

**NEEDHAM
ZONING BOARD OF APPEALS
AGENDA**

**Thursday, May 18, 2023 - 7:30PM
Zoom Meeting ID Number: 869-6475-7241**

**To view and participate in this virtual meeting on your computer, at the above date and time, go to www.zoom.us, click “Join a Meeting” and enter the Meeting ID: 869-6475-7241
Or join the meeting at link: <https://us02web.zoom.us/j/86964757241>**

AGENDA

Minutes	Review and approve Minutes from April 27, 2023 meeting.
Case #1 – 7:30PM	145 Rosemary Street – EIP Rosemary, LLC , applied for a Special Permit under Sections 5.1.1.5, 5.1.2, 5.1.3 and any other applicable Sections of the By-Law to waive strict adherence to the off-street parking number and parking design requirements. This request is associated with Wellesley Family Care, a medical office use, which will be expanding into 4,018 s.f. of space formerly occupied for general office use. The property is located at 145 Rosemary Street in the Industrial (I) and Single Residence B (SRB) Districts

**Next ZBA Meeting –June 15, 2023
Public Services Administration Building
Charles River Room, 500 Dedham Ave, Needham**

NEEDHAM
ZONING BOARD OF APPEALS
MINUTES
THURSDAY, April 27, 2023– 7:30 PM
Zoom Meeting ID Number: 876-1480-784

Pursuant to notice published at least 48 hours prior to this date, a meeting of the Needham Board of Appeals was held remotely on Zoom on Thursday, April 27 2023 at 7:30 p.m. Jon D. Schneider, Chair, presided and the following members were present: Howard S. Goldman, and Nik Ligris. Absent: Jonathan D. Tamkin; and Peter Friedenberg. Staff present: Daphne M. Collins, Zoning Specialist. Mr. Schneider opened the meeting at 7:30 p.m.

Minutes - Mr. Goldman motioned to approve the minutes of March 16, 2023. Mr. Ligris seconded the motion. The motion was unanimously approved.

Case #1 **1000 Olin Way** **Approved**

Discussion 2023 ZBA Meeting Schedule

There was a discussion and support by Mr. Schneider, Mr. Goldman and Mr. Ligris for reconvening the meeting in-person with Zoom connection. Under the current legal authorization, as well as the Rules of the Board, members may attend and participate remotely if there is a quorum present in person. The ZBA's quorum is two members.

Ms. Collins reported that the Charles River Room is equipped to hold hybrid meetings along with Needham Cable coverage; and that the Charles River Room is reserved until the end of the year in anticipation of in-person meetings.

Mr. Schneider noted that the May Meeting, chaired by Mr. Tamkin, will be on Zoom only. He scheduled the June 15th meeting to be in-person with Zoom participation. Based on the experience of the June meeting, the type of meeting will be selected for the rest of the year.

Discussion Decision Writing Process

Mr. Schneider invited suggestions to improve the Decision writing process to make it timelier and more efficient. Currently the Decisions are filed with the Town Clerk within 30 days, Mr. Schneider would like to see it done within 3 weeks. MGL40A allows 90 days from the close of the public hearing.

Mr. Goldman thought efficiencies would be available if the Open Meeting Law allowed for comments between members during the decision writing process rather than going through staff. Mr. Schneider thought it appropriate for the Board to have direct discussions unless there is clear direction otherwise.

Mr. Ligris suggested that applicants with counsel write the draft decisions as done in Boston. He also suggested electronic signatures.

In response to the Town Clerk's preference that Decision's signatures be on a single page, Mr. Schneider suggested that the execution of Decisions be conducted at the next meeting to avoid the round robin circulation process to member's homes done pre-Covid. Mr. Goldman noted that this would concede a plus 30-day filing period. Mr. Schneider acknowledged that a three week turn around time for decisions

would require adopting the more responsive round-robin signature process. Mr. Schneider wanted further input from the remaining members.

A summary of the discussions on each subject, a list of the documents and other exhibits used at the meeting, the decisions made, and the actions taken at each meeting, including a record of all votes, are set forth in a detailed decision signed by the members voting on the subject and filed with the Town Clerk. The hearings can be viewed at <http://www.needhamchannel.org/watch-programs/> or at <https://www.youtube.com/user/TownofNeedhamMA/playlists>

The meeting adjourned at 7:58 p.m.

FRIEZE CRAMER ROSEN & HUBER LLP

C O U N S E L L O R S A T L A W

62 WALNUT STREET, SUITE 6, WELLESLEY, MASSACHUSETTS 02481
781-943-4000 • FAX 781-943-4040

April 21, 2023

BY FEDERAL EXPRESS

Board of Appeals Members
Town of Needham
Administration Building
500 Dedham Avenue
Needham, MA 02492
Attn: Daphne Collins

Re: Application for Special Permit
 145 Rosemary Street, Needham, MA

Dear Members of the Board of Appeals:

In addition to requesting a special permit to waive strict adherence to the off-street parking requirements of Section 5.1.2 of the Zoning By-Law (number of spaces), the Applicant has requested relief from Section 5.1.3 of the Zoning By-Law (parking plan and design requirements).

Please note that these waivers are not requested for, do not apply to, the newly striped 27 spaces adjacent to the building, which comply with the design requirements of Section 5.1.3 of the Bylaw.

The following is a list of the specific subsections of Section 5.1.3 for which relief is requested, with respect to existing spaces pre-dating the re-striping:

- 1) Section 5.1.3(a) Parking Lot Illumination

No photometric study has been conducted in connection with this application. The parking areas are extensive and have been in existence for many years. A waiver is requested from this subsection.

Board of Appeals Members
April 21, 2023
Page 2

2) Section 5.1.3(i) Width of Maneuvering Aisle

There are numerous locations throughout the parking areas that do not comply with this subsection. The property is unique in that there are multiple entrances to the building on at least three of its four sides, and several separate parking areas surrounding the building. The configuration of the property, as well as the location of the building on the property, is unique, and compliance with this subsection would be impossible without a substantial reduction in the number of parking spaces on the site and substantial hardship to the owner and to the existing tenants (as well as to the Town of Needham).

3) Section 5.1.3(j) Parking Setbacks

The parking areas are within five feet of the building in multiple locations around the building. The parking area is within four feet of the side lot line along the entire northerly side of the structure.

4) Section 5.1.3(k) Landscaped Areas

To the extent that the parking areas do not comply with the setbacks described in Section 5.1.3(j) above, they do not comply with the provisions of Section 5.1.3(k), since the setback areas are to be landscaped. In addition, this subsection requires that 10% of the parking area shall be maintained as landscaped area and "a minimum of one-quarter of this amount shall be located in the interior of the parking area." While the 10% landscaped area requirement is met, the interior landscaped requirement is not met.

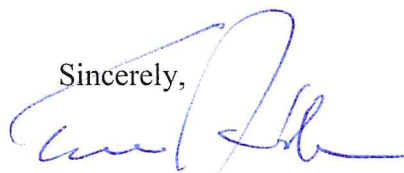
5) Section 5.1.3(l) Trees

A waiver is requested from this section.

Parking waivers are requested from the above-described subsections of Section 5.1.3. Please note that these are the same waivers that were requested and granted by the Board in the January 19, 2023 Decision regarding Wellesley Family Care and Ortho Boston.

Thank you for your cooperation.

Sincerely,



Evans Huber



ZBA Application For Hearing

Applicants must consult with the Building Inspector prior to filing this Application. *Failure to do so will delay the scheduling of the hearing.*

Applicant Information

Applicant Name	EIP Rosemary, LLC			Date:	04/21/23
Applicant Address	20 Pickering Street, 2nd Floor, Needham, MA 02492				
Phone	781-449-9000	email	jhennessey@nefacilities.net		
Applicant is ☒ Owner; ☐ Tenant; ☐ Purchaser; ☐ Other _____					
If not the owner, a letter from the owner certifying authorization to apply must be included					
Representative Name	Evans Huber, Esquire				
Address	Frieze Cramer Rosen & Huber LLP, 62 Walnut St., Suite 6, Wellesley, MA 02481				
Phone	781-943-4000	email	eh@128law.com		
Representative is ☒ Attorney; ☐ Contractor; ☐ Architect; ☐ Other _____					
Contact ☒ Me ☐ Representative in connection with this application.					

Subject Property Information

Property Address	145 Rosemary Street, Needham, MA 02492		
Map/Parcel Number	Map 101, Parcel 2	Zone of Property	Industrial and SRB
Is property within 100 feet of wetlands, 200 feet of stream or in flood Plain? ☐ Yes ☒ No			
Is property ☐ Residential or ☒ Commercial			
If residential renovation, will renovation constitute "new construction"? ☐ Yes ☐ No N/A			
If commercial, does the number of parking spaces meet the By-Law requirement? ☐ Yes ☒ No			
Do the spaces meet design requirements? ☐ Yes ☒ No			
Application Type (<i>select one</i>): ☒ Special Permit ☐ Variance ☐ Comprehensive Permit ☐ Amendment ☐ Appeal Building Inspector Decision			



ZBA Application For Hearing

Existing Conditions: The property is a parcel containing approximately 220,311 s.f. and contains a multi-tenanted office building of approximately 86,269 s.f. of floor area, a parking area containing 311 parking spaces and associated landscaping.

Statement of Relief Sought: Waiver of the requirement of strict compliance with the number of parking spaces required by the bylaw. Also, waiver of the requirement of compliance with sections 5.1.3 (a); (i); (j); (k); (1). See also Exhibit A attached hereto and letter dated December 19, 2022 filed herewith.

Applicable Section(s) of the Zoning By-Law:

5.1.1.5; 5.1.2; 5.1.3; 7.5.2.

If application under Zoning Section 1.4 above, list non-conformities:

	Existing Conditions	Proposed Conditions
Use		
# Dwelling Units		
Lot Area (<i>square feet</i>)		
Front Setback (<i>feet</i>)		
Rear Setback (<i>feet</i>)		
Left Setback (<i>feet</i>)		
Right Setback (<i>feet</i>)		
Frontage (<i>feet</i>)		
Lot Coverage (%)		
FAR (<i>Floor area divided by the lot area</i>)		
<i>Numbers must match those on the certified plot plan and supporting materials</i>		



ZBA Application For Hearing

Date Structure Constructed including additions:
Unknown/N/A. No relief is requested on the basis that
the lot or structure is pre existing non conforming

Date Lot was created:
Same

Submission Materials	Provided
Certified Signed Plot Plan of Existing and Proposed Conditions (Required)	X
Application Fee, check made payable to the Town of Needham Check holders name, address, and phone number to appear on check and in the Memo line state: "ZBA Fee – Address of Subject Property" (Required)	X
If applicant is tenant, letter of authorization from owner (Required)	N/A
Electronic submission of the complete application with attachments (Required)	X
Elevations of Proposed Conditions (when necessary)	N/A
Floor Plans of Proposed Conditions (when necessary)	N/A

Feel free to attach any additional information relative to the application.
Additional information may be requested by the Board at any time during the
application or hearing process.



I hereby request a hearing before the Needham Zoning Board of Appeals. I have
reviewed the Board Rules and instructions.

I certify that I have consulted with the Building Inspector 04/11/2023

date of consult

Date: 04/21/2023

Applicant Signature

Evans Huber, counsel for Applicant

*An application must be submitted to the Town Clerk's Office at
townclerk@needhamma.gov and the ZBA Office at dcollins@needhamma.gov*

EXHIBIT A

EIP Rosemary LLC Application for Hearing On Special Permit 145 Rosemary Street

Statement of Relief Sought

The Applicant requests a Special Permit pursuant to Section 5.1.1.5 of the Zoning By-Law to waive strict adherence to the off-street parking requirements of Sections 5.1.2 and 5.1.3 of the Zoning By-Law.

The property is a parcel of approximately 220,311 sq. ft. and contains a multi-tenanted office building with 86,269 sq. ft. of floor area, a parking area now containing 311 parking spaces, and associated landscaping. The tenants are a mixture of regular office and medical office uses. The property has been the subject of multiple special permits, seeking waivers of the parking requirements as set forth in the Bylaw, based on the proposed uses and the then-existing mix of uses throughout the property at various times. See Needham Pediatrics, PC Decision dated June 19, 2012, Beth Israel Deaconess Hospital-Needham, Inc. Decision dated August 12, 2012, Steward Medical Group, LLC Decision dated January 17, 2013, Boston ENT Associates, P.C. Decision dated December 19, 2013, Daniel M. Rutowicz DPM, P.C. Decision dated February 26, 2015, Harvard Medical Faculty Physicians at Beth Israel Medical Center, Inc., d/b/a Needham Urology Associates Decision dated May 17, 2018, and Pediatric Dental Specialists of Needham Decision dated February 28, 2019.

The parking supply at this property was last considered by this Board in early 2023. (Decision regarding Wellesley Family Care and Ortho Boston, dated January 19, 2023.) At that time a Special Permit was approved which waived strict adherence to the Bylaw parking requirements, based on the proposed use by Wellesley Family Care and Ortho Boston of certain office space as medical offices, and aggregate uses at the property of 40,628 s.f. of general office space and 45,641 s.f. of medical office space. Per the Bylaw, such uses in the aggregate required 364 spaces at the property (as compared to the then-existing parking supply of 284 spaces). Thus the delta between the available parking supply and the parking supply required by the Bylaw, at the time of that approval, was 80 spaces.

Since that time, Applicant has re-striped a portion of its existing parking area to increase the parking supply on site by 27 spaces. As shown on the site plan filed herewith, this was done without creating any new non-conformities with the design requirements of Section 5.1.3 of the Bylaw. Thus, the available parking supply onsite is now 311 spaces.

As shown on the table, below, Applicant proposes that Wellesley Family Care (which already occupies Unit C2 and a portion of Unit C1A) also occupy the remainder of Unit C1A (4,018 s.f.) At the time of the last Special Permit, this additional space was treated as general office space. The proposed change in use

for this 4,018 s.f., as shown in the table below in **bold**, is from general office space (parking requirement one space per 300 sq. ft.) to medical office space (parking requirement one space per 200 sq. ft.), and results in an increase of seven (7) spaces in the parking requirement, for a total required parking supply of 371 spaces, based on the Bylaw.

Importantly, as a result of the re-striping onsite, and the net increase of 27 spaces, the delta between the available parking supply and the calculated parking demand per the bylaw, even if this special permit is approved, has **decreased to 60 spaces**. In other words, even with the proposed expansion of Wellesley Family Care into an additional 4,018 s.f. of space previously permitted as general office space, the difference between the calculated demand (per the Bylaw) and the available supply will be better, by 20 spaces, than the last time this Board approved a Special Permit for the site, in January 2023.

