

# City of Newton, Massachusetts

Department of Planning and Development 1000 Commonwealth Avenue Newton, Massachusetts 02459 #175-21 Telephone (617) 796-1120 Telefax (617) 796-1142 TDD/TTY (617) 796-1089 www.newtonma.gov

Barney S. Heath Director

Ruthanne Fuller Mayor

# PUBLIC HEARING MEMORANDUM

Public Hearing Date: Land Use Action Date: City Council Action Date: 90-Day Expiration Date: June 22, 2021 September 14, 2021 September 20, 2021 September 20, 2021

DATE: June 17, 2021

TO: City Council

- FROM: Barney S. Heath, Director of Planning and Development Neil Cronin, Chief Planner for Current Planning Katie Whewell, Senior Planner
- SUBJECT: **Petition #175-21**, for a SPECIAL PERMIT/SITE PLAN APPROVAL to allow a for-profit educational use, to alter a non-conforming non-accessory parking facility, to allow the parking requirements to be met off-site, to allow parking within the side and rear setbacks and within five feet of the street, to allow parking within five feet of dwelling units, to waive the minimum parking stall width and depth, to waive the minimum driveway width for one-way traffic, to waive perimeter screening requirements, to waive interior landscaping requirements and to waive lighting requirements at 60, 66-68 Austin Street, Ward 2, Newtonville, on land known as Section 24 Block 09 Lots 07 and 09, containing approximately 35,616 sq. ft. of land in a district zoned BUSINESS USE 5. Ref: Sec. 7.3.3, 7.4, 4.4.1, 6.3.14.B.2, 7.8.2.C.2, 5.1.16.A, 5.1.13, 5.1.8.A.1, 5.1.8.A.2, 5.1.8.B.1, 5.1.8.B.1, 5.1.8.D.1, 5.1.9.A, 5.1.9.B, 5.1.10 of the City of Newton Rev Zoning Ord, 2017.

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 that the Land Use Committee of the City Council can consider at a subsequent working session.



**60** Austin Street

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#### EXECUTIVE SUMMARY

This petition consists of two commonly owned, adjacent parcels: 60 Austin Street, and 66-68 Austin Street in the Business 5 ("BU-5") zoning district. The two parcels have a combined 35,405 square feet and are improved with a commercial building at 60 Austin Street and a two-family dwelling at 66-68 Austin Street. The parcels share a parking facility at the rear of the site and have parking stalls located at the sides of the buildings. The petitioner is seeking to establish a for-profit educational use, a mathematics school, which requires a special permit. The two-family residential use at 66-68 Austin Street will remain.

The petition requires relief to allow the for-profit educational use and to legitimize many nonconforming aspects of the shared parking facility. Such nonconformities include stall dimensions, aisle widths, location of parking stalls, and the non-accessory parking use which has existed for decades. The petitioner is proposing to alter the parking facility, and the alteration of the parking facility requires special permits to legalize the arrangement and the nonconforming aspects of the parking. The petitioner is now subject to the lighting, landscaping, and screening requirements for parking facilities over five stalls, for which they are also seeking a waiver from.

The Planning Department engaged an on-call consultant to conduct a review of the petitioner's traffic memorandum, staff anticipates discussing the transportation aspects of the petition at a future public hearing. The petitioner should be prepared to respond to all comments contained in this memorandum and at the public hearing at a subsequent public hearing.

# I. SIGNIFICANT ISSUES FOR CONSIDERATION

When reviewing this request, the City Council should consider whether:

- The site is an appropriate location for the for-profit educational use. (§7.3.3.C.1)
- The proposed for-profit educational use as developed and operated will adversely affect the neighborhood. (§7.3.3.C.2)
- > There will be 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 lighting, landscaping and dimensional parking requirements is impracticable due to the nature of the use, 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 (§5.1.13)
- The proposed alterations to the nonconforming non-accessory parking are not substantially more detrimental than the existing nonconforming parking facility is to

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the neighborhood. (7.8.2.C.2)

