### NEEDHAM ZONING BOARD OF APPEALS AGENDA

THURSDAY, September 21, 2023 - 7:30PM

Charles River Room
Public Service Administration Building
500 Dedham Avenue
Needham, MA 02492

Also livestreamed on Zoom
Meeting ID: 869-6475-7241
To join the meeting click this link:
<a href="https://us02web.zoom.us/j/86964757241">https://us02web.zoom.us/j/86964757241</a>

Minutes Review and approve Minutes from July 20, 2023 meeting.

Announcement Nikolaos M. Ligris, Select Board Member appointment.

Administrative Nomination and Election of Officers – Board of Appeals Rules, Article II, Section 1

Case #1 – 7:30PM **1458 Great Plain Avenue** – Tobin Beaudet Schools, Inc., has applied for a

Special Permit Amendment under Sections 5.1.1.5, 5.1.4, 5.1.3 and any other applicable Sections of the By-Law to waive strict adherence to the number of parking spaces required and parking plan and design requirements. This request is associated with the increase of children at 1458 Great Plain Avenue who are temporarily relocated because of a sixto-nine-month construction project at 72 School Street. The property is located at 1458 Great Plain Avenue, Needham, MA in the Single Residence

B (SR-B) District.

Informal Matter Jon D. Schneider – Recognition and Appreciation

### NEEDHAM ZONING BOARD OF APPEALS

#### MINUTES THURSDAY July 20, 2023–7:30 PM

Charles River Room
Public Service Administration Building
500 Dedham Avenue
Needham, MA 02492

Also livestreamed on Zoom Meeting ID: <u>869-6475-7241</u> https://us02web.zoom.us/j/86964757241

Pursuant to notice published at least 48 hours prior to this date, a hybrid meeting of the Needham Board of Appeals was held at the Charles River Room, Public Services Administration Building, 500 Dedham Avenue, Needham and remotely on Zoom on Thursday, July 20, 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, Peter Friedenberg. Mr. Schneider opened the meeting at 7:30 p.m.

**Minutes** – H. Goldman motioned to approve the minutes of June 15, 2023. N. Ligris seconded the motion. The motion was unanimously approved.

Case #1 165 Brookside Avenue Withdrawn without Prejudice

Case #2 673 Highland Avenue Approved

The meeting adjourned at 8:33 p.m.

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 <a href="http://www.needhamchannel.org/watch-programs/">http://www.needhamchannel.org/watch-programs/</a> and <a href="https://www.youtube.com/@TownofNeedhamMA/videos">https://www.youtube.com/@TownofNeedhamMA/videos</a>

assure their correctness, completeness and clarity. It is also recommended that all petitions and applications be first reviewed by the clerk of the Board.

#### ARTICLE II. ORGANIZATION

#### Section 1. Elections

At the first regular meeting following the qualification of annual appointee(s), the Board shall elect a chairperson and vice-chairperson. Each shall serve until a successor is duly elected. Associate members shall not participate in this election.

#### Section 2. Chairperson - Powers and Duties

The chairperson shall preside over all hearings and meetings of the Board. Subject to the rules as stated herein, he/she shall decide all points of order, unless overruled by a majority of the Board in session at the time. The chairperson shall appoint such committees as may be deemed necessary or desirable from time to time.

In addition to powers granted by Massachusetts General Laws and the Zoning By-Law, and subject to these Rules and further instructions of the Board, the chairperson shall supervise the work of the clerk, arrange for necessary help, and exercise general supervision over the Board's activities.

#### Section 3. Vice-Chairperson

The vice-chairperson shall preside over hearings and meetings and perform the duties of the chairperson during the absence or unavailability of the chairperson.

#### Section 4. Clerk

A clerk shall be appointed by the Board, and subject to the direction of the Board and its chairperson, shall undertake all of the clerical work of the Board including all correspondence of the Board, sending of all notices required by law and the rules and orders of the Board, receive and scrutinize all petitions and applications for compliance with the rules of the Board, keep dockets and minutes of the Board's proceedings, compile all required records, maintain necessary files and indices and call the roll at all Board meetings.

#### Section 5. Associate Members

The chairperson of the Board shall designate an associate member to sit on the Board in case of the absence, inability to act or interest on the part of a member. In the event of a vacancy on the Board, the chairperson shall designate an associate member to act as a member until the vacancy is filled by an appointment by the Board of Selectmen.

#### Section 6. Quorum

A quorum for purposes of conducting public hearing and transacting other business shall consist of two (2) members. If a quorum is physically present, other members may participate remotely and vote on matters in accordance with regulations adopted under the Open Meeting Law (currently set forth in 940 CMR 29.10).

#### Section 7. Regular Meetings

Regular meetings of the Board shall be held as necessary at 7:30 P.M. on the third Thursday of each month, or at other times as determined by the Board at a place specified in the meeting notice.

#### Section 8. Special Meetings

Special meetings may be called by the chairperson or at the request of two members. Written notice thereof shall be given to each member at least forty-eight (48) hours before the time set, except that announcement of a special meeting at any meeting attended by all members shall be sufficient notice. Notices shall be posted publicly as required by law.

### FRIEZE CRAMER ROSEN & HUBER LLP

COUNSELLORS AT LAW

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

September 19, 2023

#### BY ELECTRONIC MAIL

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

Re:

Application for Amendment to Special Permit

1458 Great Plain Ave, Needham, MA

Dear Members of the Board of Appeals:

On behalf of the Applicant, Tobin Beaudet Schools, Inc., I am writing to request that the pending application for Amendment to Special Permit be withdrawn without prejudice. The basis for this request is the determination of the Building Commissioner that, because this use is protected by the Dover Amendment, no Special Permit (or amendment thereto) can be required for the Applicant's current plan to increase the number of children at the child care facility located at 1458 Great Plain Avenue, during the period of construction at the facility located at 72 School Street.

The Applicant wishes to assure the Board that, as in the past, the Applicant has permission to use the immediately adjacent Newman School parking lot between 7:00 and 8:00 a.m., and after 3:30 p.m. Because it is so convenient to use the Newman School parking spaces close to 1458 Great Plain Avenue, many parents are already using this lot for pick-up and drop-off, a practice that the Applicant intends to encourage. Consequently, the Applicant does not anticipate that there will be any parking or circulation problems in either parking lot.

We appreciate the Board's attention to this request, and, in consequence, do not intend to attend the hearing on September 21.

Sincerely, /s/ Evans .Huber

Evans Huber

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** Tobin Beaudet Schools, Inc. **Applicant** Date: Name 08-28-23 **Applicant** 72 School Street, Needham, MA 02492 Address 781-444-5444 Phone email |sbeaudet@tobinbeaudet.com Applicant is □Owner; ☑Tenant; □Purchaser; □Other\_ If not the owner, a letter from the owner certifying authorization to apply must be included Representative Evans Huber, Esq., Frieze Cramer Rosen & Huber LLP Name Address 62 Walnut Street, Suite 6 Phone 781 943-4000 eh@128law.com email Representative is  $\boxtimes$ Attorney;  $\square$ Contractor;  $\square$ Architect;  $\square$ Other\_ Contact ☐Me ☑Representative in connection with this application.

Subject Property Information						
Property Address	1458 Great Plain Avenue, Needh	am				
Map/Parcel Number	Map 216 Parcel 1	Zone of Property	Single Residence B			
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						
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 (select one): □Special Permit □Variance □Comprehensive Permit ☑Amendment □Appeal Building Inspector Decision						



### **Existing Conditions:** The applicant currently operates an afterschool program in the Church buillding

on the property, for up to 90 children and 10 staff. The applicant also has approval of this Board to operate a morning program for up to 40 children and 4 staff. However, Applicant is not currently operating the morning program at this location. See prior decision of this Board dated June 16, 2019, filed herewith.

There are seventeen (17) parking spaces in the Church lot. In addition, Applicant has permission from the Newman school to use the adjacent parking lot (with no cap on the number of spaces used) between 7:00 - 8:00 a.m. and after 3:30 p.m.

Statement of Relief Sought: Because, as approved by this Board, the Applicant's location at 72 School Street will be undergoing construction for approximately six to nine months, applicant proposes, during that period of construction, to increase the number of children at this location during the afterschool program to a maximum of 120, with a maximum of 12 staff, and to increase the number of children during the morning to a maximum of fifty (50), with a maximum of eght (8) staff. Applicant seeks a temporary amendment to its existing special permit, waiving the requirement of compliance with the number of parking spaces required by section 5.1.2 of the Bylaw (as determined by the Building Commissioner), as well as certain design requirements in section 5.1.3 of the Bylaw. Applicant notes that this use is protected by the Dover Amendment.

### Applicable Section(s) of the Zoning By-Law: Subject to the fact that the child care facility is

protected by the Dover Amendment, sections 5.1.1.5, 5.1.2, 5.1.3, 7.5.2, and any other applicable section of the Bylaw.

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

	Existing Conditions	Proposed Conditions
Use	N/A	N/A
# Dwelling Units	N/A	N/A
Lot Area (square feet)	N/A	N/A
Front Setback (feet)	N/A	N/A
Rear Setback (feet)	N/A	N/A
Left Setback (feet)	N/A	N/A
Right Setback (feet)	N/A	N/A
Frontage (feet)	N/A	N/A
Lot Coverage (%)	N/A	N/A
FAR (Floor area divided by the lot area)	N/A	N/A

Numbers must match those on the certified plot plan and supporting materials

<b>Date Structure Cons</b>	structed includ	ing additions:
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Date Lot was created:

There is no issue regarding pre-existing non-conforming lot or structures

Submission Materials	Provided
Certified Signed Plot Plan of Existing and Proposed Conditions (Required)	Yes
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)	Yes
If applicant is tenant, letter of authorization from owner (Required)	Yes
Electronic submission of the complete application with attachments (Required)	Yes
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_	August 17, 2023	
	date of consult	

Date: August 28, 2023 Applicant Signature Studies Beelet

An application must be submitted to the Town Clerk's Office at <a href="mailto:townclerk@needhamma.gov">townclerk@needhamma.gov</a> and the ZBA Office at <a href="mailto:dcollins@needhamma.gov">dcollins@needhamma.gov</a>

#### COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss	NEEDHAM ZONING BOARD OF APPEALS
The Tobin Beaudet Schools, Inc., Applicant	) ) )
Re: Amendment to Special Permit For 1458 Great Plain Ave, Needham	) ) )

#### APPLICANT'S MEMORANDUM IN SUPPORT OF APPLICATION FOR AMENDMENT TO SPECIAL PERMIT

#### **INTRODUCTION**

Applicant, The Tobin Beaudet Schools, Inc. ("TBS") is a tenant, and runs an afterschool program, at the property located at 1458 Great Plain Avenue, Needham, MA, owned by the Presbyterian Church of Needham (the "Property"). There are 17 parking spaces in the parking lot at the Property.