The total square footage of the building remains the same and no exterior changes to the building are proposed.

Bylaw Parking Requirements
Based On Updated Tenant Roster & Current and Proposed (**in bold**) Usage
As Of April 21, 2023

Unit	Lease Name	Area (s.f.)	Use	Requirement
A	Bierman, ABA, Inc.	11,044	Office	1/300
B	Dan M. Rutowicz, DPM, P.C.	3,071	Medical Office	1/200
B2	Combined with C1B space	0	Office	1/300
C1A	Wellesley Family Care	2,168	Medical Office	1/200
C1A	Proposed: Wellesley Family Care	4,018	Medical Office	1/200
C1B	Children's Speech and Feeding	4,043	Office	1/300
C2	Wellesley Family Care	7,273	Medical Office	1/200
D1-A,D3	Lily Transportation	5,433	Office	1/300
D2-A	Lily Transportation	6,665	Office	1/300
D2-B	Needham Urology Associates	6,800	Medical Office	1/200
E	Vacant	7,685	Office	1/300
H1	Boston ENT Associates, P.C.	4,493	Medical Office	1/200
H2	Combined with K1	0	Office	1/300
K1	Pediatric Dental Specialists of Needham	3,088	Medical Office	1/200
K2	Ashworth Mortgage	1,740	Office	1/300
D1-B	BID-Needham, Inc.	7,722	Medical Office	1/200
F3-K3	Needham Pediatric	7,764	Medical Office	1/200
I	Ortho Boston	3,262	Medical Office	1/200

Use	Area (sq.ft)	Requirement	Total Spaces Required
Office	36,610	1/300	122
Medical Offices	49,659	1/200	248.3
Total Parking Requirement (rounded up)	86,269		371

The parking evaluation conducted by MDM Transportation Consultants, Inc. ("MDM") and filed with this Application summarizes its analysis and conclusions as follows: "projected peak parking demands at the site including infill of general office and medical office vacancies and the proposed conversion of 4,018 sf of general office use to medical office use results in a projected peak parking demand on the campus of between 268 (empirical methodology) and 273 spaces (ITE methodology). Relative to existing observed Campus parking activity, this leaves a surplus parking supply of at least 38 spaces at the Campus. This surplus parking supply will accommodate a relatively wide fluctuation in peak parking demands. Therefore, the Campus parking supply of 311 spaces more than satisfies the peak parking demands generated by existing and proposed building tenants."

Wellesley Family Care is a general family medical practice and currently occupies 9,441 s.f. of space at the property. Currently it has 28 employees at this site and sees approximately 60 to 80 patients per day. Hours of operation are Monday to Friday 6:00 a.m. to 7:00 p.m. for employees and 7:00 a.m. to 6:30 p.m. for patient appointments.

With respect to the proposed expansion into an additional 4,018 s.f. of space, it is anticipated that the space will be used for four (4) new exam rooms, as well as offices, storage, restrooms, and conference areas. WFC's phlebotomy work will also be expanding. Staff will increase by 5, and WFC expects to serve approximately 20 additional patients per day. Hours of operation will not change.

Under the Zoning Bylaw, the additional 4,018 square feet of space that Wellesley Family Care proposes to expand into would require $4,018 \div 200 = 20.09$ spaces; rounded up that would require 21 spaces. Even if all 5 additional employees overlap in such a way that at some point during the day 5 of those spaces were used by the additional employees at the same time, that would still leave 16 spaces for patients, which is clearly more than is needed for a practice seeing an additional 20 patients over the course of a 11½ hour day.

These actual operational details for Wellesley Family Care's proposed use of the additional 4,018 s.f. of space are consistent with the overall MDM analysis set forth in its report filed herewith; namely, that the actual parking demand for this mix of uses at this property is well below that specified in the Bylaw, and below the actual parking supply at the property.



Town of Needham
Building Department
500 Dedham Ave.
Needham, MA 02492

Tel. 781-455-7550 x 308

May 9, 2023

Town of Needham / Zoning Board of Appeals
500 Dedham Ave.
Needham, MA. 02492

Re: Application review for the December Hearing

145 Rosemary Street

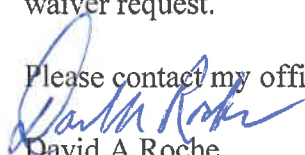
Dear Board Members,

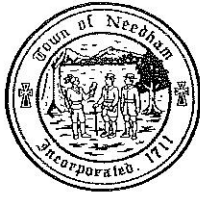
The applicant EIP Rosemary LLC is seeking parking waivers under sections 5.1.1.5; 5.1.2; 5.1.3; 7.5.2 of the Town of Needham Zoning By-Law to allow medical office space replacing existing general office space. Since the last Special Permit issued to the applicant for Wellesley Family Care the owner has restriped the parking lot which originally had **284** spaces added **27** spaces for a total of **311** available parking spaces. I have reviewed the traffic study provided by MDM Transportation Consultants and it appears that they have provided detailed parking counts and demands including all the uses in the building and how the projected parking counts will work.

The parking demands seem to spike between the hours of 9:30 – 12:00 in the morning and 1:30 – 4:00 in the afternoon with parking averages of around 270 spaces occupied using a couple of different methodologies. Using these numbers there seems to be a surplus of parking during peak parking demand, therefore I agree with the expansion of Wellesley Family Care into the additional office space.

As I have stated in previous meetings the applicant has been before the board for similar changes in the past and I believe that they manage the site well. The Building Department to date has never received any complaints about the parking on the site or on the surrounding streets and town owned properties. Therefore, based on the new report submitted, I have no issues with the waiver request.

Please contact my office with any questions.


David A Roche
Building Commissioner
Town of Needham



**TOWN OF NEEDHAM, MASSACHUSETTS
PUBLIC WORKS DEPARTMENT
500 Dedham Avenue, Needham, MA 02492
Telephone (781) 455-7550 FAX (781) 449-9023**

May 9, 2023

Needham Zoning Board of Appeals
Needham Public Safety Administration Building
Needham, MA 02492

RE: Case Review-Special Permit
145 Rosemary Street- Special Permit

Dear Members of the Board,

The Department of Public Works has completed its review of the above referenced Special Permit to waive adherence to the of street parking requirements of Section 5.1.2 of the zoning By-Law (number of spaces) and relief from Section 5.1.3 Zoning By-law (parking plan and design requirements. The Applicant has requested relief from section 5.1.3(a) parking lot illumination, section 5.1.3(i) width of maneuvering angles, section 5.1.3(j) parking setbacks, section 5.1.3(k) landscaping areas, and section 5.1.3(l) trees.

The documents submitted for review are as follows:

- Cover Letter prepared by Frieze Cramer Rosen & Hubber LLP, dated 4/21/2023
- Support Memo prepared by Frieze Cramer Rosen & Hubber LLP, dated 4/21/2023
- Application for Special Permit dated 4/21/23
- Exhibit A; Statement of Relief Sought by EIP Rosemary LLC
- Site Plan C1.0 prepared by Level Design Group, dated 4/13/2023
- Parking Study prepared by MDM Transportation Consultants dated 4/20/2023
- ITE Parking Data LUC710 (General Office Building & LUC720 (Medical-Dental Office Building)
- Empirical (Observed) Parking Data for 145 Rosemary Street dated 3/1/2023 and 3/2/2023

Our comments and recommendations are as follows:

- After reviewing the proposal given the existing conditions, we have no objection or comment to the relief.

If you have any questions regarding the above, please contact our office at 781-455-7538.

Truly yours,

Thomas A Ryder
Town Engineer

Daphne Collins

From: John Schlittler
Sent: Tuesday, May 9, 2023 11:04 AM
To: Daphne Collins
Subject: RE: 145 Rosemary Street - ZBA Administrative Review due May 9, 2023

Police Department has no issue

From: Daphne Collins <dcollins@needhamma.gov>
Sent: Tuesday, May 9, 2023 11:00 AM
To: David Roche <droche@needhamma.gov>; David Roche <droche@needhamma.gov>; Thomas Ryder <tryder@needhamma.gov>; Justin Savignano <jsavignano@needhamma.gov>; John Schlittler <JSchlittler@needhamma.gov>; Tom Conroy <TConroy@needhamma.gov>; Tara Gurge <TGurge@needhamma.gov>
Subject: FW: 145 Rosemary Street - ZBA Administrative Review due May 9, 2023

Hi All
Friendly reminder – ZBA Review for 145 Rosemary Street due today.
Thank you,
Daphne

Daphne M. Collins

Zoning Specialist

Phone 781-455-7550, x 261

Web <https://www.needhamma.gov/>

<https://needhamma.gov/1101/Board-of-Appeals>

www.needhamma.gov/NeedhamYouTube

Town of Needham
Planning and Community Development
500 Dedham Avenue
Needham, MA 02492

Regular Office Hours: Mon-Wed 8:30am – 5:00pm

Remote Hours: Thurs 8:30am-5:00pm

From: Daphne Collins
Sent: Tuesday, April 25, 2023 2:03 PM
To: David Roche <droche@needhamma.gov>; Thomas Ryder <tryder@needhamma.gov>; Justin Savignano <jsavignano@needhamma.gov>; John Schlittler <JSchlittler@needhamma.gov>; Tom Conroy <TConroy@needhamma.gov>; Tara Gurge <TGurge@needhamma.gov>
Subject: 145 Rosemary Street - ZBA Administrative Review due May 9, 2023

Good Afternoon All-

145 Rosemary Street – EIP Rosemary, LLC**, applicant, is seeking a Special Permit for waivers from strict adherence to parking numbers and parking design requirements. This request is associated with Wellesley Family, a medical office use, which will be occupying (4,018 s.f.) units formerly occupied for general office use.

Attached please find the application with its associated back-up documents for your information and review.



RECEIVED TOWN CLERK
NEEDHAM, MA 02492
2023 JAN 30 PM 2:02

**TOWN OF NEEDHAM
MASSACHUSETTS
BOARD OF APPEALS
SPECIAL PERMIT**

***EIP Rosemary, LLC, applicant
145 Rosemary Street
Map 101, Parcel 2***

January 19, 2023

EIP Rosemary, LLC applied to the Board of Appeals for a Special Permit under Sections 5.1.1.5, 5.1.2, 5.1.3 and any other applicable Sections of the By-Law to waive strict adherence to the off-street parking number and parking design requirements. This request is associated with Wellesley Family Care and Ortho Boston, a medical office use, which will be occupying units formerly occupied for general office use. The property is located at 145 Rosemary Street, Needham, MA in the Industrial (IND) and Single Residence B (SR-B) District. A public hearing was held remotely on Zoom, on Thursday, January 19, 2023 at 7:30 p.m.

Documents of Record:

- Application for Hearing, Clerk stamped December 20, 2022.
- Letter prepared by Evans Huber, SFC, dated December 19, 2023.
- Parking Evaluation prepared by MDM Transportation Consultants, Inc., stamped by Robert J. Michaud Registered Professional Engineer, dated December 13, 2022.
- Site Plan, C-2.0, prepared by Level Design Group, stamped by Dan Campbell Registered Professional Engineer, dated June 7, 2012.
- Email from Chief John Schlittler, Police Department, Chief John Schlittler, January 10, 2023.
- Email from Dave Roche, Building Commissioner, January 10, 2023.
- Email from Chief Tom Conroy, Fire Department, September 2, 2022.
- Email from Tara Gurge, Assistant Health Director, December 20, 2022.
- Letter from Lee Newman, Director, Planning and Community Development, January 3, 2022.
- Letter from Thomas A. Ryder, Town Engineer, January 10, 2023.

January 19, 2023

The Board included Jon D. Schneider, Chair; Jonathan D. Tamkin, Vice-Chair, and Howard Goldman, Member. Peter Friedenberg and Nik Ligris, Associate Members, were also in

attendance. Mr. Schneider opened the hearing at 7:30 p.m. by reading the public notice.

Evans Huber, attorney representing the applicant, introduced the attending team: John Hennessey; Matt Chakalis; Dan Dumais; Robert Michaud; Bruce Levine; Jen Snider; and Tim Hartshorn.

Mr. Huber noted that 145 Rosemary was a large multi-tenant office/medical building containing 84,269 square feet with a parking lot of 284 spaces. Since 2019, when the last Decision was granted (*Special Permit-February 28, 2019*), there have been significant vacancies. Ortho Boston and Wellesley Family Care propose to occupy vacant space previously occupied for general office use.

Wellesley Family Care will be moving into Unit C1A occupying 2,168 square feet previously used for general office and Ortho Boston will be moving into Unit I occupying 3,262 square feet previously used for general office. This combined 5,430 square feet will now be used as medical office space with a higher parking number calculation under the By-Law of one space per 200 square feet. This increases the parking requirement by 9 spaces for a total of 364 spaces.

There are no exterior changes to the building proposed and there will be no changes proposed to the parking lot. Furthermore, the requested parking design waivers remain unchanged from those previously granted.

Mr. Dumais, Senior Parking Consultant for MDM Transportation Consultants, Inc, reported that MDM has prepared nine previous parking evaluations at the property.

He detailed that MDM conducted a parking survey of the 284 spaces parking lot on Tuesday, November 1, 2022 and Thursday, November 3, 2022, gathering hourly data between 8:00 a.m. and 6:00 p.m. to identify parking trends. Results indicated a peak usage of 178 spaces on Tuesday and a peak usage of 161 spaces on Thursday. The observed parking condition provided a demand ratio of 2.72 spaces per 1,000 square feet of occupied space.

When using the Institute of Transportation Engineers (ITE) methodology to calculate the most conservative parking use for the existing tenancy, the re-tenancy of the vacant office use, and the re-tenancy of the medical use plus the proposed new medical office use, MDC estimated a parking demand of 261 spaces. This is well below the available 284 parking spaces. Having 5% to 10% available spaces is a comfortable margin to meet the parking need.

Mr. Goldman asked about the ADA compliance. Mr. Hennessey responded that there were handicapped compliant spaces by every entrance with appropriate available number of handicapped spaces. The Building Commissioner has not identified any non-compliance.

Mr. Ligris asked about the total vacancy at the building. Mr. Huber responded that currently there is 17,133 square feet of vacant office space and 4,011square feet of vacant medical office space. Once the Wellesley Family Care and Ortho Boston expand into the available vacant office space there will be 11,703 square feet office space vacant and 4,011square feet medical office space vacant.

Comments were received from:

- The Building Commissioner noted that there have been no complaints about the on-site parking from abutters. He had no issues with the parking waivers requested.
- The Police Department had no issues.
- The Engineering Department had no objections.
- The Planning Board had no comment.
- The Health Department had no comment.