#### II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

#### A. Neighborhood and Zoning

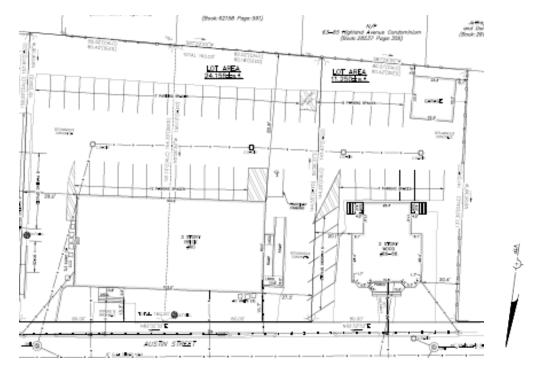
The subject property is located on Austin Street in the BU-5 zone in Newtonville. The subject parcels are surrounded by other properties in the BU 5 zoning district, while there is a Multi Residence 2 zone directly to the south, a Business 2 zone on the northern side of Austin Street, and a Mixed Use 4 zone at 28 Austin Street **(Attachment A)**. The area consists of a mix of uses with commercial uses along Austin Street, residential uses also on Austin Street and to the south, and a mixed-use development to the east at 28 Austin Street **(Attachment B)**.

B. <u>Site</u>

This petition consists of two parcels: 60 Austin Street and 66-68 Austin Street; they are commonly owned and share a parking facility with most spaces at the rear of the site. 60 Austin Street consists of 24,155 square feet of land and is improved with a commercial building. The 66-68 Austin Street consists of 11,250 square feet of land and is improved with a two-family dwelling and 550 square foot accessory building. The two parcels are held in common ownership and share access to Austin Street as well as a shared parking facility. The shared parking reflects conditions which existed prior to zoning that regulated non-accessory parking facilities.

The two parcels currently have three points of access along Austin Street. There is a western access point that runs along the right side of the two-family dwelling at 66-68 Austin Street. Another access point is at the midpoint of the frontage of the site, between the commercial building and the two-family dwelling. The last access point is to the left of 60 Austin Street. The site includes several nonconformities including setbacks, parking stall dimensions, drive aisle widths, and landscaping/screening; the site is entirely impervious. There are 52 parking stalls with varying dimensions on the two parcels which comprise the site.

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# **Existing Conditions**

Austin Street

# III. PROJECT DESCRIPTION AND ANALYSIS

# A. Land Use

The principal use of 60 Austin Street is commercial. If the petition is approved, a portion of the office building will be used as for-profit mathematics school alongside office and medical office uses. 66-68 Austin Street will remain a two-family dwelling.

# B. <u>Site Design and Circulation</u>

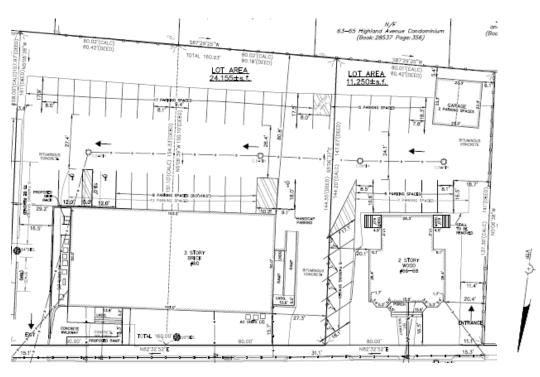
The petitioner is proposing to alter the nonconforming parking facility to create a one way, west to east, flow of vehicular traffic and create additional accessible parking stalls, resulting in 47 parking stalls on site.

The petitioner proposes to utilize the western access point, to the right of the two-family dwelling, as a one-way entrance to the site. This driveway is 11.4 feet wide, where 12 feet is required, thus a special permit is required. The access aisle then widens to 18.7 feet before the left-hand turn to access the remaining parking and site. The drive aisle between the two rows of parking ranges from 24.1 feet to 27.4', meeting the requirement for one way traffic. Egress from the site is located at the eastern boundary

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of 60 Austin Street, and the drive aisle is proposed at 16.5 feet wide, meeting the 12foot requirement. The petitioner should clarify the purpose of the middle driveway, any potential pavement markings, or directional cues, and how traffic will be directed from vehicles accessing the site from Austin Street at the middle driveway.

The petitioner is also seeking to locate parking within a required setback distance, within five feet of the street, and within five feet of a building containing dwelling units. The petitioner is seeking to locate five parking stalls within five feet of the two-family dwelling. Parking is also proposed within the side and rear setbacks, and within five feet of the street. The petitioner should submit plans with the setbacks dimensioned to better determine exactly how many stalls are within the setbacks.



