



## Land Use Committee Agenda

### City of Newton In City Council

Tuesday, March 8, 2022

7:00 PM

The Land Use Committee will hold this meeting as a virtual meeting on Tuesday, March 8, 2022 at 7:00 pm. To view this meeting using Zoom use this link: <https://us02web.zoom.us/j/83946853143> or call 1-646-558-8656 and use the following Meeting ID: **839 4685 3143**

***Chairs Note:** The Committee will review the post-occupancy transportation conditions as required by Special Permit Council Order #127-16 for 288 Walnut Street.*

- #159-22**      **Request to amend Council Order #58-21 and to waive parking stalls at 1241 Centre Street**  
LINEAR RETAIL NEWTON 1 LLC petition for SPECIAL PERMIT/SITE PLAN APPROVAL to amend Special Permit Order #58-21 to allow additional seats and seek an additional waiver of parking stalls at 1241 Centre Street (1239-1243), Ward 6, Newton Centre, on land known as Section 64 Block 28 Lot 24, containing approximately 9,000 sq. ft. in a district zoned BUSINESS USE 1. Ref: Sec. 7.3.3, 7.4, 5.1.4, 5.1.13 of the City of Newton Rev Zoning Ord, 2017.
- #160-22**      **Request to amend Council Order #332-65 and to waive parking stalls at 381 Elliot Street**  
MARY R BUTLER petition for SPECIAL PERMIT/SITE PLAN APPROVAL to amend Special Permit Order #332-65 to allow a change of use and seek an additional waiver of parking stalls at 381 Elliot Street, Ward 5, Newton, on land known as Section 51 Block 01 Lot 06, containing approximately 186,883 sq. ft. in a district zoned MAN. Ref: Sec. 7.3.3, 7.4, 5.1.4, 5.1.13 of the City of Newton Rev Zoning Ord, 2017.
- #161-22**      **Petition to allow retaining wall in excess of 4 feet and to exceed FAR at 26 Magnolia Avenue**

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The location of this meeting is accessible and reasonable accommodations will be provided to persons with disabilities who require assistance. If you need a reasonable accommodation, please contact the city of Newton's ADA Coordinator, Jini Fairley, at least two business days in advance of the meeting: [jfairley@newtonma.gov](mailto:jfairley@newtonma.gov) or (617) 796-1253. The city's TTY/TDD direct line is: 617-796-1089. For the Telecommunications Relay Service (TRS), please dial 711.

JOHN ARONE petition for SPECIAL PERMIT/SITE PLAN APPROVAL to construct a new dwelling with retaining walls along the sides and rear of the property exceeding 4' in height at 26 Magnolia Avenue, Ward 7, Newton, on land known as Section 72 Block 39 Lot 23, containing approximately 15,787 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: Sec. 7.3.3, 7.4, 3.1.3, 3.1.9, 5.4.2.B of the City of Newton Rev Zoning Ord, 2017.

**Respectfully Submitted,**

**Richard A. Lipof, Chair**

## DEPARTMENT OF PLANNING AND DEVELOPMENT

CITY OF NEWTON  
Massachusetts

### INTER-OFFICE CORRESPONDENCE

**DATE:** March 4, 2022

**TO:** All Members, City Council

**FROM:** Barney Heath, Director of Planning and Development  
Neil Cronin, Chief Planner for Current Planning

**SUBJECT:** Special Permit #127-16, 288 Walnut Street  
Post-Occupancy Check In

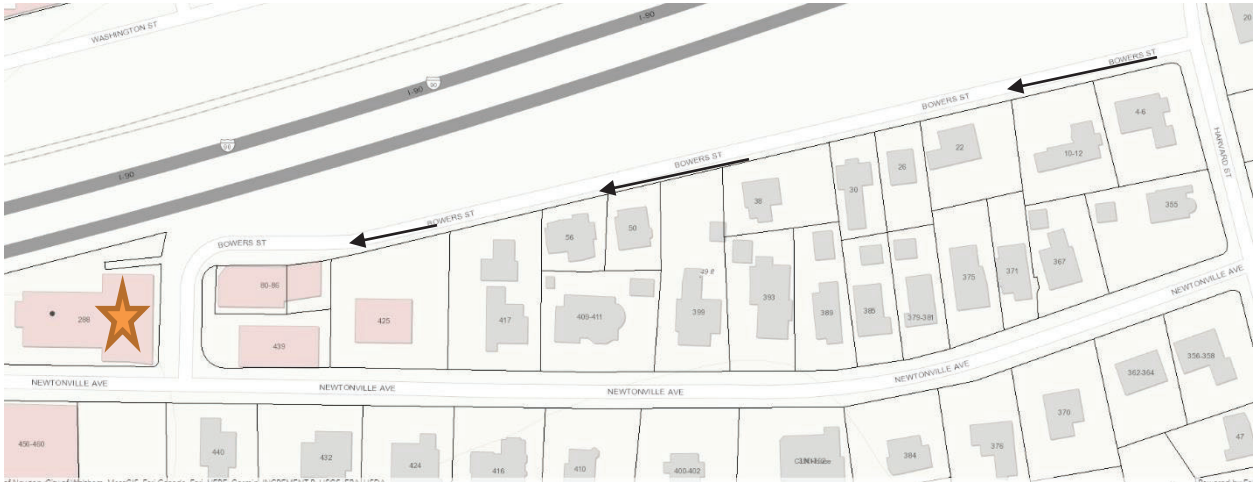
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The petitioner received a special permit in 2016 to waive five parking stalls associated with a day care center with an enrollment of no more than 60 children and a staff of no more than 12 employees (**Attachment A**). The special permit required the petitioner to appear before the Land Use Committee (the "Committee") after receipt of a final occupancy certificate to provide an update on: peak drop-off and pick-up conditions; status of employee parking demands; traffic circulation; and results of carpooling/ridesharing goals. The petitioner appeared before the Committee in February of 2021 to satisfy the 6-month look-back condition.