Mary Ellen DeWinter, 100 Rosemary Way, asked if the applicant considered the increase summer traffic from the Rosemary Recreation Complex, and the traffic generated by the Senior Center and Needham Community Council on Hillside Avenue. She asked if the complex was ADA compliant and whether any parking would be on the street. Mr. Schneider informed her that the applicant's parking lot was ADA compliant and that all the parking was on-site.

Mr. Tamkin was supportive of the waivers. Based on MDM parking evaluations and their previous nine studies, he was assured that there was adequate parking to meet the need. He did have concerns with the demand for parking spaces if general office space continues to be leased for medical use over time.

Mr. Goldman was in support of granting the waiver for parking number as the applicant had demonstrated there was enough parking. He was also in support of granting the parking design waiver as there were no proposed changes to the lot.

Mr. Goldman moved to grant a Special Permit under Sections 5.1.1.5, 5.1.2, 5.1.3 and any other applicable Sections of the By-Law to waive strict adherence to the off-street parking number and parking design requirements, associated with Wellesley Family Care and Ortho Boston occupying units formerly occupied for general office use, as presented in the plans and study submitted. Mr. Goldman seconded the motion. The motion was unanimously approved.

The meeting adjourned at 8:00 p.m.

Findings:

Based on the evidence presented at the hearing, the Board makes the following findings:

1. The applicant is the owner of an 86,269 square foot office building with a mix of tenants located in the Industrial and Single Residence B Zoning Districts. The parcel currently has 284 marked parking spaces.
2. The applicant proposes to lease 9,441 square feet to Wellesley Family Care and 3,262 square feet to Ortho Boston, both of which will be for medical office use. The space to be leased to Ortho Boston and 2168 square feet of the space to be leased to Wellesley Family Care were previously leased for general office use. Under the By-law, medical office use requires 1 parking space for every 200 square feet while general office use requires 1 parking space for every 300 square feet. These new tenants require nine more spaces than the previous mix of tenants therefore imposing a need for parking waivers.
3. With the addition of these new tenant, the building requires 364 parking spaces under the By-law while there are only 284 spaces on the premises The Board has previously

waived parking requirements for this property on several occasions upon similar conversions from general office to medical office use based upon evidence that the actual use was far less than what was required by the By-law.

4. The Parking Evaluation dated December 13, 2022 submitted with the application concludes using industry standard (ITE) methodology that the projected peak parking demand for the building assuming occupancy by the new tenants and general office use for the vacant space is 261 parking spaces. There is an available parking supply of 284 parking spaces resulting in a projected parking surplus of 23 parking spaces
5. The Parking Evaluation dated December 13, 2022 also measured the actual peak parking demand of the property as observed onsite on November 1, 2022 and November 3, 2022. The peak parking demand was at 11:00 am on November 1, 2022 with 178 parked vehicles. Assuming that the vacant space will require parking at the same ratio of floor space to parked vehicles as the current occupants, the projected parking demand of a full building will be 239 spaces.
6. Based upon the Parking Evaluation submitted, there is adequate parking for the proposed occupancy by the two new tenants.
7. With respect to the applicant's request for waivers from Section 5.1.3, the applicant made the following representations:
 - Section 5.1.3(a) (Parking Lot Illumination) - no photometric study has been done by the applicant.
 - Section 5.1.3(i) (Width of Maneuvering Aisle) - there are numerous locations throughout the parking area that do not comply with this section due to the unique configuration of the property and the location of the building on the property.
 - Section 5.1.3(j) (Parking Setbacks) - the parking areas are within five feet of the building in multiple locations and within four feet of the side lot line along the northerly side of the structure.
 - Section 5.1.3(k) (Landscaped Areas) - the setback areas are not landscaped and the interior landscaped requirement is not met.
 - Section 5.1.3(l) (Trees) - requirement is not met.
8. Section 5.1.1.5 of the By-Law permits the Board of Appeals to grant a Special Permit to waive strict adherence to the requirements of Section 5.1.2 and/or Section 5.1.3 where the applicant demonstrates that a particular use, structure or lot, owing to special circumstances, does not warrant the number of parking spaces required by Section 5.1.2 and/or the application of certain design requirements contained in Section 5.1.3. The applicant is making no exterior changes to the building and no changes to the existing parking. Based upon the evidence presented, the representations made by the applicant and the submitted Parking Evaluation, the Board finds that there are special circumstances justifying the waiver of certain design requirements and the waiver of the required number of parking spaces.
9. The Board finds that the issuance of the Special Permit will not be detrimental to the Town or to the general character and visual appearance of the surrounding neighborhood and abutting uses and is consistent with the intent of the Zoning By-Law.

Decision:

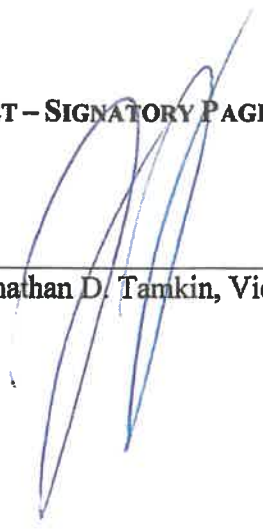
On the basis of the foregoing findings, following motion duly made and seconded, after open deliberation, the Board, by unanimous vote, grants the applicant a Special Permit pursuant to Section 5.1.1.5 of the By-Law waiving strict adherence to the requirements of Section 5.1.2 and Sections 5.1.3(a), (i), (j), (k), and (l) of the By-Law in connection with the proposed tenancy of 9441 square feet by Wellesley Family Care and 3,262 square feet by Ortho Boston.

145 ROSEMARY STREET SIGNATORY PAGE



Jon D. Schneider, Chair

145 ROSEMARY STREET – SIGNATORY PAGE



Jonathan D. Tamkin, Vice-Chair

145 ROSEMARY STREET – SIGNATORY PAGE



Howard S. Goldman, Member



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**TOWN OF NEEDHAM
MASSACHUSETTS
BOARD OF APPEALS**

SPECIAL PERMIT

***AnnaMarie DeFeo, DDS, d/b/a Pediatric Dental Specialists of Needham, applicant
Rosemary Office Associates Limited Partnership, owner
145 Rosemary Street
Map 101, Parcel 2***

February 28, 2019

AnnaMarie DeFeo, DDS, d/b/a Pediatric Dental Specialists of Needham, applicant, has made application to the Board of Appeals for a Special Permit under Sections 5.1.1.5, 5.1.2, 5.1.3, 7.5.2, and any other applicable Sections of the By-Law. The applicant seeks a Special Permit pursuant to Section 5.1.1.5 to waive strict adherence to the off-street parking requirements of Sections 5.1.2 and 5.1.3. The applicant proposes to lease approximately 3,088 square feet of first floor space in the building for medical office use. The property is located at 145 Rosemary Street, Needham, MA in the Single Residential B District and Industrial Zoning District. A public hearing was held in the Select Board Chambers, Needham Town Hall, 1471 Highland Avenue, Needham, MA, on Thursday, February 28, 2019 at 8:00 p.m.

Documents of Record:

1. Application for Hearing, dated January 29, 2019, Clerk stamped January 29, 2019.
2. Cover letter from Roy A. Cramer, dated January 29, 2019.
3. Letter to ZBA from Roy A. Cramer, dated January 29, 2019.
4. Site Plan, C-2.0 prepared by Level Design Group, stamped by Daniel Campbell, Civil Engineer, dated June 7, 2012.
5. Parking Evaluation – 145 Rosemary Street (Suite K1), prepared by MDM Transportation Consultants, Inc., dated January 8, 2019.
6. Comment Letter, David Roche, Building Commissioner, dated February 20, 2019.
7. Comment Letter, Thomas Ryder, Assistant Town Engineer, dated February 11, 2019.
8. Comment email, Tara Gurge, Assistant Public Health Director, dated January 8, 2019.
9. Comment Letter, Lee Newman, Director of Planning and Community Development Department, Planning Board, dated February 20, 2019.
10. Comment email, Dennis Condon, Chief of Department, dated February 21, 2019.
11. Comment email, Lt. John Kraemer, Police Department, dated February 19, 2019.

February 28, 2018

The Board included Jonathan D. Tamkin, Vice Chair; Howard S. Goldman, Member; and Kathy Lind Berardi, Associate Member.

Mr. Tamkin opened the hearing at 8:07 p.m. by reading the public notice.

Roy Cramer, attorney representing the applicant, informed the Board that the proposal does not seek to make any changes to the parking area or to the exterior of the building. The applicant proposes to lease 3,088 square feet of first floor space for pediatric dental use. Currently the space is being used for office space that has an off-street parking requirement of one space per 300 square feet of floor area. Medical office use has a requirement of one space per 200 square feet of floor area. The waiver request, therefore, is for an additional five parking spaces.

Mr. Cramer explained that the typical appointment for pediatric dental services is about 30 minutes and appointments are scheduled every 45 minutes. Dr. DeFeo's office will have three treatment rooms with one dentist, one professional assistant and two office staff (for a total of three employees). The long-term growth goal for the practice will be two dentists, four professional assistants and two office staff. One treatment room is planned for multiple chairs to accommodate sibling patients.

Mr. Tamkin read the comments received:

- The Planning Board made no comment.
- The Public Works Department had no comment or objection.
- The Building Commissioner had no comment.
- The Health Department had no comment.
- The Police Department had no comment.
- The Fire Department had no comment.

This is the seventh application seeking a special permit for parking relief at the property. Each time MDM Transportation Consultants, Inc. has conducted a parking evaluation to confirm that the parking demand for the medical and other uses do not exceed the parking capacity. The last three Special Permits issued were for Needham Urology Associates in 2018; Daniel M. Rutowitz, DPM in 2015; and Stewart Medical Group in 2013.

Robert Michaud, P.E., Managing Principal at MDM Transportation Consultants, Inc., reported that a parking survey was conducted of the parking activity for the vacant office space in Suite K1. The building has two access points on Hillside Avenue and Rosemary Street. The applicant's office will be located in Suite K, which is most easily accessed from the Rosemary Street entrance. The survey was conducted on December 11 and 12, 2018 from 8:00 a.m. to 6:00 p.m. The results of the study demonstrated that 11:00 a.m. was the peak parking demand period at 217 parked vehicles. For the parking area closest to Suite K, there was a utilization rate of 58% with nearly 30 vacant spaces during the peak parking period. Mr. Goldman inquired as to the cause of this vacancy. Mr. Michaud stated that the vacancy occurs because utilization of spaces is associated with the proximity to the location of office appointments. The only office vacancy in the complex is Suite K. The rest of the complex was fully occupied when the survey was conducted.

In the application submitted to the Board, the applicant requested office hours of 8:00am-6:00pm Monday through Saturday. The applicant anticipates that the busiest hours will be 3:00pm-5:00pm Monday through Friday and from 8:00am-12:00pm on Saturdays.

Mr. Michaud reported that there are 284 marked spaces at the complex. Mr. Tamkin noticed that the report identified 283 spaces. Mr. Michaud and Mr. Cramer confirmed that the correct number of marked spaces was 284. The discrepancy was a typo carried over from the previous report conducted for the Needham Urology Associates.

Mr. Tamkin inquired about the impact on parking if the largest office tenant were to vacate. John Hennessey, representative for the property owner, said that the parking studies are done to document the parking utilization corresponding to tenant use. If Rodman Insurance Associates, the largest office use tenant, were to vacate the likely replacement would be another office use so there would be no increase in the parking requirements.

In addition to the survey, the parking demand was calculated using the more conservative Institute of Transportation Engineers' (ITE) standards. These standards suggest a need for 231 spaces. Based on the available parking spaces of 284, there is a projected surplus of 53 parking spaces.

Mr. Michaud noted that the peak hour for the pediatric dental practice is between 3:00 p.m. to 5:00 p.m. on weekdays when the overall parking utilization on the campus is below peak demand.

Mr. Goldman asked about the snow storage. Mr. Hennessey responded that there is ample snow storage along the north and west sides beyond the parking area. If the snow amount exceeds the site's capacity, it is trucked out.

Mr. Tamkin opened the meeting for comments from the public. There were none. Mr. Tamkin closed the public portion of the Public Hearing.

Mr. Goldman was satisfied by how the applicant demonstrated the availability of excess parking and that there is plentiful snow removal storage outside of the parking area.

Mr. Tamkin questioned whether the number of staff was limited in prior special permits and whether the applicant would be open to a condition limiting staff parking to a maximum of eight and to be comprised of two dentists, four professional staff assistants and two office staff. Mr. Cramer was agreeable to such a condition. Mr. Cramer identified that patient capacity is based on the number of treatment rooms, not square footage.

Mr. Goldman moved to grant a Special Permit to obtain a waiver of off-street parking requirements and strict adherence to the design requirements established in the By-Laws associated with the occupancy of a pediatric dental practice with the condition that the practice be limited to no more than eight staff members comprised of two dentists, four dental professional assistants and two office support personnel. The Special Permit will include a finding that the total parking requirement for the current tenants and the applicant is 355 parking spaces, 5 spaces more than the current requirement of 350 parking spaces and that the existing parking supply is 284 marked spaces. Ms. Berardi seconded the motion. The motion

was unanimously approved.

The meeting adjourned at 8:37 p.m.