On June 16, 2019, this Board issued an Amendment to the previously issued and amended Special Permit for this location, pursuant to Section 5.1.1.5 of the Zoning By-Law, waiving strict adherence with the requirements of Sections 5.1.2 (Required Parking) and 5.1.3 (Parking Plan and Design Requirements). A copy of that decision is attached as **Exhibit 1**.

By virtue of the 2019 Amendment to Special Permit, TBS has been running its afterschool program at the Property, for up to 90 children and a maximum of 10 staff members at any one time (the actual number of children in the current afternoon program is currently approximately 70). The 2019 Amendment also allowed TBS to run a morning program for up to 40 children and a maximum of 4 staff. However, TBS has not been running the morning program at that location, so the only current use of the 1458 Great Plain Avenue location is the afternoon program.

As this Board will recall, TBS also runs a child care program at its facility located at 72 School Street in Needham. The Special Permit for that location allows up to 66 children; in reality, the actual number of children at that location is below 66, and TBS expects that the enrollment for that program for 2023-24 will be approximately 50 children. By Decision dated June 16, 2023, this Board approved an amendment to the Special Permit for that location, allowing the construction of a partial second floor on the existing building. Applicant intends to commence that construction project as soon as possible, but obviously cannot operate as a child care facility during construction.

TBS therefore proposes to run both programs at its 1458 Great Plain Avenue location during the period of construction at 72 School Street. The hours of operation for the program

currently run at 72 School Street will not change: 7:30 a.m. to 6:00 p.m., Monday through Friday. In addition, TBS will be continuing the afternoon program it has been running at the Property since 2011, with no change in the hours of operation, which are from 2:30 p.m. until 6:30 p.m. on days when school is in session. In addition to after-school hours, as is currently the case, the program will continue to be open during school vacations and on weekdays when school is not in session, such as teacher development days and snow days. On those days the program begins at 7:00 a.m. and end at 6:30 p.m. The program will not be open on Saturdays or Sundays.

Combining the two programs during the construction period would mean a maximum of 50 students and 8 staff members in the morning, and a maximum of 120 students and 12 staff members during the afternoon.

#### PROPERTY CHARACTERISTICS

The Property is located at the corner of Great Plain Avenue and Central Avenue and consists of approximately 55,494 square feet of land with approximately 250 feet of frontage on Great Plain Avenue and approximately 125 feet of frontage on Central Avenue. The Property is located in the Single Residence B Zoning District; and contains the Church and an attached one-story building with basement that was first constructed in 1958 and subsequently renovated in 1971.

There are seventeen parking spaces at the Property, which includes the Church sanctuary and related space; and slightly less than 1,000 square feet of first floor office and administrative space in addition to the space being leased by Tobin Afterschool. The parking spaces and layout of the parking area has not changed since the time of the 2019 Amendment to the Special Permit for this location.

The Property is adjacent to the Newman School and is separated from the Newman School parking lot by a short walkway.

#### CALCULATED PARKING REQUIREMENTS

The Applicant and counsel met with the new Building Commissioner on August 17. At that time, the Building Commissioner noted (i) the Needham zoning bylaw does not specify a particular parking requirement for child care facilities; and (ii) in the absence of a specified parking requirement, the Bylaw authorizes the Building Commissioner to determine the required parking. The formula that the Town has used in the past to calculate parking required for child care facilities with more than 45 children (1 space for each staff member, plus 8 spaces, plus 1 space for each 40 children) was discussed, and the Commissioner expressed some reservations that the formula might require too many spaces. No determination as to the parking requirement was made at that time.

Nevertheless, if one applies the formula that the Town has used in the past, the proposed temporary increase in children and staff will result in the following calculated parking requirements for the TBS programs during the period of construction at 72 School Street:

- 1. Morning (up to 50 children and 8 staff): 8 staff + 8 spaces + 2 (1 space per 40 children or fraction thereof) = 18 spaces
- 2. Afternoon (up to 120 children and 12 staff): 12 staff + 8 spaces + 3 (1 space per 40 children or fraction thereof) = 23 spaces

At present there are no other uses of the Church Property during the hours of the TBS morning or afternoon programs. Nevertheless, as calculated in the original Memorandum submitted to this Board as part of the original 2011 application for a Special Permit, pursuant to section 5.1.2 (7) of the Bylaw, the approximately 1,000 square feet of office and administrative space in the portion of the building near the sanctuary requires four parking spaces.<sup>1</sup>

In total, therefore, the calculated parking requirement for 1458 Great Plain Avenue (at least according to the formula used in the past), if the two programs are combined, would be 18 program spaces + 4 church-use space = 22 in the morning, and 23 program spaces + 4 church-use = 27 in the afternoon.

Consequently, TBS seeks a further amendment to its Special Permit, pursuant to Section 5.1.1.5 of the Zoning By-Law, again waiving (during the period of construction at 72 School Street) strict adherence with the requirements of Sections 5.1.2 and 5.1.3 of the Bylaw.

#### HOW TBS WILL MEET ACTUAL PARKING DEMAND

Children enrolled in the program that is currently run at the 72 School Street location are typically dropped off or picked up by a parent or caregiver. This is typically an all-day program.

Children arrive at the afternoon program currently run at the 1458 Great Plain Avenue location in one of two ways. Children coming from the adjacent Newman School simply walk to the afternoon program via the walkway connecting the Property to the Newman School parking lot. Children coming from other schools arrive via a bus provided by TBS. Thus, at the <u>start</u> of the afternoon program each day (at 2:30 p.m.), the actual demand for parking resulting from children arriving for the afternoon program is far less than the 27 spaces that the formula described above would require.

As noted above, the Newman School parking lot is adjacent to the Property and is connected to the Property via a short walkway. As was true at the time of the original application, and the 2019 Amendment, the Newman School has granted permission for TBS parents to use the Newman School parking lot between 7:00 - 8:00 a.m., and after 3:30 p.m. See email exchange between Jessica Peterson, Principal of the Newman School, and Stephanie Beaudet, attached as **Exhibit 2**.

<sup>&</sup>lt;sup>1</sup> The original Application for the Special Permit did not address the parking requirements for the sanctuary of the Church, which, under Section 5.1.2 (1) would be one parking space per three seats of total seating capacity. Presumably, this was because parking for Church services would only be required on Sundays, and Tobin Afterschool's operation would therefore have no impact on the Church's parking requirements for those attending its services. Tobin Afterschool is applying the same assumption to the present analysis.

TBS proposes that in terms of pickup and drop-off, the two programs will be segregated as follows: parents and caregivers dropping off and picking up children from the 72 School street program will be instructed to use the 1458 Great Plain Avenue lot; and parents and caregivers picking up children from the afternoon program currently run at the 1458 Great Plain Avenue location will be instructed to utilize the Newman School lot. TBS anticipates that these parents will have no difficulty complying with this directive, as many of them are already choosing to use the Newman School lot for this purpose.

Attached hereto as **Exhibit 3** are three charts showing the actual drop-off and pick-up data for the School Street program, for three representative weeks in October 2022, February 2023, and May 2023. The drop- off and pick-up numbers are divided into 30-minute increments. These three charts show that the peak drop-off period is between 8:00 and 8:30 a.m. and there are never more than 24 children being dropped off during that 30-minute period. If this program is moved to the 1458 Great Plain Avenue location, the 17 parking spots will be more than adequate to meet this demand, as virtually all parents do not park and get out of their vehicles; instead, they drive to the entrance, where they are met by a TBS staff member, drop off their child, and leave.

The pick-up data for the 72 School Street program shown on the charts attached as Exhibit 3 lead to the same conclusion. Those charts show that the peak pick-up period for that program is between 5;00 p.m. and 5:30 p.m., and the largest number of children being picked up during that block is 19. Again, the 17 parking spots will be more than adequate to meet this demand: as with drop-offs, virtually all parents do not park and get out of their vehicles; instead, they drive to the entrance, where they are met by a TBS staff member, pick up their child, and leave.

Under TBS's proposal, the parents and caregivers picking up the children from the afternoon program will be instructed that they must use the Newman School lot to pick up their children. The pick-up data for the afternoon program currently being run at the 1458 location, set forth in the charts in Exhibit 3, show that during the representative sample weeks there have never been more than 28 children being picked up from the afternoon program during a 30-minute increment, and the number of pick-ups during any given 30-minute increment is typically much lower than that. Once again, the parking at the Newman school lot is clearly adequate to handle this demand.

This proposal also has the benefit of diverting traffic on Central Avenue away from the Church parking lot entrance, as the entrance to the Newman School lot is much further away from the Great Plain/Central Avenue intersection. (also note that, as stated above, afternoon "drop-offs" are a non-issue, because children in the afternoon program arrive either by bus or on foot.

