



Ruthanne Fuller
Mayor

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

#561-22
Telephone
(617) 796-1120
Telefax
(617) 796-1142
TDD/TTY
(617) 796-1089
www.newtonma.gov

Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date: January 10, 2023
Land Use Action Date: March 28, 2023
City Council Action Date: April 3, 2023
90-Day Expiration Date: April 10, 2023

DATE: January 6, 2023

TO: City Council

FROM: Barney S. Heath, Director of Planning and Development
Katie Whewell, Chief Planner for Current Planning
Cat Kemmett, Senior Planner

SUBJECT: **Petition #561-22**, petition for SPECIAL PERMIT/SITE PLAN APPROVAL to allow the conversion of an existing spa to a commercial prep kitchen at 624-628 Commonwealth Avenue, Ward 7, Newton, on land known as Section 61 Block 01 Lot 05, containing approximately 3,164 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: 7.3.3, 7.4, 3.4.1, 7.8.2.C.2 of Chapter 30 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 for consideration at a subsequent working session by the Land Use Committee of the City Council.



624-628 Commonwealth Ave

EXECUTIVE SUMMARY

The subject property consists of a 3,164 square foot lot improved with a multi-tenanted commercial building constructed circa 1930 in the Single Residence 2 zoning District (SR-2) in Newton Centre. The petitioner seeks to create a commercial prep kitchen on the site for their company, Bubbles and Brews. The space is currently used as a spa, a legally nonconforming use due to its location in an SR-2. Because the property is in the SR-2 zoning district, which prohibits commercial uses, a special permit is required to allow a change from one nonconforming use to another.

Though the site is in the residential SR-2 zone, this block of buildings lends itself to commercial uses and has had nonconforming commercial uses for many years. Contextually there are several other commercial uses on this stretch of Commonwealth Avenue. For these reasons, Planning believes the location to be appropriate for a small-scale commercial kitchen.

I. SIGNIFICANT ISSUES FOR CONSIDERATION:

When reviewing this request, the Council should consider whether:

- The site located in a Single Residence 2 (SR-2) zoning district is an appropriate location for the proposed commercial prep kitchen (§7.3.3. C.1.)
- The proposed commercial prep kitchen will adversely affect the neighborhood. (§7.3.3. C.2)
- The proposed commercial prep kitchen 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)
- The proposed conversion to a commercial kitchen would not be substantially more detrimental than the existing nonconforming spa use in the SR-2 zone. (§7.8.2. C.2)

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The subject property is located on Commonwealth Avenue near where it intersects with Centre Street near Newton Centre. The site is less than a mile from the Newton Centre Village Center. The site abuts Rice Street at the back of the building and a single-family home to the east on Rice Street.

The surrounding zoning is predominantly residential, and the SR-2 district encompasses all the surrounding lots. The land use in the neighborhood is mostly residential with a mix single family and small multifamily structures, but there are

some small-scale commercial buildings and uses as well as a tennis club further east on Commonwealth Avenue.

B. Site

The property consists of 3,164 square feet of land which is improved with a single-story commercial building with a multi-tenanted commercial building constructed circa 1930. This lot is part of a commercial block of buildings at the corner of Commonwealth Avenue and Centre Street is in the Commonwealth Avenue Historic District, designated by the National Register (of Historic Places) District.

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The principal use of the current site is a spa facility. Should this petition be approved, the principal use will change to a commercial prep kitchen.

B. Building and Site Design

The petitioner is not proposing any changes to the commercial building or the parking facilities.

C. Proposed Operations

The petitioner is proposing to establish a commercial prep kitchen in a 700 square foot tenant space. The petitioner runs a mobile bar company, like a food truck, that serves food and drink including cocktails and draft alcoholic drinks off-site at local parties and events. No food or drinks will be sold on-site at 624-628 Commonwealth Avenue.

The petitioner anticipates that the space will primarily be used to prepare drinks, including creating garnishes. The maximum number of on-site staff in the kitchen at a time will be two. The petitioner plans to work in this space mostly during the week between the hours of 9:00 am-2:30 pm.

Parking and Circulation

The tenant space was previously used as a spa, which required four parking stalls. The proposed kitchen use will have one employee, resulting in a requirement of one parking stall. No waiver is required, as the credit from the previous use satisfies the parking requirement for this petition.

IV. TECHNICAL REVIEW

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

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

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§3.4.1 §7.8.2.C.2	Request to allow the conversion from one nonconforming personal service use to a different nonconforming personal service use	S.P. per §7.3.3

B. Historic Preservation Review

The project does not require historic preservation review.

C. Engineering Review

Engineering review is not required.