Proposed Site Plan

Austin Street

# C. Parking

With the for-profit educational use being introduced to the site, the parking requirement decreases from 60 stalls to 55 stalls. The total office square footage decreases from 8,703 square feet to 4,687 square feet. Where the parking requirement for the office use is based off the square footage, the for-profit educational use's parking requirement is based on the number of employees. With 11 employees, the requirement is 11 stalls.

For a more detailed calculation of the parking requirements, please refer to the Zoning Review Memorandum (**Attachment C**).

The reconfiguration results in a decrease of five parking stalls. The existing parking stalls vary in dimensions from 7.7 feet to 10 feet wide and from 16.5 to 18.5 feet deep, where the zoning ordinance requires 9 feet wide by 19 feet long. There is no uniform stall size on site, and many of the stalls vary in size. The petitioner is seeking a waiver from the minimum stall dimensions of the Ordinance for 44 stalls.

Per the Ordinance, off street parking shall be provided on the same lot or premises with the principal use served. A special permit is required to allow the commercial parking from 60 Austin Street on the adjacent parcel at 66-68 Austin Street. In addition, non-accessory parking is not allowed by special permit or as of right in the BU-5 zoning district. While non-accessory parking is not defined in the Ordinance it is generally accepted to describe parking not primarily intended for the users of a property. As the non-accessory parking for the uses at 60, and 66-68 Austin Street existed for decades, it is considered nonconforming. As the petitioner is altering the nonconforming non-accessory parking facility, a special permit is required.

The petitioner is also proposing bike parking along left elevation for 60 Austin Street. The petitioner should provide more details on the bike rack and how many bikes the rack will accommodate.

# D. Landscaping and Screening

The petitioner submitted a preliminary landscape plan on June 17, which will be incorporated into a future memorandum. At the issuance of this memorandum, the petitioner requires relief from the internal and perimeter landscaping requirements of the zoning ordinance.

# IV. TECHNICAL REVIEW

# A. <u>Technical Considerations (Chapter 30, Newton Zoning Ordinance):</u>

The Zoning Review Memorandum (the "Memorandum") provides an analysis of the proposal regarding zoning **(Attachment D)**. Based on the Memorandum, the petitioner is seeking the following relief:

Ordinance	Required Relief
§4.4.1	To allow a for-profit educational use
§6.3.14.B.2	
§4.4.1	To alter a nonconforming non-accessory parking facility
§7.8.2.C.2	
§5.1.16.A	To allow the parking requirements to be met off-site
§5.1.13	

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§5.1.8.A.1	To allow parking with the side and rear setback and within five feet of the street
§5.1.8.A.2	To allow parking within five feet of dwelling units
§5.1.13	
§5.1.8.B.1	To waive the minimum parking stall width requirement
§5.1.8.B.2	To waive the minimum parking stall depth requirement
§5.1.13	
§5.1.8.D.1	To waive the minimum driveway width for one-way traffic
§5.1.13	
§5.1.9.A	To waive the perimeter screening requirements
§5.1.9.B	Request to waive the interior landscaping requirements
§5.1.13	
§5.1.10	Request to waive the lighting requirements
§5.1.13	

#### B. Engineering Review

Associate City Engineer, John, Daghlian, reviewed the plans and issued the attached Engineering Memorandum (**Attachment E**) dated May 28, 2021. Mr. Daghlian notes that if the interior is renovated or gutted by more than 50%, new water and sewer services may be required.