#### **ARGUMENT**

Pursuant to Section 5.1.1.5 of the By-Law, the Board may grant a special permit waiving strict adherence to such requirements if the Board finds that the number of parking spaces required by Section 5.1.2 and/or the application of the design requirements of Section 5.1.3 are not warranted due to special circumstances relating to the particular use of the Property, the

structure or the lot. Such special permit waiving strict adherence to the minimum number of required parking spaces may be granted if either:

- (i) Special circumstances relating to a particular use of the structure do not warrant insistence upon the minimum number of spaces required under Section 5.1.2; or
- (ii) The extent of existing building coverage on a particular lot is such that in laying out parking spaces in accordance with the design requirements of Subsection 5.1.3, the requirement for minimum number of spaces under Section 5.1.2 cannot be met.

Furthermore, when considering a request for a special permit under Section 5.1.1.5, the Board is to consider and/or incorporate the following into its decision:

- (a) The issuance of a 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 this Zoning By-Law;
- (b) In the case of waiving strict adherence to the requirements of Section 5.1.2, the special permit shall define the conditions of the use of structure so as to preclude changes that would alter the special circumstances contributing to the reduced parking need or demand;
- (c) [omitted as not relevant]
- (d) Provisions to demonstrate the ability to provide for additional parking consistent with Section 5.1.2 and/or parking designed in accordance with the particular requirements of Section 5.1.3; and
- (e) The granting of a special permit under this Section shall not exempt a structure, use or lot from future compliance with the provisions of Section 5.1.2 and/or 5.1.3.

TBS submits that in this case, special circumstances exist that justify waiving strict compliance with the parking requirements of Section 5.1.2. and the design requirements of Section 5.1.3. Specifically:

- 1. Although the *calculated* combined parking requirements for the proposed combine TBS programs and the Church pursuant to the Zoning Bylaw exceed available parking (by five spaces in the morning and 10 spaces in the afternoon), as a practical matter, the proposal outlined above would "split" the two programs so that only the program currently being run at 72 School Street would use the Church lot, and the current afternoon program would use the Newman School lot. For the reasons discussed above, if drop-offs and pick-ups are split in this way, there will be plenty of parking for both programs.
- 2. As was the case at the time the Board approved the original Special Permit, the existing parking spaces do not meet all of the design requirements of Section 5.1.3. A waiver of

strict compliance is requested with respect to certain subparagraphs of Sections 5.1.3, including but not limited to subparagraph (a)(existing illumination does not meet the requirement of an average of one foot-candle); subparagraph (f)(some of the parking spaces are slightly less than the required dimensions); subparagraph (i)(the maneuvering aisle is not the required width in some locations); subparagraph (j)(parking spaces in a few cases are slightly less than 5 feet from the building); subparagraphs (k) and (l)(setback spaces are not all landscaped in the manner called for in the bylaw); and subparagraph (m)(location of additional parking – the Newman School lot -- is not under the same ownership as the principal use).

However, as noted in the Board's original 2011 decision (**Exhibit 4**, page 4, paragraph 7), "compliance with the design requirements [of Section 5.1.3] would be burdensome and would reduce the number of spaces which is already very limited." This is still true today. Requiring strict compliance with the design requirements of Section 5.1.3 would place a significant financial burden on the Tobin Beaudet Schools and/or the Church, and would not contribute to improving the overall parking situation at the Property.

- 3. The factors that the Board is supposed to consider under Section 5.1.1.5 of the Bylaw are met or can be adequately addressed:
- a. The approval of the requested amendment to the existing 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. The expanded program will help meet a need of Needham residents and their children. There will be no physical change to the Property, and thus no negative impact on the character and visual appearance of the neighborhood.
- b. As was done with the initial Special Permit, approval of the requested amendment can include a definition of "the conditions of the use of structure so as to preclude changes that would alter the special circumstances contributing to the reduced parking need or demand." Those conditions were "(a) the Applicant shall not terminate its current practice of delivering most students ([for the afternoon program] by bus; (b) the Applicant shall not change its current hours of operation in a manner that would cause a conflict with the pick-up of students from other after-school programs at the site; and (c) the Applicant shall not be prohibited from using 30 spaces in the Newman parking lot for the pick-up of students." These conditions can continue to apply to the Special Permit, as further amended.
- c. TBS has "demonstrate[d] the ability to provide for additional parking consistent with Section 5.1.2." As set forth in Exhibit 2 hereto, the Needham Public Schools have granted permission for TBS parents to use the Newman School lot between 7:00 and 8:00 a.m. and after 3:30 p.m. (with no stated restriction on the number of spaces to be used).
- d. Granting the requested amendment to the Special Permit "will not exempt a structure, use or lot from future compliance with the provisions of Section 5.1.2 and/or 5.1.3. This can be made explicit in the Board's approval of the requested amendment.

#### CONCLUSION

For the reasons set forth above, TBS submits that special circumstances exist sufficient to justify waiving strict compliance with the number and design requirements for parking spaces at the Property, set forth in sections 5.1.2 and 5.1.3 of the Bylaw, and that this can be done while taking into account all of the factors that the Board is to consider under Section 5.1.1.5 of the Bylaw. Consequently, TBS requests that its proposed amendment to its previously-issued, and twice-amended, Special Permit be approved.

TBS would also point out that this use is protected by the Dover Amendment, M.G.L. c. 40A, Section 3 *et seq*. Under that statute, this Board cannot require a special permit for this proposed use (meaning that it cannot deny this proposed increase in enrollment), although it can impose "reasonable regulations" regarding, among other things, parking. TBS submits that the conditions and limitations described above, including the "split" of the two programs so that one program uses the Church lot and the other program uses the Newman School lot, constitute reasonable regulation, and will satisfy actual parking demands, while allowing the proposed increase in enrollment, as required by the Dover Amendment.

Date: August 25, 2023

Respectfully Submitted

The Tobin Beaudet Schools, Inc.,

By its attorneys,

Evans Huber, Esq.

BBO # 542133

Frieze Cramer Rosen & Huber LLP

62 Walnut Street, Suite 6

Wellesley, MA 02481

(781) 943-4000

# **EXHIBIT 1**



(1975年) (197

## TOWN OF NEEDHAM MASSACHUSETTS

#### **BOARD OF APPEALS**

#### SPECIAL PERMIT AMENDMENT

Tobin Beaudet Schools, Inc., applicant 1458 Great Plain Avenue Map 216, Parcel 1

June 16, 2019

The Tobin Beaudet Schools, Inc. made application to the Board of Appeals for a Special Permit Amendment 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 (i) to increase the number of children enrolled in the afterschool program to a maximum of 90 students, and to increase the maximum number of staff at any given time to ten, and waiving the requirement of compliance with the number of parking spaces, as well as certain parking design requirements, of the Zoning By-Law, and (ii) to operate a before-school program at the property for a maximum of 40 students and four staff employees at any given time. The property is located at **1458 Great Plain Avenue**, **Needham, MA** in the Single Residence B District. A public hearing was held on Thursday, June 20, 2019 at 7:30 p.m. in the Charles River Room, Public Services Administration Building, 500 Dedham Avenue, Needham, MA, pursuant to notices thereof published in a local newspaper and mailed to all parties of interest.

#### Documents of Record:

- Application for Hearing, Clerk stamped May 23, 2019.
- Applicant's Memorandum in Support of Application for Amendment to Special Permit, prepared by Evans Huber, Esq., dated May 23, 2019.
- 1458 Great Plain Avenue, ZBA Special Permit, filed with the Town Clerk on November 9, 2011 (the "2011 Special Permit").
- 1458 Great Plain Avenue, ZBA Special Permit, dated April 27, 2017 (the "2017 Special Permit Amendment").
- Letter from David A. Roche, Building Commissioner, to Evans Huber, dated May 21, 2019.
- E-mail titled "Amendment to the special permit" from Donald Dick to Evans Huber, dated April 22, 2019,
- E-mail titled "Parking" from Donald Dick to Evans Huber, dated April 22, 2019.

- Existing Conditions Plan, C1; prepared by Horsley Witten Group, Inc., stamped by Michael S. Ladue, Professional Land Surveyor, March 31, 2019.
- Letter from Thomas A. Ryder, Assistant Town Engineer, dated June 12, 2019.
- Email from Tara Gurge, Assistant Public Health Director, dated June 11, 2019.
- Email from Chief Dennis Condon, Fire Department, dated June 13, 2019.
- Letter from Needham Planning Board, prepared by Lee Newman, Director of Planning and Community Development, dated June 6, 2019.

#### June 20, 2019

The Board included Jon D. Schneider, Chairman; Jonathan D. Tamkin, Member; Howard S. Goldman, Member; Kathy Lind Berardi, Associate Member and Peter Friedenberg, Associate Member. Mr. Schneider opened the hearing at 7:34 p.m. by reading the public notice.

Evans Huber, representing the applicant, informed that the applicant's name as it appears in the application was incorrect and that the correct name is *Tobin Beaudet Schools, Inc.* 

Mr. Huber reported that the applicant is seeking an amendment to the 2011 Special Permit, as previously amended by the 2017 Special Permit Amendment, to expand the after-school program from 65 students and 7 staff to a maximum of 90 students and 10 staff. The Building Inspector has reviewed the program expansion and made a determination that the number of parking spaces required by the Zoning By-Law for the after-school program would increase from 17 spaces to 21 spaces. With the Presbyterian Church staff parking requirement of four spaces remaining unchanged, the new total parking requirement for the property would be 25 spaces.

The program has permission from the Newman School to use up to 30 spaces in their parking lot for after-school pick-up. The demand for parking is only for pick-up, as the children arrive to the school by walking from the Newman School or are bused from other schools.

Other than the requested increase in the maximum number of students and staff, the afterschool program will remain as described in the 2011 Special Permit and the 2017 Special Permit Amendment.

The applicant also seeks to add a new before-school program for up to 40 children and 4 staff, which will run from 7:00 a.m. to 8:15 a.m., before the opening of the Newman School. All of the participating children will be students at the Newman School and will be walked to the Newman School at 8:15 a.m. by staff.

