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**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:

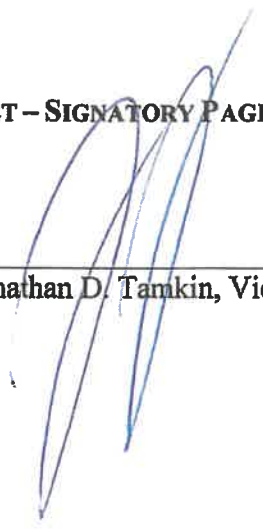
On the basis of the foregoing findings, following motion duly made and seconded, after open deliberation, the Board, by unanimous vote, grants the applicant a Special Permit pursuant to Section 5.1.1.5 of the By-Law waiving strict adherence to the requirements of Section 5.1.2 and Sections 5.1.3(a), (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