# C. <u>Newton Historical Commission Review</u>

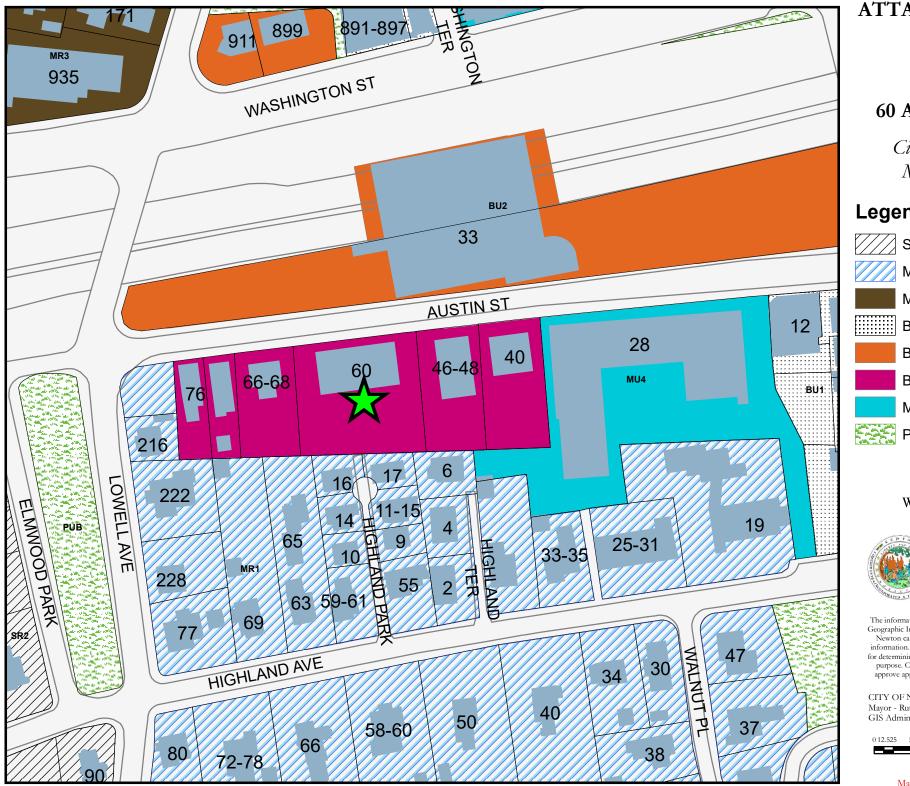
Review from the Newton Historical Commission is not required at this time.

#### V. PETITIONER'S RESPONSIBILITIES

The petition is considered complete at this time.

#### ATTACHMENTS:

Attachment A:	Zoning Map
Attachment B:	Land Use Map
Attachment C:	Zoning Review Memorandum
Attachment D:	Engineering Memorandum