The before-school children will be dropped off by their parents. The drop-off times will likely range from 7:00 a.m. to 8:00 a.m. The grades served will be kindergarten to fifth grade. Mr. Huber stated that the before-school program will not create additional parking usage and based on the Building Inspector's determination that the before-school program would require 12 parking spaces, the 17 spaces in the existing Church parking lot on the property will be sufficient.

Mr. Huber stated that, unlike in the past, there are now no other before- or after-school

programs at the Church nor any overlapping church activities competing for parking spaces during the school's proposed hours of operation.

#### Comments received:

- Planning Board had no comment.
- Engineering Department had no comment.
- The Health Department noted that if there are any food/snacks provided on site a food establishment permit and copy of the menu was required. The applicant is in the process of submitting an application for this permit.

No comments were received from the public.

Mr. Goldman stated that the corner of Great Plain Avenue and Central Avenue is very congested during peak commuting hours and asked about the impact of the proposed before-school program on the traffic. Stephanie Beaudet, President of Tobin Beaudet School, Inc., responded that students would not all arrive at the same time and that drop-offs would be staggered. Parents of children in the morning program tend to drop off early to take advantage of the program. The drop-off time would generally be an hour before the Newman School begins.

Mr. Tamkin and Mr. Goldman were concerned about the morning drop-off backing up onto Central Avenue and adding to the congestion of the area. Mr. Tamkin asked if the school had contacted the Newman School for permission to park during the morning drop-off. The applicant has not. Mr. Tamkin requested that the applicant ask the Newman School for the right to use a portion of its parking lot for morning drop-off parking. He was particularly concerned about the morning drop-off that occurs between 8:15 a.m. and 8:30 a.m., when the intersection is at its most congested. The traffic will be worse when the Sunita Williams Elementary School comes on line on Central Avenue. In the afternoon he had less of an issue about the pick-up. Mr. Huber informed him that 30 spaces at the Newman School parking lot are available for use by the school for pick-up parking after 3:00 p.m.

Mr. Huber suggested that a condition could be added to any decision requiring that the pick-up between 3:30 p.m. and 4:30 p.m. be limited from the Newman School parking lot. Mr. Tamkin suggested that the morning drop-off be done from the Newman School as well. Mr. Schneider questioned whether there would be less congestion turning into the Newman School entrance versus the Church parking lot driveway. Mr. Tamkin thought the Newman School entrance would be preferable with its wide driveway and assigned crossing guard.

Mr. Huber reported that the Church driveway is long and there is ample access to drive into the lot to park or turn around after dropping off a child. There are three parallel spaces along the side of the school from the driveway entrance to the front door of the school. Cars using the Church parking lot enter and exit through the same driveway.

After discussion, the Board was unanimously supportive of the proposed expansion of the after-school program. The Board discussed possibly approving the new before-school program with the following conditions:

- the applicant obtain parking permission from the Newman School;
- the morning traffic exiting the driveway be limited to right turns only;
- the Special Permit be subject to revocation if the Church adds another program; and

• the morning drop-offs be limited to 7:00 a.m. to 8:00 a.m.

The applicant suggested continuing the meeting to allow them to explore options with the Newman School. Mr. Schneider suggested that the applicant think about other measures to address the traffic issue.

Mr. Goldman moved to continue the Public Hearing to July 11, 2019. Mr. Tamkin seconded the motion. The motion was unanimously approved.

The meeting adjourned at 8:13 p.m.

#### July 11, 2019

The Board included Jon D. Schneider, Chairman; Howard S. Goldman, Member; and Peter Friedenberg, Associate Member. Mr. Schneider opened the hearing at 7:37 p.m. by reading the public notice. The meeting was held in the Select Board Chambers, Needham Town Hall, 1471 Highland Avenue, Needham, MA

Mr. Huber presented proposed alternative conditions to address the concerns raised by Board members at the previous meeting, which would be publicized and included in the contract to be signed by parents using the before-school program:

Parents will be instructed that between 7:00 a.m. -8:30 a.m.:

- no parking is allowed in the first four parallel spaces closest to Central Avenue along the building by the Tobin school, which are to be used only for drop-off;
- the parents must drive down to the widest point of the lot to turn around to exit the parking lot;
- if a parent wants to walk the child into the building, they will be required to park in the parking spaces in the back of the lot; and
- when exiting the lot, cars will only be permitted to turn right onto Central Avenue.

Mr. Goldman stated that the area is a very busy intersection until 9:00 a.m. He was concerned about the width of the driveway accommodating two-way traffic. Mr. Huber noted that the morning program ends at 8:15 a.m. when the children are walked to the Newman School, so drop-off will occur at an earlier hour. The driveway is 21 feet wide and can accommodate two-way traffic if no cars are allowed in the parking spaces along the entrance of driveway.

Mr. Goldman inquired if directional arrows would be painted. Mr. Huber agreed they could do this if required. Mr. Huber thought that a no parking/drop-off only sign and the contract would be sufficient to manage the parking.

Ms. Beaudet said that parents of older students  $(3^{rd} - 5^{th})$  grade) tend to park, allowing their children to walk rather than simply stop and drop off their children by the door.

Mr. Goldman was concerned about the creation of back-up. Mr. Huber said that there would be approximately 3-4 car lengths of no parking from the driveway entrance to the door of the school. If there are cars live-parked by the door of the school, parents will be instructed to drive past those cars, park in the back, and walk their child to the door. There will be a

maximum of 40 children who will be dropped off staggered over the course of approximately 45 minutes.

Ms. Beaudet noted that the school's operating hours during the holidays are from 7:00 a.m. to 6:30 p.m.

There were no comments from the public.

Mr. Friedenberg moved to amend the Special Permit to accommodate the following:

- Permit an increase in the after-school program from 65 students to 90, and 6 staff to 10, with no change to the operating hours and no changes to the conditions set forth in the 2011 Special Permit and the 2017 Special Permit Amendment other than the permitted increase in the maximum number of students and staff;
- Permit the addition of a before-school program from 7:00 a.m.to 8:30 a.m. for a maximum of 40 students and 4 staff, subject to the following:
  - o when exiting the driveway to Central Avenue cars will be required to make a right turn only;
  - the two parking spaces nearest to Central Avenue will not be used for parking or drop-off;
  - o the next four parking spaces adjacent to the Tobin School door will be limited to drop-off only;
  - the applicant will be responsible for managing the parking plan and will make adjustments accordingly to insure there will be no back-up onto Central Avenue;
  - o if there is any violation of the terms of this Special Permit Amendment, the Special Permit shall be subject to revocation or amendment after a hearing before the Board.

Mr. Goldman seconded the motion. The motion was unanimously approved.

The meeting adjourned at 8:00 p.m.

#### Findings:

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

- 1. The applicant, Tobin Beaudet Schools, Inc. is a tenant that runs an after-school program at the property located at 1458 Great Plain Avenue, Needham, MA ("the Property"). The Presbyterian Church of Needham owns the Property.
- 2. The Property consists of approximately 55,494 square feet of land and is located in the Single Residence B Zoning District. The Property contains the Church and an attached one-story building.
- 3. This Board issued the 2011 Special Permit pursuant to Section 5.1.1.5 of the Zoning By-Law to the applicant waiving strict compliance with the required number of parking spaces under Section 5.1.2 and the design requirements of Section 5.1.3, subject to three conditions. The 2011 Special Permit limited the applicant to an after-school program with a maximum of 39 children and a maximum of 5 staff members.
- 4. The 2017 Special Permit Amendment permitted an increase in the number of children

- enrolled in the after-school program to 65 and in increase in the maximum number of staff at any given time to 7, with no change in the program's hours of operation.
- 5. On April 22, 2019, the property manager of the Church confirmed via e-mail that there are no other groups that use the Property during the after-school or proposed preschool program hours of operation.
- 6. The Property has 17 parking spaces. The proposed increase in the size of the after-school program will result in an increase of the number of required number of parking spaces to serve that use. The Needham Building Commissioner's letter dated May 21, 2019 determined that the applicant's proposed increase in students and staff would require 4 additional parking spaces, for a total requirement of 21 parking spaces for the after-school program. In the same letter, the Needham Building Commission determined that the Applicant's proposed before-school program, would require 12 parking spaces.
- 7. The requirement of 21 parking spaces for the after-school program, plus the additional 4 spaces required for the 1,000 sf of space in the Church used for the Church's office and administrative purposes, results in a total combined calculated requirement of 25 parking spaces for the Property. Accordingly, there is a shortfall of 8 required parking spaces at the Property. The before-school program, together with the additional 4 spaces required for the Church's office and administrative space, does not create a shortfall in required parking at the Property.
- 8. The applicant submitted an e-mail dated April 22, 2019 from Jessica Peterson, Principal of Newman Elementary School, confirming that the applicant is still authorized to use the adjacent Newman School parking lot after 3:30pm.
- 9. The Applicant seeks an amendment to the 2011 Special Permit, as previously amended by the 2017 Special Permit Amendment, pursuant to Section 5.1.1.5 of the Zoning By-Law waiving strict adherence with the required number of parking spaces under Section 5.1.2 and the design requirements of Section 5.1.3, with respect to the expanded after-school program.
- 10. Section 5.1.1.5 of the By-Law grants authority to the Board to issue a special permit to waive strict adherence to the requirements of Section 5.1.2 and/or 5.1.3 where the Applicant can demonstrate 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 contacted in Section 5.1.3.
- 11. Due to the Applicant's confirmation that only the Applicant's after-school program will be using the Property during its hours of operation, and the confirmed continued authorization to use the parking spaces in the Newman Elementary School lot, the Board finds that there are special circumstances that that do not warrant insistence upon the minimum number of required parking spaces.
- 12. The Applicant also confirmed that the existing 17 parking spaces do not meet all of the design requirements of Section 5.1.3 (a), (f), (i), (j), (k), (l) and (m), as was the case at the time of the 2011 Special Permit. There will be no expansion of the building. The Board finds that circumstances have not changed since the 2011 Special Permit as to design and that compliance with the design requirements would be burdensome and

would reduce the number of parking spaces.