From the 2021 check-in, enrollment has from 18 children to 44 children and from six staff members to 10. Parents are still grouped into half-hour windows for both drop-off and pick-up to reduce the number of vehicles arriving to the site at once. Seven to eight employees park off site while four employees use transit. Due to the Covid-19 pandemic, carpooling/ridesharing has not been utilized by either employees or parents.

The petitioner proposed a traffic circulation pattern for parents to access the site from Bowers Street to utilize the parking meters along Bowers Street and to mitigate impacts to Newtonville Avenue. This pattern is communicated to parents during tours as well as during the first few days of attendance. The Planning Department witnessed vehicles accessing the site from Newtonville Avenue, rather than from Bowers Street, but did not notice any impacts to Newtonville Avenue as a result. The Planning Department suggests the petitioner continue to inform parents of the circulation pattern.

**Figure I: Area Plan**



**ATTACHMENTS**

**ATTACHMENT A: Council Order #127-16**

#127-16  
288 Walnut Street

CITY OF NEWTON  
IN CITY COUNCIL

June 6, 2016

2016 JUN - 8 AM 10:23  
City of Newton, MA

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 Vice Chair, Councilor Greg Schwartz.

1. The use will not adversely affect the neighborhood. (§7.3.3.C.2)
2. The proposed waivers of parking and screening requirements will not create a nuisance or serious hazard to vehicles or pedestrians. (§7.3.3.C.3)
3. Literal compliance with the parking, vegetative buffer, 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. (§5.1.13)
4. A day care use in this location is consistent with the 2007 *Newton Comprehensive Plan*, which supports strengthening viable businesses and services that contribute to the vitality of Newton.

Property Address: 288 Walnut Street, Newton  
and 449 Newtonville Avenue, Newton

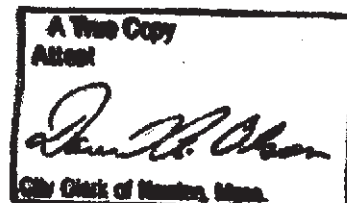
PETITION NUMBER: #127-16

PETITIONER: The Beantown Companies, Inc.

LOCATION: 288 Walnut Street, on land known as Section 22, Block 04, Lot 15, containing approximately 21,288 square feet of land

OWNER: 288 Walnut Street Realty Trust, Marc Resnick, Trustee

ADDRESS OF OWNER: 288 Walnut Street  
Newton, MA 02460



TO BE USED FOR: Day Care Center

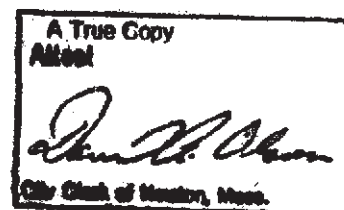
CONSTRUCTION: Masonry

EXPLANATORY NOTES: §7.4.5 Administrative Site Plan Review for a day care center, §5.1.3.D, §5.1.4, §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: Business 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. Topographic Site Plan, signed and stamped by Joseph R. Porter, surveyor, dated May 9, 2016.
2. The day care shall be limited to sixty (60) students on-site at any one time. If the petitioner would like to increase the number of students to more than sixty (60), it must seek an amendment to this special permit.
3. No building permit shall be issued pursuant to this Special Permit/Site Plan Approval until the petitioners have:
  - 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.
4. No Final Inspection/Occupancy Permit for the use covered by this special permit/site plan approval shall be issued until the petitioners have:
  - a. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement by a registered architect 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 licensed land surveyor.



- c. Submitted to the Director of Planning and Development evidence of current valid licensure by the Office for Child Care Services.
5. The petitioner shall designate three (3) staff members to assist with drop-off and pick-up during expected peak hours of operation.
6. 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. Drop-off and pick-up is prohibited on Newtonville Avenue;
  - b. Left turns onto Bowers Street are prohibited.
  - c. Pick-up and drop-off shall occur along the northerly and westerly sides of Bowers Street.
  - d. The four (4) spaces closest to the building and accessible from Bowers Street, shall be used for pick-up and drop-off when the on-street metered stalls are utilized.
7. At six (6) and 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.

Under Suspension of Rules

Readings Waived and Approved

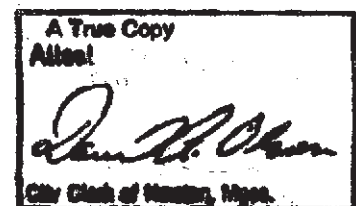
21 yeas 0 nays 1 recused (Councilor Laredo) 2 absent (Councilors Ciccone and Norton)

The undersigned hereby certifies that the foregoing copy of the decision of the Newton City Council granting a SPECIAL PERMIT/SITE PLAN APPROVAL is a true accurate copy of said decision, the original of which having been filed with the City Clerk on June 8, 2016. The undersigned further certifies that all statutory requirements for the issuance of such SPECIAL PERMIT/SITE PLAN APPROVAL have been complied with and that all plans referred to in the decision have been filed with the City Clerk.

ATTEST:



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



I, David A. Olson, as the Clerk of the City Council and keeper of its records and as the City Clerk and official keeper of the records of the CITY OF NEWTON, hereby certify that twenty Days have elapsed since the filing of the foregoing decision of the Newton City Council in the Office of the City Clerk on 6/8 and that NO APPEAL of said decision pursuant to G.L. c. 40A, §17 has been filed thereto.

ATTEST:



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