# ATTACHMENT A

Zoning

**60** Austin Street

City of Newton, Massachusetts

# Legend

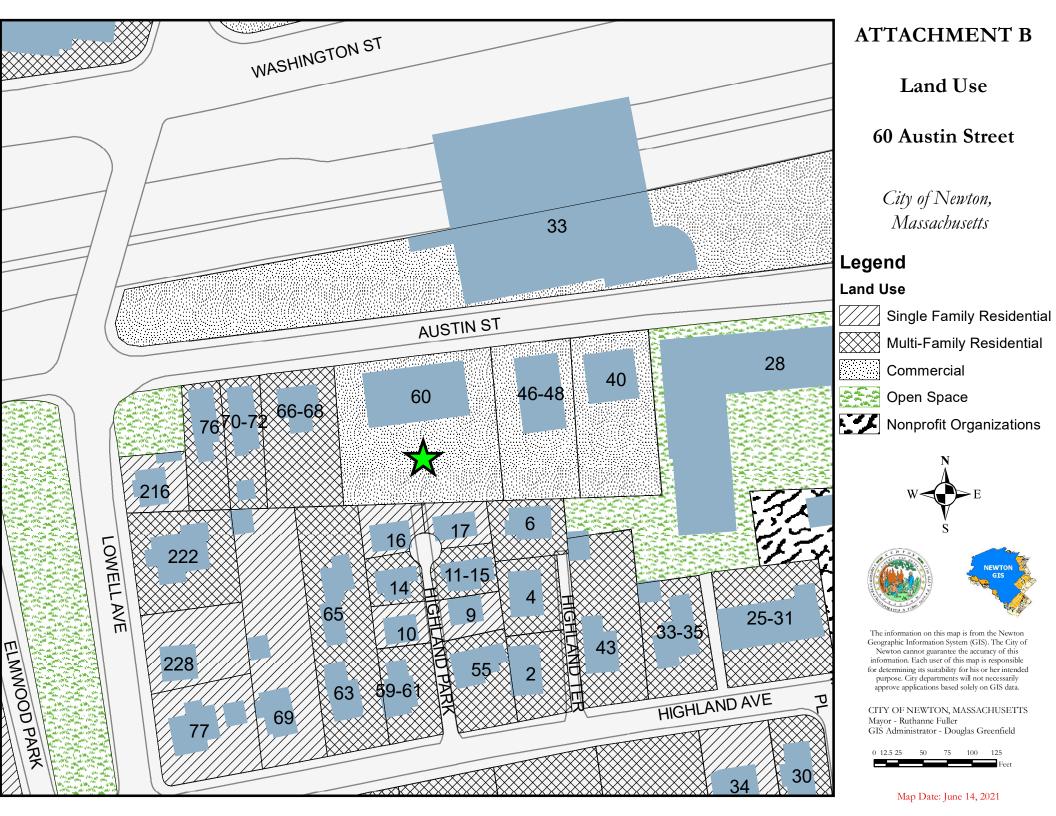


NEWTO

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

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City of Newton, Massachusetts

Attachment C Telephone (617) 796-1120 Telefax (617) 796-1142 TDD/TTY (617) 796-1089 www.newtonma.gov

Ruthann Fuller Mayor

Department of Planning and Development 1000 Commonwealth Avenue Newton, Massachusetts 02459

Barney S. Heath Director

# ZONING REVIEW MEMORANDUM

# Date: May 10, 2021

- To: John Lojek, Commissioner of Inspectional Services
- From: Jane Santosuosso, Chief Zoning Code Official Neil Cronin, Chief Planner for Current Planning
- Cc: Katherine Braucher Adams, Attorney The Russian School of Mathematics, Inc Barney S. Heath, Director of Planning and Development Jonah temple, Assistant City Solicitor
- RE: Request to allow a for-profit educational use, to alter a nonconforming non-accessory parking facility use and waivers relative to parking

Applicant: The Russian School of Mathematics, Inc					
Site: 60 Austin Street, 66-68 Austin Street	<b>SBL:</b> 24009 0009, 24009 0007				
Zoning: BU5	Lot Area: 24,155 square feet, 11,250 square feet				
Current use: Office building and two-family residence	Proposed use: No change				

# **BACKGROUND:**

The property at 60 Austin Street consists of 24,155 square feet improved with an office building constructed in 1970 in the Business 5 zoning district. The adjacent parcel at 66-68 Austin Street consists of 11,250 square feet and is improved with a two-family dwelling and surface parking, also in the BU5 district. The two separate properties are held in common ownership and a portion of the parking for the office building at 60 Austin Street is located at the rear of 66-68 Austin Street. The petitioner proposes to locate a for-profit school in office space and to make modifications to the parking areas on both lots. The proposed for-profit school requires a special permit as well as waivers from the parking requirements.

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

- Zoning Review Application, prepared by Katherine Braucher Adams, attorney, dated 3/18/2021
- Project Information, submitted 3/18/2021 •
- Parking Calculation, submitted 3/18/2021
- Certified Plot Plan Proposed Conditions, prepared by VTP, surveyor, dated 3/19/2021
- Land Title Survey, signed and stamped by Joseph R. Porter, surveyor, dated 1/18/2021
- Floor Plans, prepared by DLA Architecture, dated 3/3/2021 •

# ADMINISTRATIVE DETERMINATIONS:

- 1. The petitioner proposes to locate a for-profit educational use within the office building. Per sections 4.4.1 and 6.3.14.B.2, a special permit is required to allow a for-profit educational use in the Business 5 zoning district.
- There are currently 52 parking stalls shared between the two properties; 33 located at 60 Austin Street and 19 stalls located at 66-68 Austin Street. The petitioner intends to make modifications to the two parking lots, reducing the overall number of stalls to 47, with 29 stalls located at 60 Austin Street and 18 stalls located at 66-68 Austin Street.

The petitioner intends to divide 8,703 square feet of office into two spaces, of which 4,687 square feet will remain office use and 4,016 square feet will be used for the for-profit educational use. The 4,141 square foot medical office, as well the two residential units at 66-68 Austin Street will remain.