Findings:

Based on the evidence presented at the hearing, the Board makes the following findings:

1. The applicant, AnnaMarie DeFeo d/b/a Pediatric Dental Specialists of Needham, intends to lease a vacant office space of 3,088 square feet in the building located at 145 Rosemary Street for medical office use.
2. This building is an existing multi-tenant, 86,269 square foot office building, located in the Industrial and Single Residence B Zoning Districts, and currently has 284 marked parking spaces.
3. The applicant requests a Special Permit pursuant to Section 5.1.1.5 of the Zoning By-Law to waive strict adherence to the requirements of Section 5.1.2 (Required Parking) and 5.1.3 (Parking Plan and Design Requirements).
4. With respect to the requested waiver from the requirements of Section 5.1.2, the applicant represented to the Board that the 3,088 square feet of space that the applicant plans to lease was previously used as general office space, which resulted in 11 required parking spaces ($3,088/300 = 10.29$ spaces, rounded up to 11 spaces). The applicant's proposed change to medical office will result in a parking requirement of 1 parking space per 200 square feet of office space, for a total requirement of 16 parking spaces ($3,088/200 = 15.44$ spaces rounded up to 16 spaces). The medical office use, therefore, increases the parking requirement by 5 parking spaces. The required number of parking spaces for the entire premises under the By-Law is 355 parking spaces, inclusive of the applicant's medical office use.
5. The Parking Evaluation submitted by the applicant concludes that the projected peak parking demand for the building, using industry standard (ITE) methodology, is 231 parking spaces (including the applicant's medical office use). The available parking supply of 284 parking spaces therefore results in a projected peak parking surplus of 53 parking spaces. The Parking Evaluation further concludes that using an empirical based calculation of parking needs, there is a peak parking demand of 227 spaces, resulting in a peak parking surplus of 57 parking spaces.
6. The Parking Evaluation also measured the actual peak parking demand of the property as observed onsite on December 11, 2018 and December 12, 2018. The current peak parking demand occurs weekdays at 11:00 am with 217 parked vehicles. This leaves a surplus of approximately 67 parking spaces. Additionally, the Parking Evaluation demonstrated that 30 of the parking spaces that were vacant during the observed peak parking demand are closest to the entrance of the proposed dental office.
7. The applicant proposes to have, at most, eight employees comprised of two dentists, four professional assistants and two office support personnel. The applicant plans to

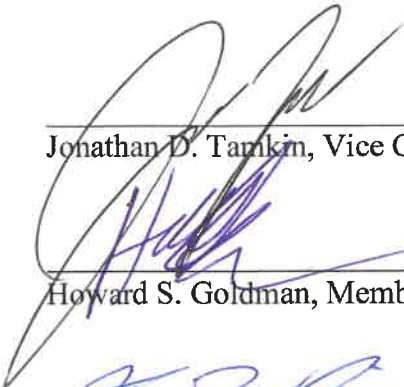
have office hours within the hours of 8:00am-6:00pm Monday through Friday. The anticipated peak office hours are from 3:00-5:00pm Monday through Friday and from 8:00am-12:00pm on Saturdays. Accordingly, the anticipated peak office hours do not coincide with the observed peak parking demand at 11:00am on weekdays.

8. Based upon the Parking Evaluation submitted by the applicant, the applicant's proposed staffing, and the anticipated peak office hours, the Board finds that there currently is adequate parking for the proposed use by the applicant.
9. With respect to the applicant's request for waivers from Section 5.1.3, the applicant made the following representations:
 - Section 5.1.3(a) (Parking Lot Illumination)- no photometric study has been done by the applicant.
 - Section 5.1.3(i) (Width of Maneuvering Aisle)- there are numerous locations throughout the parking area that do not comply with this section due to the unique configuration of the property and the location of the building on the property.
 - Section 5.1.3(j) (Parking Setbacks)- the parking areas are within five feet of the building in multiple locations and within four feet of the side lot line along the northerly side of the structure.
 - Section 5.1.3(k) (Landscaped Areas)- the setback areas are not landscaped and the interior landscaped requirement is not met.
 - Section 5.1.3(l) (Trees)- requirement is not met.
10. Section 5.1.1.5 of the By-Law permits the Board of Appeals to grant a Special Permit to waive strict adherence to the requirements of Section 5.1.2 and/or Section 5.1.3 where the applicant demonstrates with a parking plan prepared and reviewed in accordance with the provisions of Section 5.1.3 that a particular use, structure or lot, owing to special circumstances, does not warrant the number of parking spaces required by Section 5.1.2 and/or the application of certain design requirements contained in Section 5.1.3. Based upon the evidence presented, the representations made by the applicant and the submitted Parking Evaluation, the Board finds that there are special circumstances justifying the waiver of certain design requirements and the waiver of the required number of parking spaces. The current number of parking spaces located on the premises is sufficient for the use of the applicant and its patrons.
11. The Board finds that the issuance of the Special Permit will not be detrimental to the Town or to the general character and visual appearance of the surrounding neighborhood and abutting uses and is consistent with the intent of the Zoning By-Law.

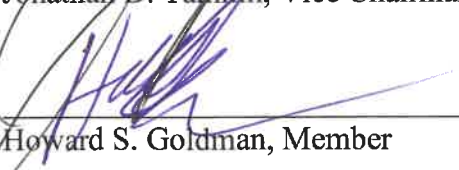
Decision:

On the basis of the foregoing findings, following motion duly made and seconded, after open deliberation, the Board, by unanimous vote, grants the applicant a Special Permit pursuant to Section 5.1.1.5 of the By-Law waiving strict adherence to the requirements of Section 5.1.2 and Sections 5.1.3(a), (i), (j), (k), and (l) of the By-Law in connection with the applicant's proposed tenancy of 3,088 square feet of the building located at 145 Rosemary Street,

Needham, on the condition that the practice be limited to no more than eight staff members comprised of two dentists, four dental professional assistants and two office support personnel.



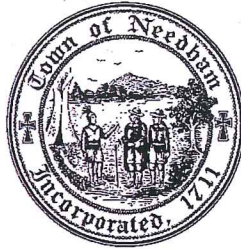
Jonathan D. Tamkin, Vice Chairman



Howard S. Goldman, Member



Kathy Lind Berardi, Associate Member



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**TOWN OF NEEDHAM
MASSACHUSETTS
BOARD OF APPEALS**

SPECIAL PERMIT

***Harvard Medical Faculty Physicians at Beth Israel Deaconess Medical Center, Inc.
d/b/a Needham Urology Associates
Record owner: Rosemary Office Associates, LP
145 Rosemary Street, Map 101, Parcel 2***

May 17, 2018

Harvard Medical Faculty Physicians at Beth Israel Deaconess Medical Center, Inc. d/b/a Needham Urology Associates, applicant, has made application to the Board of Appeals for a Special Permit under Sections 5.1.1.5, 5.1.2, 5.1.3, 7.5.2, and any other applicable Sections of the Zoning By-law requesting to waive strict adherence of 350 parking spaces of off-street parking requirements to 284 spaces. The applicant proposes to lease 6,800 square feet of first floor space in an office building associated with medical use. The property is located at 145 Rosemary Street in the Industrial Zoning District and Single Residence B Zoning District. A public hearing was held on Thursday, May 17, 2018 pursuant to notice thereof published in a local newspaper and mailed to all parties of interest.

Documents of Record:

- Application for Hearing dated April 25, 2018, Clerk stamped April 26, 2018, containing:
 1. Exhibit A-Statement of Relief Sought
 2. Cover Letter prepared by Roy A. Cramer, attorney; Frieze Cramer Rosen & Huber, dated April 25, 2018.
 3. Letter prepared by Roy A. Cramer, attorney; Frieze Cramer Rosen & Huber, dated April 25, 2018.
 4. Existing Conditions C-1.0, Level Design Group, dated June 7, 2012; Daniel R. Campbell, Professional Engineer, stamped and dated April 19, 2018.
 5. Site Plan, C-2.0, Level Design Group, dated June 7, 2012; Daniel R. Campbell, Professional Engineer, stamped and dated April 19, 2018.
 6. Parking Evaluation-145 Rosemary Street (Suites D2-A & D2-B), prepared by MDM Transportation Consultants, Inc., dated April 24, 2018.
 7. Fire Department Comment - Email dated April 17, 2018.
 8. Health Department Comment - Email dated April 12, 2018.
 9. Building Department Comment - Letter dated April 18, 2018.
 10. Police Department Comment - Memo dated April 17, 2018.
 11. Planning Board Comment - Letter dated May 9, 2018.

May 17, 2018

The Board included Jon D. Schneider, Chairman; Howard S. Goldman, Member and Kathy Lind Berardi, Associate Member. Mr. Schneider opened the hearing at 8:49 p.m. by reading the public notice.

Roy A. Cramer, attorney for the applicant, reported that the applicant has offices at 100 West Street and plans to move to 145 Rosemary Street, which is a five-acre parcel, located at the corner of Hillside Avenue and Rosemary Street. The applicant will be leasing 6,800 square feet, for medical use, on the first-floor space in the multi-tenanted office complex, which has a total of 86,269 square feet of rental space.

Mr. Cramer noted that RCN, a long-standing tenant, will be vacating its 8,853 square feet rental space. Needham Urology will be occupying most of this vacated space, with the remaining 2,053 square feet to be occupied by Claims Trust, a current tenant who will be expanding. The only exterior work will be to make the entrance handicapped accessible.

Mr. Cramer reported that RCN was a manufacturing use, with a parking requirement of one space per 400 square feet of floor area. The applicant operates as a medical use, with a parking requirement of one space per 200 square feet of rental floor area. Claims Trust operates as an office use, with a requirement of one space per 300 square feet of rental floor area. These new use classifications will increase the parking requirement by 19 spaces. The parking requirement at the complex with these new tenants is 350 spaces while the available parking spaces are 284.

Mr. Cramer stated that applicant Needham Urology Associates has a staff of 13 workers. The applicant will be open from 8:00 a.m. to 6:00 p.m., with employees arriving at 7:30 a.m. The average patient visit is 45 minutes to an hour long. Dr. Stephen Eyre, Director of Needham Urology Associates, said that there is some surgery at the office location, but longer surgical procedures take place at Beth Israel Deaconess Hospital-Needham.

According to Mr. Cramer, based on a two-day traffic study conducted by MDM Transportation Consultants of the subject parking lot, the maximum use parking demand for the entire building, with current tenants, is 200 parking spaces. If you add the number of spaces that the By-law mandates for the new tenants, there was a surplus of 48 parking spaces.

Robert Michaud, Principal of MDM Transportation Consultants, reported that he has been studying this property since 2012. MDM conducted a two-day traffic study at the site. They determined that there is a maximum parking demand of 200 parking spaces. He noted that the data is solid since the building is fully occupied. The parking lot was observed and measured for two days to capture the normal daily fluctuations. The parking lot has a current total supply of 283 marked spaces serving the existing 86,269 square foot office building. One third of the complex is occupied by medical office uses. Available parking spaces shall increase to 284 parking spaces when the parking renovations are completed.

Mr. Michaud indicated that the peak usage for parking spaces was 200 at 11:00 a.m. on April 3, 2018, with a lower usage of 20 to 30 spaces at other times of the day. April 4th had a lower peak usage of 190 parking spaces. Using industry standards, MDM estimated a peak parking demand of 236 parking spaces once the new tenants were in place.

Mr. Schneider asked if the vacant parking was located near the space to be occupied by the new tenants. Mr. Michaud responded that 36 vacant spaces were available adjacent to the building at the 11:00 a.m. peak demand period.

Mr. Cramer noted that no comments were received from the Health, Police, Building and Fire Departments or from the Planning Board.

Mr. Schneider asked if there were any comments from the public. There were no comments from the public.

Mr. Goldman said that the applicant has shown that the actual parking demand was below the spaces required in the By-law and he was in support of the waiver. Ms. Berardi concurred.

Mr. Goldman moved to grant the applicant a Special Permit to waive strict adherence under Sections 5.1.1.5, 5.1.2, 5.1.3, 7.5.2, and any other applicable Sections of the Zoning By-law of 350 parking spaces of off-street parking requirements, and instead to provide for 284 parking spaces and associated waivers as described in the application. The waivers are associated with the lease of 6,800 square feet of medical office use by Needham Urology Associates and 2,053 square feet of general office use by Claims Trust, in the office building located at 145 Rosemary Street. Ms. Berardi seconded the motion. The motion was unanimously approved.

The meeting adjourned at 9:17 p.m.

FINDINGS

On the basis of the evidence presented at the hearing, the Board makes the following findings:

1. The applicant, Harvard Medical Faculty Physicians at Beth Israel Deaconess Medical Center, Inc. d/b/a Needham Urology Associates, intends to lease a vacant office space of 6,800 square feet of first floor space in the building located at 145 Rosemary Street for medical use. There is another tenant, Claims Trust, who shall occupy the remaining 2,053 square feet of vacant rental space, from the 8,853 of office space recently vacated.
2. This building is a multi-tenant, 86,269 square foot office complex, located in the Industrial and Single Residence B Zoning Districts, and currently has parking for 283 vehicles.
3. The applicant requests a Special Permit pursuant to Section 5.1.1.5 of the Zoning By-Law to waive strict adherence to the requirements of Section 5.1.2 (Required Parking) and 5.1.3 (Parking Plan and Design Requirements).
4. With respect to the requested waiver from the requirements of Section 5.1.2, the applicant represented to the Board that the 6,800 square feet of space applicant plans to lease was previously used by RCN for general office space. The applicant's proposed change to medical office use will result in a parking requirement of 1 parking space per 200 square feet of medical use space, for a total requirement of 36 parking spaces.

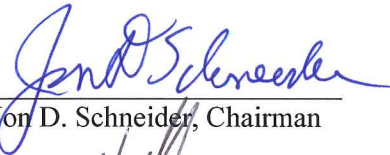
5. The required number of parking spaces for the entire premises, with its current tenant mix, is 350 parking spaces, inclusive of the applicant's medical office use and the expanded office use of the Claims Trust tenant.
6. The applicant submitted a Parking Study, which included two days of site traffic study. The Parking Study determined that the observed peak parking demand at the premise was 200 spaces. There were 83 vacant parking spaces at the time of the traffic site visits.
7. The Parking Study determined that the projected peak parking demand for the building is **236** parking spaces (including the proposed tenancy by the applicant and the proposed increase in space for the current tenant Claims Trust). The available parking supply of 284 parking spaces (1 new parking space is being added by the landlord) results in a projected peak parking surplus of approximately 48 parking spaces. The applicant represents that this 48-parking space surplus is in excess of the increase required by the By-Law due to the applicant's proposed medical office use of the vacant space at the building.
8. Based upon the Parking Study submitted by the applicant, there currently is adequate parking for the proposed use by the applicant.
9. With respect to the applicant's request for waivers from Section 5.1.3, the applicant made the following representations:
 - Section 5.1.3(a) (Parking Lot Illumination)- no photometric study has been done by the Applicant.
 - Section 5.1.3(i) (Width of Maneuvering Aisle)- there are numerous locations throughout the parking area that do not comply with this section due to the configuration of the property and the location of the building on the property.
 - Section 5.1.3(j) (Parking Setbacks)- the parking areas are within five feet of the building in multiple locations and within four feet of the side lot line along the northerly side of the structure.
 - Section 5.1.3(k) (Landscaped Areas)- the setback areas are not landscaped and interior landscaped requirement is not met.
 - Section 5.1.3(l) (Trees)- requirement is not met.
10. Section 5.1.1.5 of the By-Law permits the Board of Appeals to grant a Special Permit to waive strict adherence to the requirements of Section 5.1.2 and/or Section 5.1.3 where the applicant demonstrates with a parking plan prepared and reviewed in accordance with the provisions of Section 5.1.3 that a particular use, structure or lot, owing to special circumstances, does not warrant the number of parking spaces required by Section 5.1.2 and/or the application of certain design requirements contained in Section 5.1.3. Based upon the evidence presented, the representations made by the applicant and the submitted Parking Study, the Board finds that there are special circumstances justifying the waiver of certain design requirements and

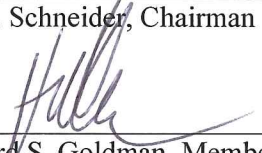
the waiver of the required number of parking spaces. The current number of parking spaces located on the premises is sufficient for the use of the applicant and its patrons.