- 13. In addition, the Applicant's proposed before-school program requires a Special Permit to permit such use under Section 3.2.1 of the Zoning By-Law.
- 14. Although there is substantial traffic congestion on Central Avenue during the morning rush hour, the Applicant has agreed to a number of conditions on its operation of this program which the Board finds will mitigate the impact of this program on that traffic.
- 15. The requested amendments to the 2011 Special Permit, as previously amended by the 2017 Special Permit Amendment, 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 By-Law.

#### Decision:

On the basis of the foregoing findings, following due and open deliberation, upon motion duly made and seconded, the Board by unanimous vote, amends the 2011 Special Permit, as previously amended by the 2017 Special Permit Amendment, by:

- 1. waiving strict adherence to the requirements of Section 5.1.2 (number of parking spaces) and 5.1.3 (parking lot design requirements), subject to the following conditions applicable to its after-school program:
  - a. conditions (a) and (b) set forth in the 2017 Special Permit Amendment shall remain in effect;
  - b. the number of children enrolled in the after-school program shall be a maximum of 90 students and the maximum number of staff at any given time shall be 10 staff members; and
  - c. no changes shall be made in the hours of operation of the program as set forth in the 2017 Special Permit Amendment.
- 2. permitting the operation by the Applicant of a before-school program at the Property, subject to the following conditions:
  - a. hours of operation shall be from 7:00 a.m.to 8:30 a.m.;
  - b. the number of children enrolled in the program shall not exceed 40 and the maximum number of staff at any given time shall by 4 staff members;
  - c. the two parking spaces nearest to Central Avenue will not be used for parking or drop-off so that the width of the driveway at that location for entering and exiting the Property shall not be narrowed;
  - d. the next four parking spaces adjacent to the Tobin School door will be limited to drop-off only, no parking in those spaces will be allowed;
  - e. when exiting the driveway to Central Avenue cars will be required to make a right turn only and the applicant will install such signage to that effect as may be necessary to enforce this restriction;
  - f. the Applicant will be responsible for managing the parking plan and will make adjustments accordingly to insure there will be no back-up of cars onto Central Avenue; and

g. if there is any violation of any of these conditions, this Special Permit Amendment shall be subject to revocation or amendment after a hearing before the Board.

Jon D. Schneider, Chairman

Howard S. Goldman, Member

Peter Friedenberg, Associate Member

# **EXHIBIT 2**

From: To: Subject: Stephanie Beaudet Evans Huber Fwd: Tobin Parking

Date:

Wednesday, August 9, 2023 10:57:14 AM

Stephanie Beaudet Executive Director Tobin Beaudet Schools 917-733-0974 (cell)

Sent from my iPhone

#### Begin forwarded message:

From: Jessica Peterson < jessica peterson@needham.k12.ma.us>

Date: August 9, 2023 at 10:55:52 AM EDT

To: Stephanie Beaudet < sbeaudet@tobinbeaudet.com >

Cc: "Shane Marchand (DIS)" < shane marchand@needham.k12.ma.us>, Andrea

Vargas <a href="mailto:andrea">andrea vargas@needham.k12.ma.us</a>>

Subject: Re: Tobin Parking

Hi Stephanie--certainly your families can have access to our lot from 7-8 and after 3:30--good luck with the project!

Jessica

On Tue, Aug 8, 2023 at 1:59 PM Stephanie Beaudet <sbeaudet@tobinbeaudet.com> wrote:

Hi Shane.

Thanks for your quick response! Yes, of course we will remind families not to park in bus or van designated parking.

Thank you, Stephanie

On Tue, Aug 8, 2023 at 1:53 PM Shane Marchand (DIS)

<shane marchand@needham.k12.ma.us> wrote:

Good afternoon, Jessica Peterson will need to provide you with the permission to access the lot. All I ask, that the families do not park in the spots where the buses park (at the very bottom of the lot in line with the tennis courts towards Central Ave) in as well as our vans spots (noted by signs)

Thank you Shane

On Tue, Aug 8, 2023 at 1:49 PM Stephanie Beaudet <<u>sbeaudet@tobinbeaudet.com</u>> wrote:

Hi Andrea, Jessica and Shane,

We hope you are having a relaxing and enjoyable summer. We are so grateful that you have provided permission for our families at Tobin Beaudet Schools to use the Newman parking lot in the mornings (between 7-8am) and in the afternoons, after 3:30pm.

We are starting a construction project at our Early Childhood location (72 School Street) this fall to add an indoor gross motor space for our children as well as teacher office space. We expect the project will take 6-8months and start late fall. We are applying to the Needham Zoning Board of Appeals to temporarily move those children (Preschool, Pre-K and Junior K) to the Presbyterian Church during the project.

We have a note from the Newman administration from 2019 and we think the ZBA will likely request a more recent note that our program still has the same access to the parking lot we have had in the past. Is this something you would be able to provide to us?

I am available by phone or in person if you prefer, please let me know and thank you as always!

Thank you, Stephanie

On Thu, Jul 4, 2019 at 10:26 AM Stephanie Beaudet < sbeaudet@tobinbeaudet.com > wrote:

Hi Andrea, Shane and Jessica,

Thank you for your email and agreement to allow our families to use the parking lot during drop off between 7am-8am. We will communicate with the parents in our program to be sure the lot is not accessed before 7am and after 8am. This allowance is very much appreciated.

Many thanks and happy 4th, Stephanie

Stephanie Beaudet
Executive Director
Tobin Beaudet Schools
781-444-5444
sbeaudet@tobinbeaudet.com

Join us on Facebook <a href="http://www.facebook.com/tobinbeaudet">http://www.facebook.com/tobinbeaudet</a>

## Connect with me on LinkedIn <a href="http://www.linkedin.com/pub/stephanie-beaudet/6/537/331">http://www.linkedin.com/pub/stephanie-beaudet/6/537/331</a>

#### COA Accredited Program

On Jul 3, 2019, at 12:34 PM, Andrea Vargas <a href="mailto:andrea-vargas@needham.k12.ma.us">andrea-vargas@needham.k12.ma.us</a> wrote:

Hello Stephanie,

Shane Marchand and I spoke this morning regarding Tobin parking in the Newman lot. We are in agreement that this arrangement should work as long as parents arrive after 7:00 and before 8:00 so as not to interfere with buses and Newman arrival procedures.

Many thanks,

Andrea

Andrea Vargas Assistant Principal Newman Elementary School 781-455-0416



Stephanie Beaudet
Executive Director
Tobin Beaudet Schools
781-444-5444
www.tobinbeaudet.com
sbeaudet@tobinbeaudet.com

Schedule a visit at Tobin Beaudet Schools - Click here!

Connect with me on LinkedIn <a href="http://www.linkedin.com/pub/stephanie-beaudet/6/537/331">http://www.linkedin.com/pub/stephanie-beaudet/6/537/331</a>

Click below and give us a follow or leave us a review on Google!







You can make a difference! Our Afterschool program is hiring, click here to apply!

--

Shane Marchand Transportation Director Needham Public Schools 781-455-0400 X11234

Please subscribe to our Transportation

listserv https://lists.needham.k12.ma.us/mailman/listinfo/transportation

Follow us on Twitter <a href="https://twitter.com/NeedhamPSTrans">https://twitter.com/NeedhamPSTrans</a>

Follow us on Facebook <a href="https://www.facebook.com/NeedhamPSTrans/">https://www.facebook.com/NeedhamPSTrans/</a>

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Stephanie Beaudet
Executive Director
Tobin Beaudet Schools
781-444-5444
www.tobinbeaudet.com
sbeaudet@tobinbeaudet.com

Schedule a visit at Tobin Beaudet Schools - Click here!

Connect with me on LinkedIn <a href="http://www.linkedin.com/pub/stephanie-beaudet/6/537/331">http://www.linkedin.com/pub/stephanie-beaudet/6/537/331</a>

Click below and give us a follow or leave us a review on Google!







You can make a difference! Our Afterschool program is hiring, <u>click here</u> to apply!

?

Jessica Peterson Principal

## Newman Elementary School 781-455-0416

Pronouns: she, her, hers

ATTENTION: If you speak a language other than English, language assistance services are available to you free of charge. Contact your child's school for assistance.

ATANSYON: Si ou pale yon lòt lang ke lang Anglè, sèvis asistans lang yo disponib pou ou gratis. Kontakte lekòl timoun ou an pou kapab jwenn asistans.

请注意:如果您的母语不是英语,我们将免费提供您语言辅助服务 如需协助,请与您孩子的学校联系

ATENCION: Si usted habla un idioma que no sea el inglés, hay servicios de asistencia lingüística disponibles gratis. Contacte la escuela de su hijo para asistencia.

ВНИМАНИЕ: Если вы не говорите на английском языке, для вас доступны бесплатные языковые сервисы на вашем языке. Обратитесь за помощью в школу, в которой учится ваш ребенок.

Spanish: ATENCION: Si usted habla un idioma que no sea el inglés, hay servicios de asistencia lingüística disponibles gratis. Contacte la escuela de su hijo para asistencia.