Existing Use	Requirement	Total
Office		
8,703 square feet	1 stall/250 square feet	35 stalls
Medical Office		
4,141 square feet	1 stall/200 square feet	21 stalls
Residential		
2 units	2 stalls/dwelling unit	4 stalls
TOTAL REQUIRED		60
Proposed Use	Requirement	Total
For-Profit educational use		
11 staff	1 stall/staff member	11 stalls
Office		
4,687 square feet	1 stall/250 square feet	19 stalls
Medical Office		
4,141 square feet	1 stall/200 square feet	21 stalls
Residential		
2 units	2 stalls/dwelling unit	4 stalls
TOTAL REQUIRED		55 stalls

The proposed uses on site decrease the parking requirement by five stalls. The petitioner intends to reconfigure the parking areas, reducing the total number of stalls by five. While the "credit" from the previous use is reduced by five to accommodate the reconfiguration, the proposed uses require five fewer stalls. As such, the credit satisfies the requirement and no waiver is necessary.

3. Per section 5.1.16.A, off-street parking required for the principal uses served must be located on the same lot as those uses. The petitioner intends to continue to use the parking on both properties to provide parking for the office building. A special permit per section 5.1.13 is

required to allow for the off-site parking at 66-68 Austin Street for the business uses at 60 Austin Street.

- 4. Per section 4.4.1, non-accessory parking is not allowed, by right or by special permit in the Business 5 zoning district. The parking for the two subject properties has functioned as one lot since at least the 1980s, prior to the adoption of regulations relative to non-accessory parking facilities, rendering the parking for 60 Austin Street at 66-68 Austin Street nonconforming. The petitioner proposes minor alterations to the parking facility at 66-68 Austin Street, requiring a special permit per sections 4.4.1 and 7.8.2.C.2 to alter the nonconforming non-accessory parking facility use.
- 5. Per section 5.1.8.A.1 no parking may be located within any required setback distance from a street or side lot line, and may not be within five feet of the street. The petitioner proposes to maintain parking stalls within the rear and side setbacks and within five feet of the street requiring a special permit per section 5.1.13.
- 6. Section 5.1.8.A.2 requires that no outdoor parking be located within five feet of a building containing dwelling units. The petitioner intends to maintain parking stalls within five feet of the two-family dwelling at 66-68 Austin Street, requiring a special permit per sections 5.1.13.
- Per section 5.1.8.B.1 the minimum width for a parking stall is 9 feet. The petitioner proposes several stalls with reduced widths, down to 7.8 feet, requiring a special permit per section 5.1.13.
- 8. Per section 5.1.8.B.2 the minimum depth for parking stalls is 19 feet. The petitioner proposes several stalls with reduced depths, down to 16.5 feet, requiring a special permit per section 5.1.13.
- 9. The petitioner intends to create a one-way entrance along the western lot line of 66-68 Austin Street and an exit only on the eastern lot line of 60 Austin Street. Per section 5.1.8.D.1, entrance and exit driveways for one-way traffic must be a minimum of 12 feet wide. The petitioner proposes an entrance driveway of 11.1 feet wide, requiring a special permit per section 5.1.13.
- 10. Per section 5.1.9.A, outdoor parking facilities with more than five stalls must provide perimeter landscaping and screening. No perimeter landscaping or screening is indicated in the plans, requiring a special permit per section 5.1.13.
- 11. Per section 5.1.9.B, outdoor parking facilities with more than 20 stalls must provide interior landscaping. No interior landscaping is indicated, requiring a special permit per section 5.1.13.
- 12. Section 5.1.10 requires all outdoor facilities used at night to have security lighting with a minimum intensity of one-foot candle over the entire surface of the facility. The petitioner seeks a waiver from this provision per section 5.1.13.

Zoning Relief Required				
Ordinance	Required Relief	Action Required		
§4.4.1	Request to allow a for-profit educational use	S.P. per §7.3.3		
§6.3.14.B.2				
§4.4.1	Request to alter a nonconforming non-accessory parking	S.P. per §7.3.3		
§7.8.2.C.2	facility			
§5.1.16.A	Request to allow the parking requirements to be met off-	S.P. per §7.3.3		
§5.1.13	site			
§5.1.8.A.1	Request to allow parking with the side and rear setback and	S.P. per §7.3.3		
§5.1.13	within five feet of the street			
§5.1.8.A.2	Request to allow parking within five feet of dwelling units	S.P. per §7.3.3		
§5.1.13				
§5.1.8.B.1	Request to waive the minimum parking stall width	S.P. per §7.3.3		
§5.1.13	requirement			
§5.1.8.B.2	Request to waive the minimum parking stall depth	S.P. per §7.3.3		
§5.1.13	requirement			
§5.1.8.D.1	Request to waive the minimum driveway width for one-way	S.P. per §7.3.3		
§5.1.13	traffic			
§5.1.9.A	Request to waive the perimeter screening requirements	S.P. per §7.3.3		
§5.1.13				
§5.1.9.B	Request to waive the interior landscaping requirements	S.P. per §7.3.3		
§5.1.13				
§5.1.10	Request to waive the lighting requirements	S.P. per §7.3.3		
§5.1.13				