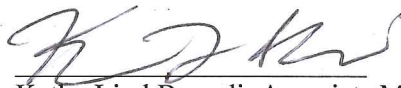
11. The Board finds that the issuance of the Special Permit will not be detrimental to the Town or to the general character and visual appearance of the surrounding neighborhood and abutting uses and is consistent with the intent of the Zoning By-Law.

DECISION

On the basis of the foregoing findings, following motion duly made and seconded, after due and open deliberation, the Board by unanimous vote grants the applicant a Special Permit pursuant to Section 5.1.1.5 of the By-Law waiving strict adherence to the requirements of Section 5.1.2 and Sections 5.1.3(a), (i),(j), (k),and (l) of the By-Law in connection with the applicant's proposed medical use tenancy of 6,800 square feet, along with the 2,053 square feet of general office from the expansion by an existing tenant, of the building at 145 Rosemary Street, Needham.


Jon D. Schneider, Chairman


Howard S. Goldman, Member


Kathy Lind Berardi, Associate Member



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**TOWN OF NEEDHAM
MASSACHUSETTS
BOARD OF APPEALS**

Daniel M. Rutowicz DPM, PC

**Record owner: Rosemary Office Associates Limited Partnership
145 Rosemary Street, Map 101, Parcel 2**

February 26, 2015

Daniel M. Rutowicz, DPM, PC, prospective tenant, applied to the Board of Appeals for a Special Permit under Sections 5.1.1.5, 7.5.2 and any other applicable Sections of the Zoning By-Law to waive strict adherence to the off-street parking requirements and design requirements of Sections 5.1.2 and 5.1.3 of the Zoning By-Law. The applicant proposes to lease 3,071 square feet of first floor space in the building for medical office use. The property is located at 145 Rosemary Street, Needham, MA in the Industrial Zoning District and the Single Residence B District. A public hearing was held on Thursday, February 26, 2015 pursuant to notice thereof, published in a local newspaper and mailed to all parties of interest.

Documents of Record:

- Application Packet, received February 3, 2015 containing:
 1. Cover Letter dated January 30, 2015 signed by Roy A. Cramer, attorney for the Applicant.
 2. Letter dated January 30, 2015 signed by Roy A. Cramer, attorney for the Applicant.
 3. Application, dated January 30, 2015 signed by Roy A. Cramer, attorney for the Applicant.
 4. Statement of Relief Sought.
 5. Site Plan of 145 Rosemary Street prepared by Level Design Group, signed and stamped by Nicola Facendola, RPE, dated November 15, 2013.
 6. Parking Evaluation 145 Rosemary Street (Suite B) by MDM Transportation Consultants, Inc., dated January 30, 2015.
 7. Letter to the Board from Roy A. Cramer dated January 30, 2015 describing requests for parking waivers pursuant to Section 5.1.3 of the Zoning By-Law (Parking Plan and Design Requirements).
- Received at the February 26, 2015 hearing:
 8. Supplemental Parking Survey- 145 Rosemary Street (Suite B) by MDM Transportation Consultants, Inc., dated February 25, 2015.

February 26, 2015

The Board included Howard S. Goldman, Member and Acting Chairman; Peter Friedenberg, Associate Member; and Kathy Lind Berardi, Associate Member. Mr. Goldman opened the hearing at 9:02 p.m.

Appearing before the Board was Roy Cramer, attorney for the Applicant; Daniel Rutowicz, DPM, the Applicant; John Hennessey, the property owner's representative; and Bob Michaud, the Applicant's parking consultant.

The Applicant intends to lease 3,071 square feet of first floor space in the building for a podiatrist office. This converts the use of the space from general office to medical office. General office use requires one parking space per 300 square feet of space whereas medical office use requires one parking space per 200 square feet of space. The building is an existing 86,269 square foot office building on a five-acre parcel with 277 parking spaces. The proposed office space is only a small portion of the site.

Past hearings have shown a substantial parking surplus. In the most recent case, Boston ENT, there was a parking surplus of 28 parking spaces. This was due in part to the fact that tenant RCN, which operates a telecommunication facility, has only periodic employee visits and therefore does not use most of its allocated parking spaces. Additionally, Charles River Athletics operates by appointment-only and has different peak parking hours than most of the office space on the property, resulting in a significant number of available parking spaces.

Mr. Michaud said that his company conducted a parking count yesterday, February 25, 2015. The snow has been removed from the parking lot and all 277 parking spots were clear. The building is entirely occupied, including Stewart Medical, Beth Israel, and Boston ENT who recently received special permits from the Board. The prior peak parking prediction at full occupancy was 249 parking spaces; which provides a reasonable surplus to accommodate day-to-day parking demand fluctuations.

The prior occupants of the suite that Mr. Rutowicz will be occupying had a parking requirement of 11 spaces and the parking requirement for Mr. Rutowicz's tenancy is 14 spaces. The earlier parking count was conducted in November 2013 when the property still had some vacancy. Up until now the peak parking demand for the entire occupancy of the building has been based on projections. Now that the building is full, they can get a real count of the parking demand. In the survey conducted yesterday during the peak hours of 9:30 a.m.-12:00 p.m. the highest count was 221 cars at 11:00 a.m. This actual demand is 10% less than what they had projected.

Mr. Goldman asked if the recent cold weather has changed the normal use. Mr. Michaud said since all parking spaces were cleared of snow, they assume there was normal use. They purposefully waited to conduct the count until the snow was cleared and the building was operating in a typical capacity. Mr. Michaud explained that the method they used is conservative and he is comfortable professionally that there is a 10-15% parking reserve on site.

Ms. Berardi asked about operating hours, number of employees and how it differs from what is there now. Mr. Cramer said that the previous tenant has had between 18 and 21 employees. Mr. Rutowicz's practice will have six employees: four administrative staff and two medical staff. There are two treatment rooms. They expect to have two patients and two people waiting. Their

current hours of operation are Monday through Friday 8:00 a.m. to 5:00 p.m. But they are asking for the flexibility to operate 7:00 a.m. to 6:00 p.m. Monday through Friday and 9:00 a.m. - 1:00 p.m. Saturdays. The only exterior change to the building is a second emergency egress; a door will replace a window.

Mr. Goldman said that the presentation was good and they demonstrated that there is reserve parking. Because the Board has heard several presentations on this property recently, they can move expeditiously. He confirmed that the relief requested was for waivers from the required number of parking spaces for the total property and from the parking design requirements.

The Planning Board had no comment.

Mr. Goldman asked for public comment. There was none.

Mr. Friedenberg said that he did not recognize some of the tenants on the roll. He asked if there had been some space tenanted since the last special permit. The Applicant said that there were new tenants, but the parking requirements did not change so no waivers were needed for these new tenants.

Ms. Berardi said that she appreciated the detailed and well thought-out presentation and is satisfied that there are adequate spaces to accommodate the proposed medical office use. She said she supports the application.

Mr. Friedenberg moved that the Board allow the petition by Daniel M. Rutowicz, DPM, PC, prospective tenant, for a Special Permit under Sections 5.1.1.5 and 7.5.2 to waive strict adherence to the number off-street parking requirements of Section 5.1.2 of the Zoning By-Law and to waive strict adherence to design requirements of Section 5.1.3 of the Zoning By-Law outlined in Roy Cramer's letter to the Board dated January 30, 2015.

Ms. Lind Berardi seconded the motion. The vote was unanimously in favor.

The hearing closed at 9:22 p.m.

Findings:

Based on the evidence presented at the hearing, the Board makes the following findings:

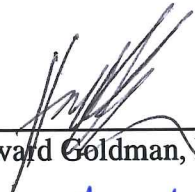
1. The Applicant, Daniel M. Rutowicz, D.P.M. P.C., intends to lease a vacant office space of 3,071 square feet in the building located at 145 Rosemary Street for medical office use.
2. This building is an existing 86,269 square foot office building, located in the Industrial and Single Residence B Zoning Districts, and currently provides parking for 277 vehicles.
3. The Applicant requests a Special Permit pursuant to Section 5.1.1.5 of the Zoning By-Law to waive strict adherence to the requirements of Section 5.1.2 (Required Parking) and 5.1.3 (Parking Plan and Design Requirements).

4. With respect to the requested waiver from the requirements of Section 5.1.2, the Applicant represented to the Board that the 3,071 square feet of space Applicant plans to lease was previously used as general office space, which resulted in 10.24 required parking spaces ($3,071/300 = 10.24$ spaces). The Applicant's proposed change to medical office will result in a parking requirement of 1 parking space per 200 square feet of office space, for a total requirement of 15.36 parking spaces ($3,071/200 = 15.36$ spaces). The medical office use, therefore, increases the parking requirement by 5.12 parking spaces. The Applicant has rounded up the actual parking requirement increase from 5.12 to 6 parking spaces.
5. The required number of parking spaces for the entire premises under the By-Law is 331 parking spaces, inclusive of the Applicant's medical office use. This leaves a shortfall of 54 required parking spaces.
6. The Parking Evaluation submitted by the Applicant concludes that the projected peak parking demand for the building, using industry standard (ITE) methodology, is 252 parking spaces (including the Applicant's medical office use). The available parking supply of 277 parking spaces therefore results in a projected peak parking surplus of 25 parking spaces. The Parking Evaluation further concludes that using a zoning based calculation of parking needs, there is a peak parking demand of 255 spaces, resulting in a peak parking surplus of 22 parking spaces.
7. The Supplemental Parking Survey measured the actual peak parking demand of the property as of February 25, 2015. The current peak parking demand occurs at 11:00 AM with 221 parked vehicles. This leaves a surplus of approximately 56 parking spaces.
8. Based upon the Parking Evaluation and the Supplemental Parking Survey submitted by the Applicant, there currently is adequate parking for the proposed use by the Applicant.
9. With respect to the Applicant's request for waivers from Section 5.1.3, the Applicant made the following representations:
 - Section 5.1.3(a) (Parking Lot Illumination)- no photometric study has been done by the Applicant.
 - Section 5.1.3(i) (Width of Maneuvering Aisle)- there are numerous locations throughout the parking area that do not comply with this section due to the configuration of the property and the location of the building on the property.
 - Section 5.1.3(j) (Parking Setbacks)- the parking areas are within five feet of the building in multiple locations and within four feet of the side lot line along the northerly side of the structure.
 - Section 5.1.3(k) (Landscaped Areas)- the setback areas are not landscaped and the interior landscaped requirement is not met.
 - Section 5.1.3(l) (Trees)- requirement is not met.

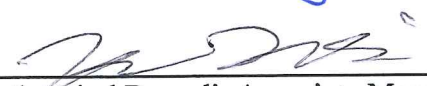
10. Section 5.1.1.5 of the By-Law permits the Board of Appeals to grant a Special Permit to waive strict adherence to the requirements of Section 5.1.2 and/or Section 5.1.3 where the Applicant demonstrates with a parking plan prepared and reviewed in accordance with the provisions of Section 5.1.3 that a particular use, structure or lot, owing to special circumstances, does not warrant the number of parking spaces required by Section 5.1.2 and/or the application of certain design requirements contained in Section 5.1.3. Based upon the evidence presented, the representations made by the Applicant and the submitted Parking Evaluation and Supplemental Parking Survey, the Board finds that there are special circumstances justifying the waiver of certain design requirements and the waiver of the required number of parking spaces. The current number of parking spaces located on the premises is sufficient for the use of the Applicant and its patrons.
11. The Board finds that the issuance of the Special Permit will not be detrimental to the Town or to the general character and visual appearance of the surrounding neighborhood and abutting uses, and is consistent with the intent of the Zoning By-Law.

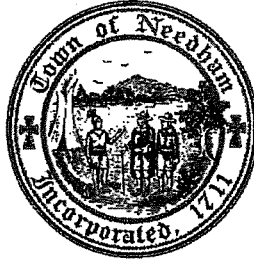
Decision:

On the basis of the foregoing findings, following motion duly made and seconded, after open deliberation, the Board, by unanimous vote, grants the Applicant a Special Permit pursuant to Section 5.1.1.5 of the By-Law waiving strict adherence to the requirements of Section 5.1.2 and Sections 5.1.3(a), (i), (j), (k), and (l) of the By-Law in connection with the Applicant's proposed tenancy of 3,071 square feet of the building located at 145 Rosemary Street, Needham.


Howard Goldman, Member


Peter Friedenberg, Associate Member


Kathy Lind Berardi, Associate Member



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**TOWN OF NEEDHAM
MASSACHUSETTS
BOARD OF APPEALS**

Boston ENT Associates, P.C.

***Record owner: Rosemary Office Associates Limited, Partnership
145 Rosemary Street, Map 101, Parcel 2***

December 19, 2013

Boston ENT Associates, PC, prospective tenant, has made application to the Board of Appeals for a Special Permit under Sections 5.1.1.5, 5.1.2, 5.1.3, 7.5.2 and any other applicable Sections of the By-law to waive strict adherence to the off-street parking requirements of Sections 5.1.2 and 5.1.3 of the Zoning By-law. The applicant proposes to lease 4,493 square feet of first floor space in the building for medical office use. The property is located at 145 Rosemary Street, Needham, MA in the Industrial Zoning District and the Single Residence B District. A public hearing was held in the James Hugh Powers Hall, Needham Town Hall, 1471 Highland Avenue, Needham, MA, on Thursday, December 19, 2013 pursuant to notice thereof, published in a local newspaper and mailed to all parties of interest.

Documents of Record:

- Application Packet, received November 20, 2013, containing:
 1. Application, dated November 20, 2013.
 2. Application cover letter signed by Roy A. Cramer, Esq., dated November 20, 2013.
 3. Exhibit A "Statement of Relief Sought" Boston ENT Associates, P.C.
 4. "Existing Site Plan" "Floor Plans, prepared by Level Design Group, 60 Man Mar Drive, Unit 12, Plainville, MA 02762 (508) 695-2221, stamped by Nicola Facendola Registered Professional Engineer No. 49204 dated November 15, 2013.
 5. "Parking Evaluation for 145 Rosemary Street, Boston ENT Associates" prepared by MDM Transportation Consultants, 28 Lord Road, Suite 280, Marlborough, MA 01752 dated November 20, 2013.

December 19, 2013

The Board included Jon D. Schneider, Chairman; Howard Goldman, Member; and Kathy Lind Berardi, Associate Member. Also participating was Peter Friedenberg, Associate Member. Mr. Schneider opened the hearing at 7:34 PM by reading the public notice. The Planning Board had no comment.