# **EXHIBIT 3**

## TOBIN BEAUDET SCHOOLS, INC. ACTUAL DROP-OFF AND PICK-UP DATA DURING PEAK TIMES

#### Week of October 17 – 21, 2022

#### SCHOOL STREET DROP OFF DATA

	M	Т	W	TH	F
					<u> </u>
7:30 – 8am	7	6	6	6	8
8- 8:30AM	16	18	17	15	14
8:30AM -9AM	13	11	9	11	11
9-9:30AM	2	3	3	4	4
9:30-10AM	1	2	1	1	1
SCHOOL STREET P	ICK UP DATA				
	M	Т	W	TH	F
3-3:30PM	4	4	1	3	7
3:30-4PM	3	3	1	4	1
4- 4:30PM	3	7	1	4	8
4:30-5PM	10	8	7	4	5
5- 5:30 PM	7	8	14	14	9
5:30-6PM	8	6	9	6	1
1458 GREAT PLAIN	N ΔVF PICK II	ΡΝΤΛ			

#### 1458 GREAT PLAIN AVE PICK UP DATA

	<u>M</u>	ТТ	W	TH	F
3-3:30PM	0	0	0	1	0
3:30-4PM	1	2	5	2	0
4- 4:30PM	2	4	6	4	4
4:30-5PM	11	9	6	10	10
5- 5:30 PM	24	16	19	21	9
5:30-6PM	19	23	16	22	8

## TOBIN BEAUDET SCHOOLS, INC. ACTUAL DROP-OFF AND PICK-UP DATA DURING PEAK TIMES

Week of February 13 – 17<sup>th</sup>, 2023

#### SCHOOL STREET DROP OFF DATA

10
14
15
1
1
F
6
2
6
9
10
4

#### 1458 GREAT PLAIN AVE PICK UP DATA

	M	T	W	TH	F	_
3-3:30PM	0	0	0	1	3	
3:30-4PM	2	1	3	2	3	
4- 4:30PM	6	6	2	2	4	
4:30-5PM	9	8	12	12	5	
5- 5:30 PM	23	18	13	23	2	
5:30-6PM	23	20	19	23	3	

## TOBIN BEAUDET SCHOOLS, INC. ACTUAL DROP-OFF AND PICK-UP DATA DURING PEAK TIMES

Week of MAY  $22 - 26^{TH}$ , 2023

### SCHOOL STREET DROP OFF DATA

	M	Т	W	TH	F
7:30 – 8am 6-8:30AM 8:30AM -9AM 9-9:30AM 9:30-10AM	9 15 11 5 2	6 22 10 5 2	8 23 10 5 1	5 24 9 9	7 18 13 7 0
SCHOOL STREET PICK	CUP DATA				
	M	T	W	TH	F
3-3:30PM 3:30-4PM 4- 4:30PM 4:30-5PM 5- 5:30 PM 5:30-6PM	6 3 2 10 11 8	9 2 5 9 8 11	7 1 7 3 17 7	10 3 3 7 11 10	6 3 6 7 11 3

#### 1458 GREAT PLAIN AVE PICK UP DATA

	<u>M</u>	T	W	TH	F
3-3:30PM	0	0	1	0	0
3:30-4PM	1	2	0	0	5
4- 4:30PM	6	7	9	3	4
4:30-5PM	7	12	6	12	4
5- 5:30 PM	14	20	17	14	7
5:30-6PM	28	14	16	24	0

# **EXHIBIT 4**

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RECEIVED TOWN CLERK HEEDHAM, MA 02492

C I A 2011 NOV -9 PM 1: 16

RECEIVED AND RECORDED F F I C I A NORFOLK COUNTY C O P Y REGISTRY OF DEEDS DEDHAM, MA

NOT

CERTIFY

Tillian PO Formula

WILLIAM P. O'DONNELL, REGISTER

## TOWN OF NEEDHAM MASSACHUSETTS

#### BOARD OF APPEALS

#### **Tobin School**

Record owner: Needham Presbyterian Church 1458 Great Plain Avenue, Map 216, Parcel 01

Upon the application of The Tobin School, Inc. d/b/a Tobin Afterschool, 1458 Great Plain Avenue, Needham, MA, owner ("Applicant"), 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 with the off-street parking requirements, and any and all other relief as may be necessary and appropriate to permit the use of a portion of the church building for an after-school child care facility at 1458 Great Plain Ave., Needham, MA, in the Single Residence B, a public hearing was held at the Public Service Administration Building, 500 Dedham Ave., Needham, MA on October 20, 2011 at 7:45 PM pursuant to notice thereof, published in a local newspaper and mailed to all parties of interest.

#### **Documents of Record:**

- Application Packet, received September 26, 2011 containing:
  - 1. Application form dated September 26, 2011;
  - 2. Cover letter to Marita Klements dated September 26, 2011 signed and submitted by George Giunta, Jr., attorney for the applicant.
- Received prior to the October 20, 2011 hearing:
  - 1. Certified abutters' list;
  - 2. Plans of the Tobin Afterschool dated September 2, 2011, signed and stamped by George W. Schnee, A.I.A., three pages;
  - 3. Memorandum from the Planning Board to Daniel Walsh, Building Inspector, regarding parking for the Tobin Afterschool, dated October 20, 2011;
  - 4. Email from Dan Gutekanst, superintendent of the Needham Public Schools, to Donald Dick, Property Manager of the Presbyterian Church, granting permission for the use of 25-30 spots in the Newman School parking lot for use after school hours.
- Received at the October 20, 2011 hearing:
  - 1. Memorandum in support of the application dated October 19, 2011, signed and submitted by George Giunta, Jr., attorney for the applicant;

October 20, 2011 NOT NOT

Mr. Schneider opened the hearing at 8:50 by reading the notice of hearing. The Board included Jon D. Schneider, Chairman; Jonathan D. Tamkin, Member, and Howard S. Goldman, Member. Appearing before the Board were George Giunta Jr., attorney for the applicant; Mary Beth Tobin, principal for the applicant; and Stephanie Beaudet, the director of Tobin Afterschool.

Mr. Giunta presented his case. The Tobin Afterschool is proposing to occupy approximately 800 square feet in the basement of the Needham Presbyterian Church, formerly occupied by the Salt Box School. The Salt Box School will still operate out of the Church, but no longer has need of the space proposed to be used by the Applicant. The Planning Board determined, based upon the maximum enrollment of 39 students and a maximum staff of 5, that Tobin has a requirement of 13 parking spaces. Tobin Afterschool runs from 2:30 PM to 6:30 PM.

Mr. Schneider read the Planning Board's comments which indicated that they were unable to comment because the application did not contain sufficient information.

Saltbox runs its basic program from 8:30 AM to Noon. They also have a maximum licensed capacity of 39 students, although they currently have no more than 25 students. They have extended hours from 12 to 3, but during the extended hours there are typically no more than 5 children. Their parking demand is also 13 spaces. Their licensing is not being reduced, although the space they occupy is being reduced. Parents park at the church lot and the Newman School while they drop or pick up their children.

The children attending the Tobin Afterschool arrive by bus hired by the school. Parents pick up their children between 5:15 and 6:45. Most parents use the parking lot at the Newman School and walk down a sidewalk to the church to pick up their children.

There are other activities that occur during the same time as the Tobin Afterschool operates. The Freelance Players is an afterschool theatrical program that meets on Fridays from 3:30 to 5:30. The children attending this program walk to the church from the Newman School. The program has under 40 students and less then 5 staff. The Ease Program is a language program that runs on Wednesdays with approximately 23 students. They too walk over from the Newman school. Parents use the Newman lot to pick them up at 4:15. There may be two smaller programs on Tuesdays and Thursdays starting on November 15<sup>th</sup>. The pick up for all of these programs will be through the Newman School Parking lot.

There are 17 parking spaces on site. The church has made application to build an additional 10 spaces, but requires a design waiver. The Board held a hearing on the church's application immediately before this matter. While the Board indicated that it was favorably inclined to grant the waiver, but the Board continued the church's application so that they could submit a landscaping plan and consult with the Town Engineer regarding drainage. The Tobin Afterschool and Salt Box School taken together require 36 spaces. The theater and language programs would require additional parking. However, the demand for parking is staggered.

There was a suggestion that the matter be continued until the church's application for new spaces is approved, but the Applicant indicated that they were anxious to begin operations. Mr.

Schneider stated that everything works fine so long as the have access to the Newman School lot.

OFFICIAL

OFFICIAL

Mr. Tamkin expressed concern that there is no long term lease for the parking spaces at the Newman School and perhaps it should perhaps be disregarded. Mr. Schneider noted that there is permission to use 25-30 spaces in the Newman lot after school hours and suggested that the special permit could be conditioned on the Newman School not denying access to the parking.

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

At 9:11 Mr. Goldman moved to grant a special permit to the Tobin Afterschool subject to the requirement that the Town not prohibit their use of 30 spaces in the Newman School parking lot. The hours of operation of the program will be 2 PM to 7 PM. Mr. Tamkin seconded the motion. The vote was unanimously in favor.

#### Decision:

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

- 1. The Applicant, The Tobin School, Inc. d/b/a Tobin Afterschool, is licensed to provide day care for up to 39 children. The proposed program will operate from 2:30 pm to 6:30pm on days when school is in session and from 7:00am to 6:30pm on days when school is not in session. On school days students will be bused to the site on a bus hired by the Applicant, except for students from Newman School who may walk. Students are picked up by parents or other caretakers generally between 5:15pm and 6:15pm. The maximum number of staff is 5 at any one time.
- 2. The Applicant proposes to lease approximately 1423 square feet of space spread over several rooms in the basement of the Needham Presbyterian Church at the corner of Great Plain Avenue and Central Avenue. The church currently has 17 parking spaces in a paved lot entered from Central Avenue. The church is in close proximity to a large parking lot at the Newman School that is separated by a short walkway. The Applicant has permission to use the Newman parking lot after school hours and children are typically picked up by parties parking in the Newman lot. In addition, the church has plans to build an additional 10 spaces upon issuance of necessary permits.
- 3. The Planning Board has recommended that the Applicant should be required to have 13 parking spaces. Since the Applicant's use requires more parking than the church use, Section 5.1.1.1 of the By-Law requires that the premises comply with the number and design of parking spaces contained in the By- law unless the Board issues a special permit waiving such compliance.
- 4. The church currently leases additional space in the basement to the Salt Box School which is licensed to provide day care to up to 39 children, but the current enrollment is less than 25 students. The Salt Box School generally operates from 8:30am until Noon,

but has extended hours until 3:00pm. The enrollment in the extended program is currently 5 children. The majority of pick ups from the Salt Box School are completed before the Tobin Afterschool begins operations and all are completed before the time of pick ups from the Tobin Afterschool. While the Board has not received a recommendation from the Planning Board for the parking requirement of the Salt Box School, it presumes that the requirement is 13 spaces.

