               |
| Current use: Office and unmanned server room | Proposed use: Veterinary Hospital and unmanned server room |

### BACKGROUND:

The property at 858 Walnut Street consists of 23,250 square feet improved with an existing two-story building constructed in 1955 and surface parking in the Business 2 zoning district. The petitioner proposes to locate a veterinary hospital in the existing building in a space formerly occupied by a tutoring center. No exterior changes to the building or parking are proposed.

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

- Zoning Review Application, prepared by Isaac Maxmen, applicant, submitted 7/3/2018
- Interior Dimensions, submitted by Isaac Maxmen, applicant, submitted 7/3/2018
- Inter-Office Correspondence, written by Eugene Bober, Director of Planning and Development, dated 11/28/1990
- Parking Layout, prepared by David Galler Associates, architect, dated 10/11/1990



**ADMINISTRATIVE DETERMINATIONS:**

1. Section 4.4.1 requires a special permit in the Business 2 District for a Veterinary Hospital use. The petitioner is proposing a veterinary hospital within 4,575 square feet of space, with one full-time veterinarian and three or four other employees. A special permit is required for the proposed use.
2. Historically, the Commissioner of Inspectional Services has determined this use to be a personal service business for the purposes of parking. Per section 5.1.4, one (1) parking space per each 300 square feet of gross floor area is required, in addition to one (1) space per each three (3) employees. The petitioner anticipates five employees on site at the highest shift within the 4,575 square foot space. Per section 5.1.4.A, the proposed veterinary use will require 18 parking stalls.

There is an unmanned computer server room utilized by RCN in the 3,600 square foot basement level. Per section 5.1.4.A, a telecommunications and data storage facility requires one stall per 2,500 square feet, and one stall per every four employees. Though unmanned, it can be assumed that the facility will have an occasional employee visit. The RCN server room requires three stalls.

The existing nonconforming parking is accessed by a driveway on the northern property boundary, as well as a larger shared driveway with 860-862 Walnut Street. The parking is located behind the buildings and functions as shared parking of 66 stalls, with 28 stalls existing on the petitioner’s site.

There is a pre-existing agreement between the property and the adjacent property, which are under common ownership, and the Whole Foods supermarket at Four Corners. This agreement pre-dates Whole Foods and dates back to when that property was Bread and Circus Supermarket. The agreement allows Whole Foods to use 39 of the 66 total stalls. The veterinary hospital’s lease includes rights to 16 stalls, where 18 are required per section 5.1.4.A. RCN does not have any stalls as part of their lease, but requires 3 per that same section. The total requirement for the two tenants at 858 Walnut Street (RCN and the proposed vet) is 21 stalls. With 16 stalls available for the tenants’ use, a waiver of five stalls is requested per section 5.1.4.A and 5.1.13.

No physical changes to the parking areas are proposed.

3. See “Zoning Relief Summary” below:

| <b>Zoning Relief Required</b> |  |                        |
|-------------------------------|--|------------------------|
| <b>Ordinance</b>              |  | <b>Action Required</b> |
| §4.4.1                        | Allow a Veterinary Hospital in BU-2 Zone | S.P. per §7.3.3        |
| §5.1.4.A<br>§5.1.13           | To waive five parking stalls             | S.P. per §7.3.3        |

CITY OF NEWTON  
IN CITY COUNCIL

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 APPROVAL to allow a veterinary hospital and to waive five parking stalls as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Gregory Schwartz:

1. Literal compliance with the parking requirements 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 because the shared parking facility will be able to accommodate the five stall waiver due to the mix of uses utilizing the facility. (§5.1.4 and §5.1.13).
2. The specific site is an appropriate location for the proposed veterinary hospital because the site is located in an area containing a mix of uses and the proposed use is compatible with that mix. (§7.3.3.C.1.)
3. The proposed veterinary hospital will not adversely affect the neighborhood given the mixed use nature of the area. (§7.3.3.C.2.)
4. The proposed veterinary hospital will not create a nuisance or serious hazard to vehicles or pedestrians because the use does not require any alterations to the site. (§7.3.3.C.3.)
5. Access to the site over streets is appropriate for the types and numbers of vehicles involved. (§7.3.3.C.4.)

PETITION NUMBER: #462-18

PETITIONER: Isaac Maxmen

LOCATION: 858 Walnut Street, Section 64, Block 05, Lot 04, containing approximately 23, 250 square feet

OWNERS: 858 Walnut Street, LLC

ADDRESS OF OWNERS: 158 Greenwood Street

TO BE USED FOR: Veterinary hospital

CONSTRUCTION: Two-story, multi-tenant, commercial building

EXPLANATORY NOTES: §4.4.1 and §7.3.3 to allow a veterinary hospital, §5.1.4 and §5.1.13 to waive 5 parking stalls

ZONING: Business Use 2 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) Parking Layout 858 Walnut Street, prepared by David Galler Associates, dated October 11, 1990.
2. The petitioner shall not board animals overnight or provide outdoor space for the animals.
3. The veterinary hospital shall have no more than 6 employees on the largest shift. Should the petitioner seek to increase the number of employees on the largest shift, an amendment to this Special Permit/Site Plan Approval is required.
4. 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. Filed with the City Clerk, the Commissioner of Inspectional Services, and the Department of Planning and Development, a statement from the Engineering Division approving the final site plan.
  - d. Obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.
5. No occupancy permit shall be issued pursuant to this Special Permit/Site Plan approval until the petitioner has:
  - a. Filed with the City Clerk, the Commissioner of Inspectional Services, and the

Department of Planning and Development a statement by a registered architect certifying compliance with Condition #1.