Appearing before the Board were Mr. Roy Cramer, attorney for the applicant Boston ENT, Inc.; Dr. William Mason, Principal, Boston ENT; and Courtney Jones, MDM Traffic Consultants. Mr. Cramer presented the case.

Boston ENT intends to move from their Oak Street offices to occupy 4,493 square feet of first floor space at 145 Rosemary Street, which was previously occupied as general office space by Accelerated Receivables. There will be no changes to the outside of the building or any changes to the parking lot. Any renovations are internal.

The applicant seeks relief from the required number of parking spaces for the total property, and from the parking design requirements.

Since the medical office use requires more parking than general office space, the parking requirement increases by 7.5 parking spaces, which the applicant has rounded up to 8 parking spaces. This increase means that the entire building must comply with the number of spaces and design requirements of the By-Law unless the Board grants a waiver.

The application lists the parking requirements by tenant. The parking was analyzed under three different methodologies. Assuming full building occupancy, there will be a surplus of either 27, 28, or 31 parking spaces.

Courtney Jones, MDM Associates, studied the parking and concluded that there is ample parking to support full occupancy of the building. She used three methodologies and each showed at least a 10% surplus. Boston ENT has another office location. Since all the doctors will not be on site at the same time, MDM anticipates even more of a surplus.

The first methodology used was parking observation. During November 2013, MDM conducted a parking survey of the location showing the peak demand at 10:00 am on a weekday of 174 parking spaces. There are 277 existing parking spaces. Boston ENT peak use is estimated to be 20 parking spaces. John Hennessey, the building owner representative, indicated that Stewart Medical (which was the subject of an earlier hearing before the Board) has not yet occupied the building. Using an industry standard to project the use for Stewart Medical, Boston ENT and the infill of vacant general office space, and taking into account the current tenants, there will be a surplus of 31 spaces.

Mr. Schneider commented that one of the tenants, RCN, a telecommunication facility rarely has employees on site. They are required under the Zoning By-law to have 22 spaces, although none are regularly used. Mr. Cramer added that Charles River Athletics is required to have 21 or 22 spaces. However, it is a facility that operates by appointment and has only 2 employees. Their peak demand is early morning and late in the day.

The second methodology uses industry standard parking rates analysis, which projects the peak parking demand at full occupancy to be 249, leaving a 28 parking space surplus.

The third methodology uses prior approved parking waivers and zoning parking requirements for medical office use. The change from general office space to medical office space requires an additional eight parking spaces. Adding these 8 spaces to the previously permitted requirement of 242 parking spaces is a total of 250, which leaves 27 remaining parking spaces.

Mr. Schneider said that the parking study made sense and he does not see any problems. He asked the Board for comments or questions.

Mr. Goldman asked for an explanation of the number of employees in the office.

Mr. Cramer described the doctor and patient flow. Boston ENT has four physicians, four administrative staff, and one audiologist. The physicians split their time between Needham and Faulkner Hospital. There are usually only two physicians at each facility at one time. When they add a planned fifth physician, they don't expect much change in parking needs because there is usually one physician in surgery at either Beth Israel or Faulkner Hospitals. Dr. Mason explained that their surgery times are in the morning which coincides with the peak parking demand.

Mr. Schneider asked for public comment. There was none.

Mr. Goldman moved to approve the applicant's petition for a Special Permit under Sections 5.1.1.5, 5.1.2, and 7.5.2 of the Zoning By-law to waive strict adherence to the required number of parking spaces in connection with the proposed medical office use. Ms. Berardi seconded the motion. The Board voted unanimously in favor.

Mr. Goldman moved to approve the applicant's petition for a Special Permit under Sections 5.1.1.5, 5.1.3 and 7.5.2 to waive strict adherence to the parking design requirements set forth in sections 5.1.3 (a) parking lot illumination, 5.1.3(i) width of maneuvering aisle, 5.1.3(j) parking setbacks, 5.1.3(k) landscaped areas, and 5.1.3 (l) trees, to the extent and consistent with the plans presented. Ms. Berardi seconded the motion. The Board voted unanimously in favor.

The hearing closed at 7:50 p.m.

Decision:

Based on the evidence presented at the hearing, the Board makes the following findings:

1. The Applicant, Boston ENT Associates, P.C., intends to lease a vacant office space of 4,493 square feet in the building located at 145 Rosemary Street for medical office use.
2. This building is an existing 86,269 square foot office building, located in the Industrial and Single Residence B Zoning Districts, and currently provides parking for 277 vehicles.

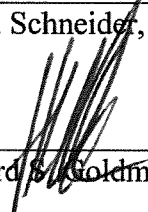
3. The Applicant requests a Special Permit pursuant to Section 5.1.1.5 of the Zoning By-Law to waive strict adherence to the requirements of Section 5.1.2 (Required Parking) and 5.1.3 (Parking Plan and Design Requirements).
4. With respect to the requested waiver from the requirements of Section 5.1.2, the Applicant represented to the Board that the 4,493 square feet of space Applicant plans to lease was previously used as general office space, which resulted in 15 required parking spaces ($4,493/300 = 14.98$ spaces). The Applicant's proposed change to medical office will result in a parking requirement of 1 parking space per 200 square feet of office space, for a total requirement of 23 parking spaces ($4,493/200 = 22.46$ spaces rounded up to 23 by the Applicant). The medical office use, therefore, increases the parking requirement by 8 spaces.
5. The required number of parking spaces for the entire premises under the By-Law is 329 parking spaces, inclusive of the Applicant's medical office use, the commencement of operations of Steward Medical Group LLC, and the infill of other vacant office space by general office use tenants. This leaves a shortfall of 52 required parking spaces.
6. The Applicant submitted a Parking Study that demonstrated that peak parking demand occurred at 10:00 am and at that time, there were 103 vacant parking spaces.
7. The Parking Study concludes, using three different methodologies, that the projected peak parking demand for the building, is at most 249 parking spaces (including the proposed tenancy by the Applicant, the imminent tenancy by Steward Medical Group, and the infill of the remaining vacant office space by general office use). The available parking supply of 277 parking spaces results in a projected peak parking surplus of approximately 28 parking spaces.
8. Based upon the Parking Study submitted by the Applicant, there currently is adequate parking for the proposed use by the Applicant.
9. With respect to the Applicant's request for waivers from Section 5.1.3, the Applicant made the following representations:
 - Section 5.1.3(a) (Parking Lot Illumination)- no photometric study has been done by the Applicant.
 - Section 5.1.3(i) (Width of Maneuvering Aisle)- there are numerous locations throughout the parking area that do not comply with this section due to the configuration of the property and the location of the building on the property.
 - Section 5.1.3(j) (Parking Setbacks)- the parking areas are within five feet of the building in multiple locations and within four feet of the side lot line along the northerly side of the structure.
 - Section 5.1.3(k) (Landscaped Areas)- the setback areas are not landscaped and the interior landscaped requirement is not met.
 - Section 5.1.3(l) (Trees)- requirement is not met.

10. Section 5.1.1.5 of the By-Law permits the Board of Appeals to grant a Special Permit to waive strict adherence to the requirements of Section 5.1.2 and/or Section 5.1.3 where the Applicant demonstrates with a parking plan prepared and reviewed in accordance with the provisions of Section 5.1.3 that a particular use, structure or lot, owing to special circumstances, does not warrant the number of parking spaces required by Section 5.1.2 and/or the application of certain design requirements contained in Section 5.1.3. Based upon the evidence presented, the representations made by the Applicant and the submitted Parking Study, the Board finds that there are special circumstances justifying the waiver of certain design requirements and the waiver of the required number of parking spaces. The current number of parking spaces located on the premises is sufficient for the use of the Applicant and its patrons.
11. The Board finds that the issuance of the Special Permit will not be detrimental to the Town or to the general character and visual appearance of the surrounding neighborhood and abutting uses, and is consistent with the intent of the Zoning By-Law.

On the basis of the foregoing findings, following motion duly made and seconded, after open deliberation, the Board, by unanimous vote, grants the Applicant a Special Permit pursuant to Section 5.1.1.5 of the By-Law waiving strict adherence to the requirements of Section 5.1.2 and Sections 5.1.3(a), (i),(j), (k),and (l) of the By-Law in connection with the Applicant's proposed tenancy of 4,493 square feet of the building located at 145 Rosemary Street, Needham.



Jon D. Schneider, Chairman

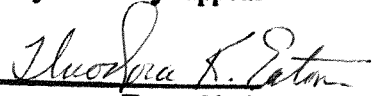


Howard S. Goldman, Member



Kathy Lind Berardi, Associate Member

**This is to certify that no appeal has been
filed within the 20 day statutory appeal
period.**

Date Feb. 19, 2014 
Town Clerk

**TOWN OF NEEDHAM
MASSACHUSETTS
BOARD OF APPEALS**

Boston ENT Associates, P.C.

***Record owner: Rosemary Office Associates Limited, Partnership
145 Rosemary Street, Map 101, Parcel 2***

December 19, 2013

R E C E I P T

Printed: February 19, 2014 @ 12:26:5
Norfolk Registry of Deeds
William P O'Donnell
Register

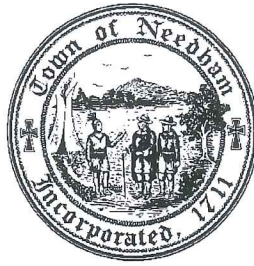
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**TOWN OF NEEDHAM
MASSACHUSETTS
BOARD OF APPEALS**

Steward Medical Group, LLC

Record owner: Rosemary Office Associates Limited Partnership
145 Rosemary Street, Map 101, Parcel 2

January 17, 2013

Upon the application of Steward Medical Group, LLC, 500 Boylston Street, Boston, MA 02118, prospective tenant, for a Special Permit under Sections 5.1.1.5, 5.1.2, 5.1.3, 7.5.2, and any other applicable Sections of the By-Law to waive strict adherence to the off-street parking requirements of the Zoning By-Law for the premises located at 145 Rosemary Street, Needham, MA., a public hearing was held in the Charles River Room, Public Services Administration Building, 500 Dedham Avenue, Needham, MA, on Thursday, January 17, 2013.

Documents of Record:

- Application Packet, received December 20, 2012, containing:
 1. Cover letter dated December 20, 2012, signed by Roy A. Cramer, attorney for the Applicant;
 2. Application, dated December 19, 2012, signed by Roy A. Cramer, attorney for the Applicant;
 3. Site Plan of 145 Rosemary Street signed and stamped by Nicola Facendola, RPE, dated December 12, 2012;
 4. Parking Evaluation of 145 Rosemary Street by MDM Transportation Consultants, Inc., dated December 17, 2012;
 5. Letter to the Board dated December 18, 2012 describing requests for parking waivers pursuant to Section 5.1.3 of the Zoning By-Law (Parking Plan and Design Requirements);
 6. Memorandum submitted by Roy A. Cramer, attorney for the Applicant, dated December 18, 2012.

- Received prior to the January 17, 2013 hearing:
 1. Certified abutter list;
 2. Letter dated December 20, 2012 from Bruce Levine, owner of the property at 145 Rosemary Street, granting permission for Steward Medical Group to seek a special permit regarding his property.

January 17, 2012

The Board included Jon D. Schneider, Chairman; Howard Goldman, Member; and Kathy Lind Berardi, Associate Member. Peter Friedenberg, Associate Member was also in attendance. Mr. Schneider opened the hearing at 8:27 PM. Appearing before the Board was Roy Cramer, attorney for the Applicant, and Bob Michaud, the Applicant's parking consultant.

The Applicant, Steward Medical Group, intends to lease a vacant office space of 7,273 square feet at 145 Rosemary Street. This proposal for a conversion to a medical office use is similar to two other proposals recently approved by the Board (Needham Pediatrics and Beth Israel Deaconess Hospital- Needham). The Creative Movement Center, which occupied about 10,000 square feet, has since vacated the property. The Applicant proposes to reconfigure the combined units C1 and C2 of the property (15,892 square feet). The Charles River Athletic facility, an existing tenant, will take over part of the reconfigured space to increase its occupied space by approximately 300 square feet for a total of 6,186 square feet. The Applicant proposes to move into 7,273 square feet of the reconfigured space. The remaining 2,433 square feet of the reconfigured space will be vacant office space. There will be no exterior changes to the property. Since the medical office use requires more parking than the prior children's gym use, the Applicant seeks relief from the required number of parking spaces for the total property, and from the parking design requirements.

The Applicant intends to employ six primary care doctors for adult patients at this facility, and possibly add a seventh doctor at a later time. There will also be nursing and clerical staff. The office will be open during regular business hours, and will have occasional evening and weekend hours.

The property located at 145 Rosemary Street is a five acre parcel with an approximately 86,000 square foot office building, providing 277 parking spaces. The Applicant is requesting a special permit under Sections 5.1.1.5, 5.1.2 and 5.1.3, for a parking waiver. The parking requirement for the Applicant's medical office use is one per 200 square feet, resulting in a required total of 36 spaces. The Applicant noted that when Creative Movements obtained a special permit in 1997, it was characterized as a private school, which required one space per 300 square feet, resulting in 29 spaces. In the May 18, 2000 RCN Decision, however, the Board characterized the Creative Movements Center as a children's gym and determined that 18 parking spaces were required.

The Zoning By-Law requires 322 parking spaces for this building (including the recent Needham Pediatric Associates and Beth Israel Deaconess Hospital- Needham, Inc. applications, the vacant office space characterized as general office use, and the Applicant's proposed reconfiguration). But only 277 parking spaces currently exist, leaving a deficiency of 45 parking spaces. The Applicant noted that at the time of the Beth Israel Deaconess Hospital- Needham application, the total parking requirement pursuant to the By-Law was 294 parking spaces, resulting in a parking waiver request of 17 spaces ($294-277=17$). Accordingly, the Applicant is requesting a new waiver of an additional 28 spaces ($322-277=45$ spaces; $45-17=28$ spaces).

Mr. Michaud explained the parking study submitted to the Board. At the time of the Needham Pediatrics Decision, the observed peak parking demand was 140 parking spaces, leaving 137

spaces vacant during the peak period at 10 AM. After the approved applications of Needham Pediatrics and Beth Israel Deaconess- Needham, the projected peak parking demand was 219 spaces based upon industry standards. The Parking Study filed by the Applicant concludes that after the departure of Creative Movements Center, the reconfiguration of space proposed by the Applicant, and assuming all remaining vacant space will be used as general office use, the projected peak parking demand for this property will be 242 spaces. The property has a total of 277 parking spaces. This leads to a projected surplus of 35 spaces. This calculation was done using industry standards, which Mr. Michaud considers to be conservative.