V. PETITIONER'S RESPONSIBILITIES

The petitioner should respond to the issues raised in this memorandum and other questions raised at the public hearing as necessary. Written responses to all significant issues should be provided for analysis by the Planning Department prior to being scheduled for additional public hearings. The Planning Department will prepare an updated memo prior to any future public hearings.

ATTACHMENTS:

ATTACHMENT A: Zoning Review Memorandum

ATTACHMENT B: Draft Council Order



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ZONING REVIEW MEMORANDUM

Date: September 13, 2022

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official
Katie Whewell, Chief Planner for Current Planning

Cc: Alice Speck, Applicant
624 Comm Ave Realty Trust
Barney S. Heath, Director of Planning and Development
Jonah Temple, Assistant City Solicitor

RE: Request to change from a nonconforming personal service use (spa) to a different nonconforming personal service use (commercial prep kitchen)

Applicant: Alice Speck	
Site: 624-628 Commonwealth Ave	SBL: 61001 0005
Zoning: MR1	Lot Area: 3,164 square feet
Current use: Spa	Proposed use: Commercial prep kitchen

BACKGROUND:

The property located at 624-628 Commonwealth Avenue consists of a 3,164 square foot lot improved with a multi-tenanted commercial building constructed circa 1930 in the Multi Residence 1 zoning district. The petitioner seeks to allow the conversion of an existing spa to a commercial prep kitchen.

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

- Zoning Review Application, prepared by Alice Speck, submitted 8/25/2022
- Floor plan, submitted 8/25/2022

ADMINISTRATIVE DETERMINATIONS:

1. The property is located in the Multi-Residence 1 zoning district, which prohibits commercial uses per section 3.4.1. The building has been used for commercial purposes since its construction around 1930 and the uses are legally nonconforming. The petitioner seeks to convert space currently used as a spa to a prep kitchen for a mobile bar business. To change from one nonconforming use to another requires a special permit per section 7.8.2.C.2.
2. The previous spa use was classified as a personal service use and required one parking stall per every 300 square feet plus one stall per every three employees at the largest shift per section 5.4.1. The spa use in the 700 square foot space had a parking requirement of four stalls. The proposed prep kitchen has been classified as a personal service use for the purpose of determining the parking requirement. As the use is determined to be the same, the parking requirement does not change and no relief is necessary.

See "Zoning Relief Summary" below:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§3.4.1 §7.8.2.C.2	Request to allow the conversion from one nonconforming personal service use to a different nonconforming personal service use	S.P. per §7.3.3

#561-22

624-628 Commonwealth Avenue

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 the conversion to a commercial prep kitchen in the Single Residence 2 zoning district, as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Richard Lipof:

1. The specific site in a Single Residence 2 zone is an appropriate location for the proposed commercial prep kitchen use due to the fact that the building already features existing nonconforming commercial uses and the site's proximity to Newton Centre (§7.3.3.C.1)
2. The proposed commercial prep kitchen use as developed and operated will not adversely affect the neighborhood because the proposed use complies with the parking requirement due to having fewer staff members than the prior use, and member of the general public will not be parking to visit the site (§7.3.3.C.2)
3. The proposed commercial prep kitchen use will not create a nuisance or serious hazard to vehicles or pedestrians because only staff members will be using the space, so the impact on traffic and parking will be minimal (§7.3.3.C.3)
4. Access to the site over streets is appropriate for the types and numbers of vehicles involved (§7.3.3.C.4)
5. Add nonconforming finding.

PETITION NUMBER:

#561-22

PETITIONER:

Alice Speck

LOCATION:

624-628 Commonwealth Avenue, Newton, Section 61 Block 01 Lot 05, containing approximately 3,164 sq. ft. of land in a district zoned SINGLE RESIDENCE 2

OWNER: Donald Malkin

ADDRESS OF OWNER: PO Box 81240
Wellesley Hills, MA 02481

TO BE USED FOR: Commercial Prep Kitchen Use

CONSTRUCTION: Use change only

EXPLANATORY NOTES: To allow the conversion of a nonconforming personal service use to a nonconforming commercial prep kitchen use (§3.4.1, §7.8.2.C.2)

ZONING: Single Residence 2

Approved subject to the following conditions:

1. The petitioner shall operate the commercial prep kitchen use in accordance with the project narrative submitted with the special permit petition and on file with the City Clerk and the Department of Planning and Development.
2. There shall be no more than two employees on site at any one time.
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 Special Permit/Site Plan Approval at the Middlesex South Registry of Deeds and filed proof of such recording with the City Clerk and submitted a copy with the building permit application.
 - b. 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 petitioner has:
 - a. Filed the building permit record a statement by a registered architect which shall include certification of the size of the tenant space.