- 5. The church has other student activities that potentially conflict with the Applicants operations including an after school theatrical program for approximately 40 students on Fridays from 3:30pm to 5:30 pm and a language program on Wednesdays for approximately 23 students from the end of school until 4:15 pm. The church is also considering additional language programs for Tuesdays and Thursday that would have a similar number of students and hours of operation. The students participating in these activities walk from Newman School and are picked up in the Newman parking lot, typically before parents are picking up students from the Applicant's program.
- 6. The church conducts other activities during the week including employment counseling, meetings for Boy Scouts, meetings for a chapter of Alcoholic Anonymous, bible study, rehearsal and meeting space for the Needham Community Theater and, on occasions, assemblies for groups from the Newman School and Town Flu Clinics. These activities are generally timed so they do not conflict with parking activities associated with the Applicant's operations. At the present time, the Town Flu Clinics have been moved to another location because the Newman School is under construction and the Newman parking lot is not available during school hours.
- 7. It is unclear whether the existing church parking spaces comply with size, maneuvering aisle and illumination requirements of the By-Law, but they clearly do not comply with other design requirements such as landscaping. There is no expansion of the building. Compliance with the design requirements would be burdensome and would reduce the number of spaces (which is already very limited). Moreover, the Board expects to review the design of the current parking in the separate application of the church to build 10 additional spaces.
- 8. Special circumstances exist including the staggered time of parking need and the availability of parking at the Newman parking lot that warrants a waiver of the required number of parking spaces.
- 9. The issuance of a 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 due and open deliberation, the Board by unanimous vote grants the applicant a special permit under Section 5.1.1.5 of the Zoning By-law waiving compliance with the required number of spaces under Section 5.1.2 and the design requirements of Section 5.1.3 subject to the condition that a)the Applicant shall not terminate its current practice of delivering most students by bus,

b) the Applicant shall not change its current hours of operation in a manner that would cause a conflict with the pick up of students from other after school programs at the site, and c) the Applicant shall not be prohibited from using 30 spaces in the Newman parking lot for the pick up of students.

Jon Schneider, Chairman

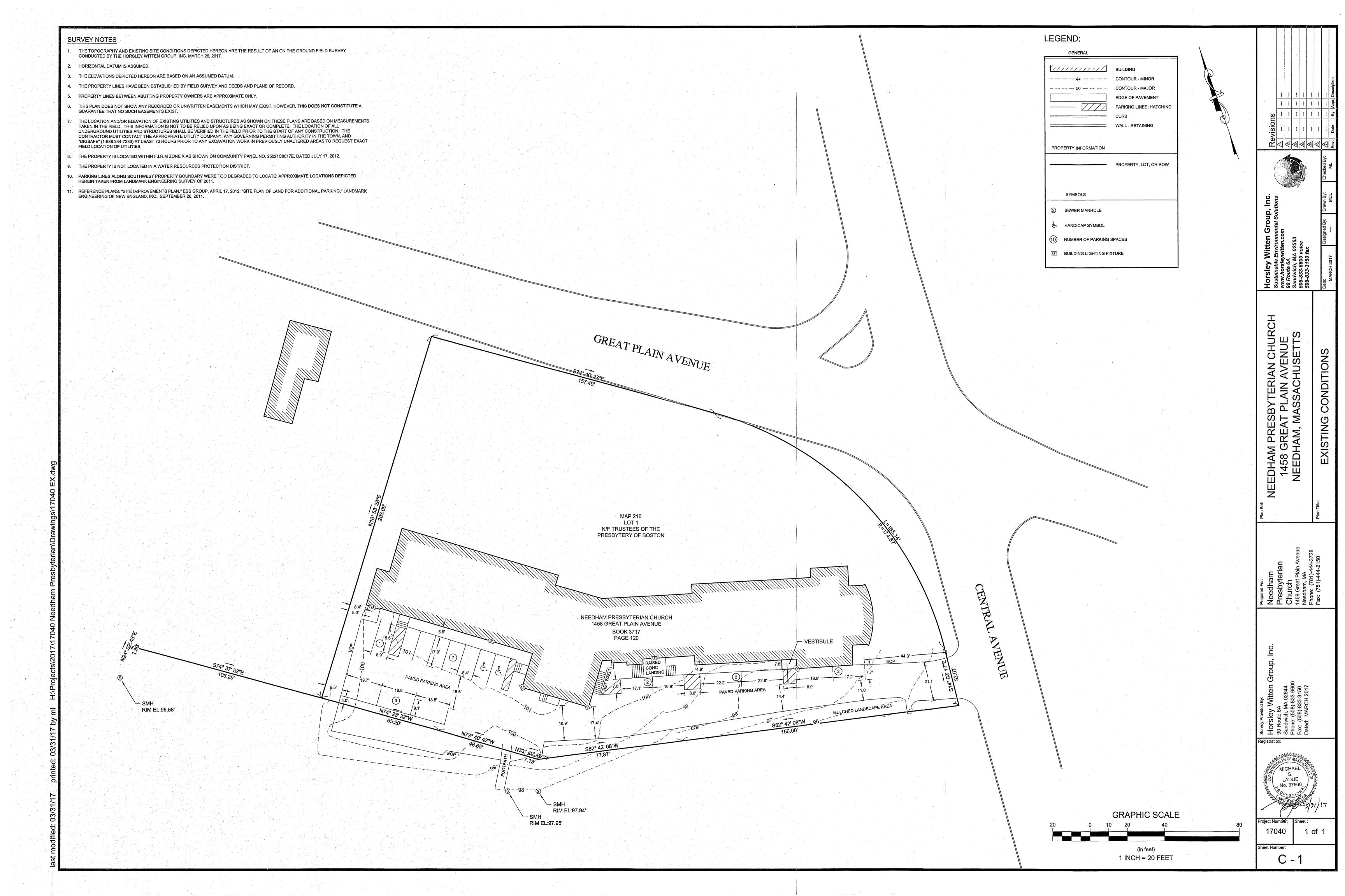
Jonathan D Tamkin, Member

Howard Goldman, Member

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

Date <u>Dec. 5</u> 20 11

A True Cop Attest: Town Clerk





Town of Needham Building Department 500 Dedham Avenue Needham, MA 02492 Tel: 781-455-7550

May 9, 2023

Zoning Board of Appeals

Re: Application review for the September 11, 2023 Hearing, 1458 Great Plain Ave., Tobin Beaudet Schools Inc.

Dear Board Members,

This office has reviewed the application related to 1458 Great Plain Ave. seeking a temporary amendment to a Special Permit which would waive certain parking and design requirements in Section 5 and 7 of the Zoning Bylaw.

It is my position that no amendment to the existing Special Permit is required for this proposal. This determination is based on the following:

- 1. The Town is precluded by Mass. General Law, Chapter 40A, Section 3 (the Dover Amendment) from issuing a Special Permit to a daycare use and
- 2. The Zoning Bylaw contains no parking requirements specifically for daycares and that the second to last paragraph in Section 5.1.2 is not an appropriate path to determine parking requirements for uses protected by the Dover Amendment and
- 3. The Dover Amendment does not allow municipalities to regulate or consider traffic, landscaping or lighting for daycare uses.

I had informed the Applicant of my position on this prior to and shortly after their application. I suspect they may seek to withdraw their application.

Sincerely,

Joe Prondak Building Commissioner



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

September 11<sup>th</sup>, 2023

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

RE: Case Review-Special Permit

1458 Great Plain Ave - Special Permit

Dear Members of the Board,

The Department of Public Works has completed its review of the above referenced Special Permit to allow the increase in student and staff numbers while 72 School Street is under construction and relief on zoning bylaws 5.11.5, 5.1.2 and 5.1.3

The documents submitted for review are as follows:

- Application for Special Permit dated 8/17/23
- Applicants Memorandum in support for the amendment to the special permit. dated 8/25/23 by Frieze Rosen & Huber LLP
- Exhibits 1-4 dated 6/16/2019, 8/9/2023, 8/17-21/2022, 12/6/2011)
- Existing Conditions by Horsley Witten Group Inc. 3/20/17

Our comments and recommendations are as follows:

• The engineering department has no comment or objection to the request.

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

Truly yours,

Thomas A Ryder Town Engineer

tryder

#### **Daphne Collins**

From:

Tara Gurge

Sent:

Wednesday, August 30, 2023 1:57 PM

To:

Daphne Collins

Subject:

RE: 1458 Great Plain Avenue - ZBA Administrative Review - Due September 11, 2023

#### Daphne -

Hello – I am just getting back to you re: your request for the Public Health Division comments for the Special Permit Amendment Case Review for #1458 Great Plain Ave.

The Public Health Division has no comments at this time.

Thanks,

\_\_\_\_\_

TARA E. GURGE, R.S., C.E.H.T., M.S. (she/her/hers)

ASSISTANT PUBLIC HEALTH DIRECTOR

**Needham Public Health Division** 

Health and Human Services Department

178 Rosemary Street

Needham, MA 02494

Ph- (781) 455-7940; Ext. 211/Fax- (781) 455-7922

Mobile- (781) 883-0127

Email - tgurge@needhamma.gov

Web-www.needhamma.gov/health





please consider the environment before printing this email

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Follow Needham Public Health on Twitter!