Mr. Cramer explained that the parking lot is underutilized because one of the tenants, RCN, is a telecommunication facility with no staff regularly on site, yet is required under the Zoning By-Law to have 22 parking spaces. Additionally, the Charles River Athletic facility is required to have 22 spaces, however it is a by- appointment facility and only has 2 employees. The classes are limited, and their busiest times are early mornings and evenings, which would not overlap with the Applicant's busy times.

The Applicant is also seeking a waiver from the parking design requirements under Section 5.1.3 as follows:

- Section 5.1.3(a) (Parking Lot Illumination)- Mr. Cramer represented that no photometric study has been done by the Applicant.
- Section 5.1.3(i) (Width of Maneuvering Aisle)- Mr. Cramer represented that there are numerous locations throughout the parking area that do not comply with this section due to the configuration of the property and the location of the building on the property.
- Section 5.1.3(j) (Parking Setbacks)- Mr. Cramer represented that the parking areas are within five feet of the building in multiple locations and within four feet of the side lot line along the northerly side of the structure.
- Section 5.1.3(k) (Landscaped Areas)- Mr. Cramer stated that the setback areas are not landscaped and the interior landscaped requirement is not met.
- Section 5.1.3(l) (Trees)- Mr. Cramer represented that this requirement is not met.
- Section 5.1.3(n) (Bicycle Racks)- Mr. Cramer represented that the parking area does not have bicycle racks.

Mr. Schneider asked if the owner could meet any of the parking design requirements that were waived for the prior medical tenants. Mr. Cramer stated that it would not be practical to add more landscaping due to the awkward shape of the lot, but his client would be willing to add a bicycle rack.

Mr. Goldman asked about handicapped parking spaces. Mr. Cramer indicated that there are several and the property would be in compliance with the handicapped requirements.

At 9:00 PM Mr. Goldman made a motion to approve the application with the amendment that one bicycle rack required by 5.1.3(n) of the Zoning By-Law be added as a condition to the Special Permit. Ms. Lind Berardi seconded the motion. The vote was unanimously in favor.

Decision:

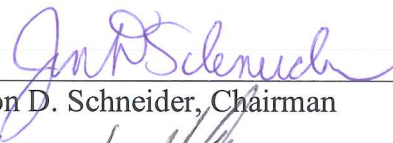
Based on the evidence presented at the hearing, the Board makes the following findings:

1. The Applicant, Steward Medical Group, LLC ,intends to lease a vacant office space of 7,273 square feet in the building located at 145 Rosemary Street.
2. This building is an existing 86,269 square foot office building, located in the Industrial and Single Residence B Zoning Districts, and currently has parking for 277 vehicles.
3. The Applicant requests a Special Permit pursuant to Section 5.1.1.5 of the Zoning By-Law to waive strict adherence to the requirements of Section 5.1.2 (Required Parking) and 5.1.3 (Parking Plan and Design Requirements).
4. With respect to the requested waiver from the requirements of Section 5.1.2, the Applicant represented to the Board that the 7,273 square feet of space Applicant plans to lease was previously used as a children's gym, which resulted in 18 required parking spaces. The Applicant's proposed change to medical office use will result in a parking requirement of 1 parking space per 200 square feet of office space, for a total requirement of 36 parking spaces.
5. The required number of parking spaces for the entire premises is 322 parking spaces, inclusive of the Applicant's medical office use, the expanded use of Charles Athletic facility and the infill of other vacant office space by general office use tenants. This leaves a shortfall of 45 parking spaces.
6. The Applicant submitted a Parking Study, which concluded that the observed peak parking demand at the time of the Needham Pediatrics application occurred at 10:00 AM and that at that time, there were 137 vacant parking spaces.
7. The Parking Study concludes that the projected peak parking demand for the building is 242 parking spaces (including the proposed tenancy by the Applicant, the proposed increase in space for the current tenant Charles River Athletics, and the infill of the remaining vacant office space by general office use). The available parking supply of 277 parking spaces results in a projected peak parking surplus of approximately 35 parking spaces. The Applicant represents that this 35 space surplus is in excess of the increase required by the By-Law due to the Applicant's proposed medical office use of the vacant space at the building.
8. Based upon the Parking Study submitted by the Applicant, there currently is

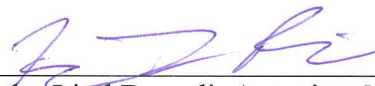
- adequate parking for the proposed use by the Applicant.
9. With respect to the Applicant's request for waivers from Section 5.1.3, the Applicant made the following representations:
 - Section 5.1.3(a) (Parking Lot Illumination)- no photometric study has been done by the Applicant.
 - Section 5.1.3(i) (Width of Maneuvering Aisle)- there are numerous locations throughout the parking area that do not comply with this section due to the configuration of the property and the location of the building on the property.
 - Section 5.1.3(j) (Parking Setbacks)- the parking areas are within five feet of the building in multiple locations and within four feet of the side lot line along the northerly side of the structure.
 - Section 5.1.3(k) (Landscaped Areas)- the setback areas are not landscaped and interior landscaped requirement is not met.
 - Section 5.1.3(l) (Trees)- requirement is not met.
 - Section 5.1.3(n) (Bicycle Racks)- the parking area does not have bicycle racks.
 10. The Applicant withdrew the request for a waiver from Section 5.1.3(n) (Bicycle Racks) of the By-Law and agreed to install a bicycle rack at the property.
 11. Section 5.1.1.5 of the By-Law permits the Board of Appeals to grant a Special Permit to waive strict adherence to the requirements of Section 5.1.2 and/or Section 5.1.3 where the Applicant demonstrates with a parking plan prepared and reviewed in accordance with the provisions of Section 5.1.3 that a particular use, structure or lot, owing to special circumstances, does not warrant the number of parking spaces required by Section 5.1.2 and/or the application of certain design requirements contained in Section 5.1.3. Based upon the evidence presented, the representations made by the Applicant and the submitted Parking Study, the Board finds that there are special circumstances justifying the waiver of certain design requirements and the waiver of the required number of parking spaces. The current number of parking spaces located on the premises is sufficient for the use of the Applicant and its patrons.
 12. The Board finds that the issuance of the Special Permit will not be detrimental to the Town or to the general character and visual appearance of the surrounding neighborhood and abutting uses, and is consistent with the intent of the Zoning By-Law.

On the basis of the foregoing findings, following motion duly made and seconded, after open deliberation, the Board, by unanimous vote, grants the Applicant a Special Permit pursuant to Section 5.1.1.5 of the By-Law waiving strict adherence to the requirements of Section 5.1.2 and Sections 5.1.3(a), (i),(j), (k),and (l) of the By-Law in connection with the Applicant's proposed tenancy of 7,273 square feet of the building at 145 Rosemary Street, Needham, with the

condition that the Applicant install a bicycle rack on the property in a location to be determined by the Applicant.


Jon D. Schneider, Chairman


Howard Goldman, Member


Kathy Lind Berardi, Associate Member



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**TOWN OF NEEDHAM
MASSACHUSETTS
BOARD OF APPEALS**

Beth Israel Deaconess Hospital – Needham, Inc.

Record owner: Rosemary Office Associates Limited Partnership
145 Rosemary Street, Map 101, Parcel 2

August 16, 2012

Upon the application of Beth Israel Deaconess Hospital – Needham, Inc., 148 Chestnut Street, Needham, MA 02492, prospective tenant, for a special permit under Section 5.1.1.5, 5.1.2, 5.1.3, 7.5.2 and any other applicable Sections of the By-Law to waive strict adherence to the off-street parking requirements of the Zoning By-Law at 145 Rosemary Street, Needham, MA, in the Industrial and Single Residence B District, a public hearing was held at the Charles River Room, Public Services Administration Building, 500 Dedham Avenue, Needham, MA, on Thursday, August 16, 2012 at 7:30 PM pursuant to notice thereof, published in a local newspaper and mailed to all parties of interest.

Documents of Record:

- Application Packet, received, July 20, 2012, containing:
 1. Cover letter dated and stamped July 20, 2012 signed and submitted by Roy A. Cramer, attorney for the Applicant;
 2. Application dated and stamped July 20, 2012 signed and submitted by Roy A. Cramer, attorney for the Applicant;
 3. Beth Israel Deaconess Hospital Accessibility Improvements plans dated 7/19/12, signed and stamped by Daniel R. Campbell, R.P.E. (3 pages).
- Documents received prior to the August 16, 2012 hearing:
 1. Certified abutters list;
 2. Letter outlining the relief sought, dated August 14, 2012, signed by Roy A. Cramer, Esq., attorney for the Applicant, (2 pages);
 3. Exhibit A: Statement of Relief Sought, undated, submitted by Roy A. Cramer, attorney for the Applicant, (4 pages);
 4. Parking Evaluation – 145 Rosemary Street (Suite D1-B: 7,722 SF), dated July 27, 2012, signed by Robert J. Michaud, P.E., Managing Principal of MDM Transportation Consultants, Inc;
 5. Letter to the Board of Appeals from Anthony L. Del Gaizo, Town Engineer, dated August 16, 2012, stating that he has no comment or objection to the

proposed plan.

August 16, 2012

The Board included Jon D. Schneider, Chairman; Howard Goldman, Member; and Kathy Lind Berardi, Associate Member. Peter Friedenberg, Associate Member, was also present. The Planning Board, the Engineering Division, and the Police and Fire Departments had no comment on this case.

Mr. Schneider opened the hearing at 8:03 PM. Appearing before the Board were Roy A. Cramer, attorney for the Applicant, Nick Fecendola, engineer, and Bob Michaud, traffic consultant.

Mr. Cramer presented his case. The Applicant, Beth Israel Deaconess Hospital – Needham, Inc., intends to lease a vacant office space of 7,722 square feet at 145 Rosemary Street. There are two components to this tenancy. The first is a wound care treatment program, which will treat diabetes-related wounds and other wounds that do not heal easily. There will be treatment rooms as well as 3 hyperbaric oxygen therapy chambers. The second component will provide endocrinology services to adult patients with diabetes and other endocrine disorders.

The property located at 145 Rosemary Street is a five acre parcel with an approximately 86,000 square foot office building. The building has 277 parking spaces. This application is similar to the application by Needham Pediatric Associates, which Mr. Cramer brought before the Board at the July hearing. The Applicant is requesting a special permit under Section 5.1.1.5, 5.1.2 and 5.1.3, for a parking waiver. The parking requirement for this medical office use is one per 200 square feet, whereas the previous use, general office, required one per 300 square feet. This medical use requires a total of 39 spaces, while the prior general office use required 26 parking spaces. The Applicant is requesting a waiver of 13 spaces. The total parking requirement for this building (including the recent Needham Pediatric Associates application) is 294 spaces, which is 17 more spaces than the 277 spaces currently on the property.

Mr. Cramer reminded the Board of the various assumptions made in calculation the number of required spaces, as reflected in footnotes to the Statement of Relief Sought. Charles River Athletics, originally characterized as an office use, might today be considered a personal service fitness establishment. It is a by-appointment only facility. Although that facility is represented as requiring 1 space per 300 square feet, the actual requirement is likely lower. There is a telecommunications facility for RCN on the property, which is characterized as a manufacturing use and so requires 1 space per 400 square feet, although it is actually an unmanned facility. The Creative Movement Center was characterized as a private school in 1997, although it could today be characterized as a children's gym.

Mr. Michaud explained the parking study. The survey was done over a two day period in mid-June. That survey indicated that at the busiest time of day (11:00 AM), there were 137 vacant parking spaces out of the total of 277 parking spaces. The maximum vacancy is on the west side of the building, which is where both Needham Pediatrics and the Applicant will be located. Using the industry standards, which Mr. Michaud states are compatible with the Needham

Zoning By-Law, he has calculated that the site has adequate parking for the Applicant's projected use. The projected peak parking demand for the building, including the existing building tenants, the proposed tenancy by the Applicant, the proposed tenancy by Needham Pediatrics and the infill of the remaining vacant office space by general office use, is 219 spaces. The available parking supply of 277 spaces results in a peak parking surplus of approximately 58 parking spaces.

Mr. Cramer explained that the Applicant needs to provide 1 additional handicap accessible parking space, and intends to do so by straightening 3 diagonal spaces into straight head-on spaces, allowing room for one of the spaces to be turned into a medical van space. This will allow the entrance to be more accessible, and will not change the total number of spaces.

The Applicant is also seeking a waiver from the parking design requirements under Section 5.1.3 as follows:

- Section 5.1.3(a) (Parking Lot Illumination)- Mr. Cramer represented that no photometric study has been done by the Applicant.
- Section 5.1.3(i) (Width of Maneuvering Aisle)- Mr. Cramer represented that there are numerous locations throughout the parking area that do not comply with this section due to the configuration of the property and the location of the building on the property.
- Section 5.1.3(j) (Parking Setbacks)- Mr. Cramer represented that the parking areas are within five feet of the building in multiple locations and within four feet of the side lot line along the northerly side of the structure.
- Section 5.1.3(k) (Landscaped Areas)- Mr. Cramer stated that the setback areas are not landscaped and the interior landscaped requirement is not met.
- Section 5.1.3(l) (Trees)- Mr. Cramer represented that this requirement is not met.
- Section 5.1.3(n) (Bicycle Racks)- Mr. Cramer represented that the parking area does not have bicycle racks.

Mr. Friedenberg expressed concern that, should this building continue to attract medical offices as tenants, eventually the parking will be taxed. Mr. Schneider agreed that this situation could arise, but stated that he does not see this as a concern since each additional change of use would require an application to the Board for a new parking waiver.

Mr. Schneider invited the public to come forward and be heard on this matter. None did so.

At 8:35 PM Mr. Goldman made a motion to approve the application. Ms. Berardi seconded the motion. The vote was unanimously in favor.

Decision:

Based on the evidence presented at the hearing, the Board makes the following findings:

1. The Applicant, Beth Israel Deaconess Hospital – Needham, Inc., 148 Chestnut Street, proposes to lease 7,722 square feet of office space for medical use at 145 Rosemary Street, Needham.
2. The building located at 145 Rosemary Street, which is the subject of the

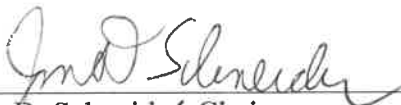
application, is an existing 86,269 square foot office building located in the Industrial and Single Residence B Zoning Districts. The parking lot on the premises includes 277 spaces.