# CITY OF NEWTON Department of Public Works ENGINEERING DIVISION

# MEMORANDUM

To: Council Rick Lipof, Land Use Committee Chairman

From: John Daghlian, Associate City Engineer

Re: Special Permit – Russian Scholl of Mathematics 60,66 & 68 Austin Street

Date: May 28, 2021

CC: Barney Heath, Director of Planning Jennifer Caira, Deputy Director Lou Taverna, PE City Engineer Nadia Khan, Committee Clerk Neil Cronin, Chief Planner Michael Gleba, Sr. Planner

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

Alta/ACSM Land Title Survey Prepared by: VTP Associates Inc. Dated: 1/18/2021

# Executive Summary:

If the interior of the buildings are renovated or gutted by more than 50% new water and sewer services will be required unless the existing water services are Type K copper. The sanitary sewer service may be inspected via Closed Circuit Television Inspection (CCTV) to determine the integrity of the pipe. The CCTV inspections must be witnessed by a representative fo eth Engineering Division given 48 –hours advanced notice.

If the special permit is approved an Approval Not Required [ANR] plan will be required in accordance with Massachusetts General Laws Chapter 41 Section 81P requiring the multiple separate lots to be combined into one lot.

# <u>General</u>:

- 5 Year Moratorium if at time of construction the roadway is under a 5-year moratorium, the roadway must be milled and paved gutter-to-gutter for a distance of 25 feet in each direction from the outermost trenches.
- 2. All trench excavation shall comply with Massachusetts General Law Chapter 82A, Trench Excavation Safety Requirements, and OSHA Standards to protect the general public from unauthorized access to unattended trenches or excavations. Trench Excavation Permit is required prior to any construction. This applies to all trenches on public and private property. *This note shall be incorporated onto the final plans.*
- 3. All tree removal shall comply with the City's Tree Ordinance.
- 4. The applicant shall apply for a Building Permit with the Inspectional Services Department prior to ANY construction.
- 5. Before requesting a Certificate of Occupancy, an As Built plan shall be submitted to the Engineering Division in both digital and paper format. The plan shall show all utilities and final grades, any easements and improvements and limits of restoration. The plan shall include profiles of the various new utilities including but not limited to rim & invert elevations (City of Newton Datum), slopes of pipes, pipe materials, and swing ties from permanent building corners. The as built shall be stamped by both a Massachusetts Registered Professional Engineer and Registered Professional Land Surveyor. Once the as-built plan is received the Engineering Division shall perform a final site inspection and then make a determination to issue a Certificate of Occupancy. *This note shall be incorporated onto the final plans*.
- 6. All site work including trench restoration, sidewalk, curb, apron and loam border (where applicable) shall be completed before a Certificate of Occupancy is issued. *This note shall be incorporated onto the final plans.*
- 7. The contractor of record shall contact the Newton Police Department 48-hours in advanced and arrange for Police Detail to help residents and commuters navigate around the construction zone.
- 8. If any changes from the final approved design plan that are required due to unforeseen site conditions, the contractor of record shall contact the design engineer of record and submit revised design and stamped full scale plans for review and approval prior to continuing with construction.

9. The engineer of record shall add the following attestation to the plans when applying for a building permit:

I certify that the construction so shown was inspected prior to backfill and that all work conforms with the Approved Plan and meets or exceeds the City of Newton Construction Standards.

Signature

Note: If the plans are updated it is the responsibility of the applicant to provide all City Departments [ISD, Conservation Commission, Planning and Engineering] involved in the permitting and approval process with complete and consistent plans.

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