From: Daphne Collins < dcollins@needhamma.gov>

Sent: Tuesday, August 29, 2023 5:04 PM

<jsavignano@needhamma.gov>; Tara Gurge <TGurge@needhamma.gov>; John Schlittler

<JSchlittler@needhamma.gov>; Tom Conroy <TConroy@needhamma.gov>

Subject: 1458 Great Plain Avenue - ZBA Administrative Review - Due September 11, 2023



September 5, 2023

Mr. Jonathan Tamkin, Acting-Chair, and Members Zoning Board of Appeals Public Services Administration Building 500 Dedham Avenue Needham, MA 02492

Dear Mr. Tamkin and Members of the Zoning Board of Appeals:

At its meeting of September 5, 2023, the Planning Board reviewed the applications to be heard by the Board of Appeals on September 21, 2023, and made the following recommendations:

1. 1458 Great Plain Avenue –Tobin Beaudet Schools, Inc., has applied for a Special Permit Amendment under Sections 5.1.1.5, 5.1.4, 5.1.3 and any other applicable Sections of the By-Law to waive strict adherence to the number of parking spaces required and parking plan and design requirements. This request is associated with the increase of children at 1458 Great Plain Avenue who are temporarily relocated because of a six-to-nine-month construction project at 72 School Street. The property is located at 1458 Great Plain Avenue, Needham, MA in the Single Residence B (SR-B) District.

The Planning Board makes NO COMMENT.

NEEDHAM PLANNING BOARD

Lee Newman

Lee Newman
Director of Planning and Community Development

## Norfolk Lodge A.F. & A.M.

## 1101 Highland Avenue Needham, MA 02494

September 14, 2023

Needham Board of Appeals 500 Dedham Avenue Needham, MA 02492

Dear Members:

On behalf of Norfolk Lodge A.F. & A. M. Annual Christmas tree sale, I am writing to you for the purpose of renewing the special permit your board granted under section 3.2.1. of the Zoning By-Laws, granted to us on October 16, 1997 for the storage and sale of Christmas trees and related items.

Condition #5 listed on your decision required that in order to renew the permit we must show evidence of the continued permission to use the parking lot owned by Christ Episcopal Church, which is situated between our sales lot and Highland Avenue. Enclosed is a letter from Christ Episcopal Church granting permission to use the lot in question.

This period will be seven days a week from November 18 through December 24, 2023. Hours are as follows: Monday through Friday 3:00 PM to 9:00 PM, Saturday 9:00 AM to 6:00 PM, and Sunday 12:00 PM to 6:00 PM.

We will obtain the necessary permit from the Needham Fire Department for the storage of the trees, wreaths, and trimmings.

If you have any questions I can be reached at 781 444-8964. Please forward a copy of the hearing results to 12 Morley Street, Needham, MA 02492.

Thank you in advance for your help and consideration.

Sincerely,

Brian R. Sewall

Christmas Tree Committee



September 14, 2023

Needham Board of Appeals Needham Town Hall 1492 Highland Avenue Needham, MA 02492

Dear Members,

Please be advised that the Norfolk Lodge A.F. & A.M. has the permission of Christ Episcopal Church, 1132 Highland Avenue, Needham, Massachusetts, to use the parking lot owned by the Church for customer parking when viewing and purchasing Christmas trees during the 2023 Christmas Tree & Wreath sale.

The time period of use will be seven days a week from November 18 through December 24, 2023. Hours are Monday through Friday 3:00-9:00 p.m., Saturday 9:00 a.m.-6:00 p.m., and Sunday 12:00noon-6:00 p.m.

The parking lot is located on Highland Ave, Needham, Massachusetts, directly opposite the church, and situated between 1111 Highland Avenue and the Needham Public Library.

Sincerely,

Alison Heard

Manager of Parish Operations

cc: Brian Sewall, Norfolk Lodge

RECEIVED TOWN CLERK NEFOHAM

#### TOWN OF NEEDHAM MASSACHUSETTS BOARD OF APPEALS OCTOBER 16, 1997

'97 OCT 30 A8:15

# NORFOLK LODGE AF & AM NEHOIDEN LODGE AF & AM

Upon the application of Norfolk Lodge AF & AM and Nehoiden Lodge AF & AM, 1101 Highland Avenue, Needham, Mass., tenant, to the Board of Appeals for a special permit under Section 3.2.1 of the Zoning By-law to allow the sale and storage of Christmas trees and related items from November 30 to December 23 in the parking lot at 1101 Highland Avenue, a public hearing was held at the Stephen Palmer Senior Center, 83 Pickering Street, Needham, Mass. on Thursday, October 16, 1997 in the evening pursuant to notice thereof published in a local newspaper and mailed to all persons in interest.

Appearing on behalf of the applicant was Ken Morrison, Norfolk Lodge, and Gary Parks, Nehoiden Lodge. They requested a special permit to continue the sale of Christmas trees, etc. from the end of November to December 23. The Order of DeMolay was granted a variance in 1978 to sell Christmas trees at this property and has done so each year. Mr. Morrison stated they had contacted the abutters and have their permission. Letters were submitted from the Rector and Clerk, Christ Episcopal Church; owner, 3 Masonic Way; Charles River Workshop for Retarded Citizens, 1111 Highland Ave.; and, Needham Masonic Corporation.

No one appeared in opposition. A letter from the Planning Board dated October 14, 1997 stated that it makes no comment on the application. The hearing closed at 9:50 p.m. and the Board proceeded to deliberate.

#### Decision

On the basis of the evidence presented at the hearing on the application of the Norfolk Lodge AF & AM and Nehoiden Lodge AF & AM (the "applicant") for a special permit under Section 3.2.1 of the Zoning By-law to allow the sale and storage of Christmas trees and related items from November 30 to December 23 in the parking lot at 1101 Highland Avenue, the Board makes the following findings:

1. The applicant is a non-profit corporation engaged in various charitable endeavors and has sold Christmas trees and other related products from the site in the past under the temporary use variance granted to the Needham DeMolay in 1978.

TOWN OF NEEDHAM BOARD OF APPEALS NOTICE OF HEARING

Public notice is hereby given that Norfolk Lodge AF & AM and Nehoiden Lodge AF & AM, 1101 Highland Avenue, Needham, Mass., tenant, has made application to the Board of Appeals for a special permit under Section 3.2.1 of the Zoning By-law to allow the sale and storage of Christmas trees and related items from November 30 to December 23 in the parking lot at 1101 Highland Avenue.

Upon said application, a public hearing will be held at the Stephen Palmer Senior Center, 83 Pickering Street, Needham, Mass. on Thursday, October 16, 1997, in the evening at 8:45 p.m. at which place and time all persons interested may appear and be heard.

2. The Christ Episcopal Church by letter dated September 23, 1997 has granted permission to the applicant to use its parking lot at the site for customer parking, viewing and purchasing of Christmas trees and related products, and supports the applicant's request for a special permit.

#### Norfolk & Nehoiden Lodges Page 2 10/16/97

- 3. Adequate parking and loading space is available at the site as required by the Bylaw.
- 4. The issuance of the special permit will not be detrimental to the Town or to the general character of the surrounding neighborhood, 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 due and open deliberation, the Board by unanimous vote grants the applicant a special permit under Section 3.2.1 of the Zoning By-law to allow the sale and storage of Christmas trees and related items from November 30 to December 23 at 1101 Highland Avenue (located behind the Christ Episcopal Church parking lot), Needham, subject to the following conditions:

- 1. Christmas trees and related items may be stored, offered for sale and sold on the subject lot during the period commencing November 30, 1997 and ending at the close of business on December 23, 1997.
- 2. Hours of operation will be Monday through Friday 4:00 p.m. to 9:00 p.m., Saturday 9:00 a.m. to 9:00 p.m. and Sunday noon to 6:00 p.m.
- 3. Any illumination which may be installed must be temporary, must be erected and removed each year, and must be positioned at all times so as not to interfere with the normal use of any adjoining property.
- 4. Due diligence must be exercised at all times to avoid excessive off-site parking traffic, tie-ups and unnecessary noise and congestion.
- 5. This special permit is subject to renewal by the Board of Appeals on a year to year basis upon letter request to the Board with adequate proof of continued permission from the Christ Episcopal Church for the continued use of its parking lot and applicant's request for specific dates and times of operation at the site.

William J. Tedoldi, Chairman

Jon D. Schneider, Member

Michael A. Crowe, Member

#### **Daphne Collins**

From: noreply@civicplus.com

**Sent:** Friday, September 8, 2023 5:25 PM **To:** Daphne Collins; Alexandra Clee

Subject: Online Form Submittal: Contact Zoning Board of Appeals

The following form was submitted via your website: Contact Zoning Board of Appeals

Full Name:: Michael Ruddy

Email Address:: ruddigan@yahoo.com

Address:: 69 Melrose Ave.

City/Town:: Needham

State:: MA

Zip Code:: 02492

Telephone Number:: 8572078854

Comments / Questions: Dear Chairman Schneider,

May I please confirm that during the July 20th ZBA meeting, when you asked "Does anyone on this board care about requiring a bike rack," the answer was "no," as transcribed by YouTube?

It's extremely surprising to me that with the exception of one board member who was promptly dissuaded by the applicant's attorney, none of you were aware that a class-1 bike path was installed by MassDOT in front of the Three Squares site last winter (for the record, on \*both\* sides of Highland Avenue, from Fire Station #2 to Muzi).

How could our town's ZBA not be aware of such a major redesign of our town's busiest roadway that had been under development for over three years? And did any of you visit the site prior to the hearing?

I'm grateful for your service but I'm shocked by how generally uninformed and specifically indifferent to basic multimodal transportation considerations the board appeared to be in this instance.

I was born in this town and I would like for my children to be comfortable while walking and cycling around town, in the same way that our own generations are comfortable while driving home to our by-right 3-car garages in SRB. I know that the majority of my neighbors share these same values. Do you not wish the same for your children or grandchildren?

Sincerely, Michael Ruddy 69 Melrose Ave.

### **Daphne Collins**

From:

Daphne Collins

Sent:

Tuesday, September 12, 2023 5:03 PM

To:

ruddigan@yahoo.com

Subject:

673 Highland Avenue

Good Afternoon Mr. Ruddy-

This letter is to thank you and to confirm receipt of your letter concerning community bike amenity needs.

Though the Public comment period is closed and the parking design waivers were granted for 673 Highland Avenue, your important concerns will be forwarded to the Board and to the applicant's representative.

Thank you highlighting this issue.

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