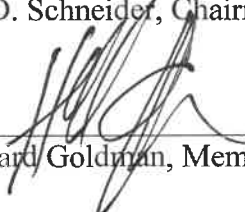
3. The Applicant requests a Special Permit pursuant to Section 5.1.1.5 of the Zoning By-Law to waive strict adherence to the requirements of Section 5.1.2 (Required Parking) and 5.1.3 (Parking Plan and Design Requirements).
4. With respect to the requested waiver from the requirements of Section 5.1.2, the Applicant represented to the Board that the 7,722 square feet of space Applicant plans to lease was previously used for general office use, which resulted in a parking requirement of 1 space per 300 square feet, for a total of 26 required spaces. The proposed change to medical office use by the Applicant will result in a parking requirement of 1 space per 200 square feet, for a total of 39 spaces. The Applicant's proposed medical office use results in a required increase of 13 spaces pursuant to the By-Law.
5. The Applicant represented that the building has a current parking supply of 277 spaces. The required number of parking spaces with the addition of the Applicant as a medical office use tenant, the recent application by Needham Pediatrics to occupy vacant space as a medical office use tenant, and the infill of other vacant office space by general office use tenants will result in a total parking requirement of 294 spaces. This is a shortfall of 17 spaces.
6. The Applicant submitted a Parking Study, which concludes that the peak parking demand occurred at 11:00 AM and that at that time, there were 137 vacant parking spaces.
7. The Parking Study concludes that the peak parking demand for the building, including the existing building tenants, the proposed tenancy by the Applicant, the proposed tenancy by Needham Pediatrics and the infill of the remaining vacant office space by general office use, is 219 spaces. The available parking supply of 277 spaces results in a peak parking surplus of approximately 58 parking spaces. The Applicant represents that this 58 space surplus is far in excess of the 13 space increase required by the By-Law due to the Applicant's proposed medical office use of the vacant space at the building.
8. Based upon the Parking Study submitted by the Applicant, there currently is adequate parking for the proposed use by the Applicant.
9. With respect to the Applicant's request for waivers from Section 5.1.3, the Applicant made the following representations:
 - Section 5.1.3(a) (Parking Lot Illumination)- no photometric study has been done by the Applicant.
 - Section 5.1.3(i) (Width of Maneuvering Aisle)- there are numerous locations throughout the parking area that do not comply with this section due to the configuration of the property and the location of the building on the property.
 - Section 5.1.3(j) (Parking Setbacks)- the parking areas are within five feet of the building in multiple locations and within four feet of the side lot line along the northerly side of the structure.
 - Section 5.1.3(k) (Landscaped Areas)- the setback areas are not landscaped and interior landscaped requirement is not met.
 - Section 5.1.3(l) (Trees)- requirement is not met.

- Section 5.1.3(n) (Bicycle Racks)- the parking area does not have bicycle racks.

10. Section 5.1.1.5 of the By-Law permits the Board of Appeals to grant a Special Permit to waive strict adherence to the requirements of Section 5.1.2 and/or Section 5.1.3 where the Applicant demonstrates with a parking plan prepared and reviewed in accordance with the provisions of Section 5.1.3 that a particular use, structure or lot, owing to special circumstances, does not warrant the number of parking spaces required by Section 5.1.2 and/or the application of certain design requirements contained in Section 5.1.3. Based upon the evidence presented, the representations made by the Applicant and the submitted Parking Study, the Board finds that there are special circumstances justifying the waiver of certain design requirements and the waiver of the required number of parking spaces. The current number of parking spaces located on the premises is sufficient for the use of the Applicant and its patrons.
11. The Board finds that the issuance of the Special Permit will not be detrimental to the Town or to the general character and visual appearance of the surrounding neighborhood and abutting uses, and is consistent with the intent of the Zoning By-Law.

On the basis of the foregoing findings, following motion duly made and seconded, after open deliberation, the Board, by unanimous vote, grants the Applicant a Special Permit pursuant to Section 5.1.1.5 of the By-Law waiving strict adherence to the requirements of Section 5.1.2 and Sections 5.1.3(a), (i),(j), (k), (l) and (n), of the By-Law in connection with the Applicant's proposed tenancy of 7,722 square feet of the building at 145 Rosemary Street, Needham.


Jon D. Schneider, Chairman


Howard Goldman, Member


Kathy Lind Berardi, Associate Member



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**TOWN OF NEEDHAM
MASSACHUSETTS
BOARD OF APPEALS**

Needham Pediatrics, PC

Record owner: Rosemary Office Associates Limited Partnership
145 Rosemary Street, Map 101, Parcel 2

July 19, 2012

Upon the application of Needham Pediatrics, PC, 111 Lincoln Street, Needham, MA 02492, prospective tenant, for a special permit under Section 5.1.1.5, 5.1.2, 5.1.3, and any other applicable Sections of the By-Law to waive strict adherence to the off-street parking requirements of the Zoning By-Law at 145 Rosemary Street, Needham, MA, in the Industrial and Single Residence B District, a public hearing was held at the Charles River Room, Public Services Administration Building, 500 Dedham Avenue, Needham, MA, on Thursday, July 19, 2012 at 7:30 PM pursuant to notice thereof, published in a local newspaper and mailed to all parties of interest.

Documents of Record:

- Application Packet, received June 25, 2012, containing:
 1. Cover letter dated June 20, 2012 to the Board of Appeals Members signed by Roy A. Cramer, attorney for the applicant;
 2. Application dated June 20, 2012 signed by Roy A. Cramer, attorney for the applicant;
 3. Exhibit A: Statement of Relief Sought, 3 pages;
 4. Design Review Addition Plans, prepared by TLCR Architecture, signed and stamped by Santiago A. Rozas, RA, dated June 20, 2012, 2 pages;
 5. Parking Evaluation – 145 Rosemary Street, prepared by MDM Transportation Consultants, Inc., dated June 20, 2012, signed by Robert J. Michaud, P.E., 23 pages;
 6. 145 Rosemary Street Plans, dated June 7, 2012, revised June 25, 2012, signed and stamped by Daniel R. Campbell RPE, 3 pages.
- Received prior to the July 19, 2012 hearing:
 1. Certified abutter list.

- Received at the July 19, 2012 hearing:
 1. Memorandum dated July 19, 2012 from Roy A. Cramer, attorney for the applicant, correcting typographical errors to the application material;
 2. 145 Rosemary Street Plans, Page C-3.0, dated June 7, 2012, revised June 25, 2012, further revised July 18, 2012, signed and stamped by Daniel R. Campbell RPE, 2 pages.

July 19, 2012

The Board included Jon D. Schneider, Chairman; Howard Goldman, Member; and Kathy Lind Berardi, Associate Member. Mr. Schneider opened the hearing at 7:32 PM. Appearing before the Board were Roy Cramer, attorney for the applicant, and Bob Michaud, the applicant's parking engineer. John Hennesey, the owners' representative, also attended the hearing.

Mr. Cramer presented his case. The applicant, Needham Pediatrics, intends to move their offices to a vacant office space at 145 Rosemary Street, Needham. The building has 277 parking spaces. The Applicant is proposing to lease 7,764 square feet of space within the building. The Applicant is requesting a special permit under Section 5.1.1.5, 5.1.2 and 5.1.3, for a parking waiver. The previous use, general office, required a parking availability of 1 space per 300 square feet. The requirement for a medical office is 1 space per 200 square feet, so the parking requirement has increased by 13 spaces. A full parking calculation for the building is included in the application. The parking requirement for the entire building, including Needham Pediatrics, is 281 spaces, which is 4 more spaces than the 277 spaces currently on the property.

In calculating the number of required spaces, Mr. Cramer made various assumptions as reflected in footnotes to the Statement of Relief Sought. Charles River Athletics, originally characterized as an office use, might today be considered a personal service fitness establishment. It is a by-appointment only facility. Although that facility is represented as requiring 1 space per 300 square feet, the actual requirement is likely lower. There is a telecommunications facility for RCN on the property, which is characterized as a manufacturing use and so requires 1 space per 400 square feet, although it is actually an unmanned facility. The Creative Movement Center was characterized as a private school in 1997, although it could today be characterized as a children's gym.

Mr. Michaud did a parking study for this building. At the busiest time of day, 11 AM, there were 137 spaces available out of the total of 277 spaces on the premises. As the Applicant's total parking requirement is 39 spaces, Mr. Cramer argued that it is clear that the lot is underused and the number of current parking spaces is sufficient.

Mr. Goldman asked Mr. Michaud to describe the Parking Study. It was done on two days, June 13 and June 14, which were representative of traffic at the building. The study was done between 8 AM and 6 PM. The parking peak is between 10 and 11 AM. There is approximately 11,000 square feet of vacant space in addition to the 7,764 square feet to be occupied by Needham Pediatrics. Mr. Michaud undertook the study with the assumption that the remaining vacant space will be filled by general office tenants. His calculations, using industry standards,

demonstrate that the likely peak demand will be 187 to 212 spaces, which is a surplus of at least 65 spaces.

Some of the tenants have designated parking spaces. Creative Movements Center has 30 designated spaces as they cater to children and wanted spaces close to the building. John Hennessey, the owners' representative, stated that a number of businesses, such as Charles River Athletics have a few spaces designated as either executive or visitors' parking. The Applicant will have about 20 designated spaces.

The only change that will be made to the parking lot by prospective tenant Needham Pediatrics is the addition of 1 handicapped parking space, which will not change the total number of spaces.

Mr. Cramer also requests a waiver for the design requirements pursuant to Section 5.1.3. Mr. Schneider asked what design waivers are required.

Mr. Cramer requested the following waivers from Section 5.1.3:

5.1.3(a) (Parking Lot Illumination) – Mr. Cramer represented that the Applicant has not done a full photometric study to ensure that the entire lot is lit to a level of one foot candle;

5.1.3(i) (Width of Maneuvering Aisle) – Mr. Cramer represented that there are a few places in the lot that appear narrower than the Zoning By-Law requires, and an exact calculation of the aisle width has not been done;

5.1.3(k) (Landscaped Areas) – In a parking lot with more than 20 spaces, 25% of the landscaping must be internal. Mr. Cramer stated that although there is some internal landscaping, it may not be 25%;

5.1.3(l) (Trees) – For all parking with 10 or more spaces 1 tree shall be required for every 10 spaces. By this measurement 28 trees would be required, far more than are present on this property.

Mr. Schneider invited the public to come forward. None did so. Mr. Cramer filed a memo and a new page of the plans which corrected a typographical error.

The Planning Board made no comment on the application.

At 7:58 PM, Mr. Goldman made a motion to grant the special permit. Ms. Berardi seconded the motion. The vote was unanimously in favor.

Decision:

Based on the evidence presented at the hearing, the Board makes the following findings:

1. The Applicant, Needham Pediatrics, PC, 111 Lincoln Street, Needham, proposes to move its offices to 145 Rosemary Street, Needham.
2. The building located at 145 Rosemary Street, which is the subject of the application, is an existing 86,269 square foot office building located in the Industrial and Single Residence B Zoning Districts. The parking lot on the premises includes 277 spaces.

3. The Applicant proposes to lease 7,764 square feet of the building for medical office use.

4. The Applicant requests a Special Permit pursuant to Section 5.1.1.5 of the Zoning By-Law to waive strict adherence to the requirements of Section 5.1.2 (Required Parking) and 5.1.3 (Parking Plan and Design Requirements).

5. With respect to the requested waiver from the requirements of Section 5.1.2, the Applicant represented to the Board that the 7,764 square feet of space Applicant plans to lease was previously used for general office use, which resulted in a parking requirement of 1 space per 300 square feet, for a total of 26 required spaces. The proposed change to medical office use by the Applicant will result in a parking requirement of 1 space per 200 square feet, for a total of 39 spaces. The Applicant's proposed medical office use results in a required increase of 13 spaces pursuant to the By-Law.

6. The Applicant represented that the building has a current parking supply of 277 spaces. The required number of parking spaces with the addition of the Applicant as a medical office use tenant and the infill of other vacant office spaces by general office use tenants will result in a total parking requirement of 281 spaces. This is a shortfall of 4 spaces.

7. The Applicant submitted a Parking Study, which concludes that the peak parking demand occurred at 11:00 AM and that at that time, there were 137 vacant parking spaces.

8. The Parking Study concludes that the re-occupancy of vacant office space by the Applicant (7,764 square feet) as medical office use and the remaining vacancies (10,984 square feet) as general office use is estimated to require a peak parking demand ranging from 187 to 212 occupied parking spaces. The Applicant represents that this 65 space (or more) surplus is far in excess of the 13 space increase required by the By-Law due to the Applicant's proposed medical office use of the vacant space at the building.

9. Based upon the Parking Study submitted by the Applicant, there currently is adequate parking for the proposed use by the Applicant.

10. With respect to the Applicant's request for waivers from Section 5.1.3, the Applicant made the following representations:

- 5.1.3(a) (Parking Lot Illumination). The Applicant has not done a full photometric study to ensure that the entire lot is lit to a level of one foot candle;
- 5.1.3(i) (Width of Maneuvering Aisle). There are a few places in the lot of the premises that appear narrower than the Zoning By-Law requires, and an exact calculation of the aisle width has not been done;
- 5.1.3(k) (Landscaped Areas). There is some internal landscaping, but likely not the required 25%.
- 5.1.3(l) (Trees). The parking lot does not have the required one tree for every 10 spaces.

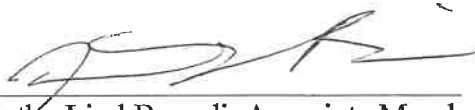
11. Section 5.1.1.5 of the By-Law permits the Board of Appeals to grant a Special Permit to waive strict adherence to the requirements of Section 5.1.2 and/or Section 5.1.3 where the Applicant demonstrates with a parking plan prepared and reviewed in accordance with the provisions of Section 5.1.3 that a particular use, structure or lot, owing to special circumstances, does not warrant the number of parking spaces required by Section 5.1.2 and/or the application of certain design requirements contained in Section 5.1.3. Based upon the evidence presented, the representations made by the Applicant and the submitted Parking Study, the Board finds that there are special circumstances justifying the waiver of certain design requirements and the waiver of the required number of parking spaces. The current number of parking spaces located on the premises is sufficient for the use of the Applicant and its patrons.

12. The Board finds that the issuance of the Special Permit will not be detrimental to the Town or to the general character and visual appearance of the surrounding neighborhood and abutting uses, and is consistent with the intent of the Zoning By-Law.

On the basis of the foregoing findings, following motion duly made and seconded, after open deliberation, the Board, by unanimous vote, grants the Applicant a Special Permit pursuant to Section 5.1.1.5 of the By-Law waiving strict adherence to the requirements of Section 5.1.2 and Sections 5.1.3(a), (i), (k) and (1), of the By-Law in connection with the Applicant's proposed tenancy of 7,764 square feet of the building at 145 Rosemary Street, Needham.


Jon D. Schneider, Chairman


Howard Goldman, Member


Kathy Lind Berardi, Associate Member