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**TOWN OF NEEDHAM
MASSACHUSETTS
BOARD OF APPEALS**

Special Permit Amendment

***Allen Douglass and Christine Lachkey, Applicants
R.K. Highland Avenue, LLC, Owner
238 Highland Avenue
Map 300, Parcel 59***

March 16, 2023

Allen Douglass and Christine Lachkey, applicants, applied to the Board of Appeals for a Special Permit Amendment under Sections 5.1.1.5, 5.1.2, 5.1.3 and any other applicable Sections of the Zoning By-Law to expand the Needham Montessori School to allow up to 154 children. As part of this expansion, waivers of parking number and parking design are required. The subject property is located at 238 Highland Avenue, Needham MA in the Highland Commercial -128 District. A public hearing was held remotely on Zoom, on Thursday, March 16, 2023 at 7:30 p.m.

Documents of Record:

- Application for Hearing, Clerk stamped February 21, 2023.
- Cover Letter prepared by Michael R. Spillane, dated February 21, 2023.
- Memorandum of Support prepared by Michel R. Spillane dated February 21, 2023.
- 238 Highland Avenue-Special Permit-March 18, 2021
- Site Plan prepared by VTP Associates, stamped by Justin R. Porter, Land Surveyor, dated February 12, 2021.
- Site Plan prepared by VTP Associates, stamped by Justin R. Porter, Land Surveyor, dated February 15, 2023.
- Quitclaim Deed, 238 Highland Avenue, Document 1,436,956, dated 12-19-2019, Norfolk County Land Court.
- Letter from David R. Baker, dated February 21, 2023.
- Letter from Dave Roche, Building Commissioner, dated March 7, 2023.
- Email from Tara Gurge, Assistant Public Health Director, March 3, 2023.

- Letter from Lee Newman, Director of Planning and Community Development, dated March 7, 2023.
- Letter from Thomas Ryder, Town Engineer dated March 3, 2023.
- Email from Chief Tom Conroy, Fire Department, March 3, 2023.

March 16, 2023

The Board included Jon D. Schneider, Chair; Jonathan D. Tamkin, Vice-Chair; and Howard S. Goldman, Member. Also participating was Nik Ligris, Associated Member. Mr. Schneider opened the hearing at 7:38 p.m. by reading the public notice.

Michael R. Spillane, attorney representing the applicants, reported that the Needham Montessori School (“the School”) has been operating successfully since 2016. The School is proposing to expand beyond its 114-student program by adding 40 students for a total enrollment of 154 students. The expansion is based on the maximum capacity allowed at the building. The school will occupy the entire building and cannot expand further. To date there have been zero issues regarding traffic or safety.

Mr. Spillane noted that the School has a parking plan which includes staff parking at the Restaurant Depot lot where they are 28 spaces. More than half of the staff take public transportation or carpool to work.

Parking has not been an issue as the School. There are 18 families that have siblings and many parents’ carpool. The school drop-off and pick-up is staggered.

Mr. Goldman requested that the applicant describe in more detail the parking plan and how it handles so many students on the School’s parking lot. Mr. Spillane answered that a drop-off or pick-up takes approximately 2-3 minutes. There are three to four drop times and two to three pick-up times. When parents park in the lot they are to use the space furthest from Highland Avenue. The School uses very few spaces at lunchtime or other hours when Mandarin Cuisine Restaurant, the only other tenant at the building, is busy. There is no overlap in use and there is no conflict with their operations.

Mr. Tamkin asked whether there would be an increase in staff. Mr. Spillane responded that the staff number is established by the Massachusetts Department of Early Education and Care. He thought that no more than three new staff would be required. He noted that an increase in staff would not affect the parking as they park off-site. The *238 Highland Avenue - Special Permit – March 18, 2021* allowed for 15 employees. Mr. Spillane thought a staff limit of 18 employees was satisfactory.

Mr. Spillane explained that the Town calculates eight parking spaces for 45 students; and an additional one space for every 40 additional students, plus one space for each staff person. Based on this calculation the program needs 27 spaces. If the staff increases from 15 to 18, the parking requirement would be 30 spaces. The parking lot has 53 parking spaces and 2 handicapped spaces for a total of 55 spaces. The restaurant requires 45 spaces under the By-law, Mr. Schneider concluded that the total By-law requirement is 75 spaces versus 55 existing

spaces. However, employees park offsite, and no one stays very long when dropping off or picking up students. In addition, the school's peak periods are different from the peak periods at the restaurant.

Comments received:

- Engineering Department had no comment.
- Health Department noted that if the expansion included food to be served or prepped on site a Food Plan Review would need to be submitted for review and approval.
- Building Department noted there that there were no complaints or concerns reported to the Building Department. He had no issue.
- Planning Board asked that safety issues of entering and exiting cars be considered and whether the petitioner's traffic study was adequate. Mr. Schneider felt that the lack of complaints and traffic issues were indicators that the parking plan was working.
- The Fire Department had no issue.

There were no comments from the public.

Mr. Tamkin moved to grant a Special Permit Amendment under Section 5.1.1.5, 5.1.2, 5.1.3 and any other applicable Sections of the Zoning By-Law to allow the expansion of the Needham Montessori School to up to 154 children and 18 staff and to waive the parking number and parking design requirements. All terms and conditions of prior Decisions will continue without change. Mr. Goldman seconded the motion. The motion was unanimously approved.

The meeting adjourned at 8:01 p.m.

Findings:

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

1. The Property is located at the intersection of Highland Avenue and First Avenue, in the Highland Commercial-128 District. The size of the property is approximately 45,800s.f., and it contains a single-story building of approximately 15,400s.f.
2. The Applicants presently operate a Montessori school in the existing building, occupying approximately 11,400s.f. and propose an expansion of the operation of the School by amending a Special Permit first issued by the Board on July 21, 2016, as amended by three Amendments to the Special Permit dated September 19, 2017, and April 26, 2018, and March 18, 2021.
3. There are only two tenants, the Mandarin Cuisine restaurant and the School, in the subject building.
4. There are two parking lots on the site with a total of 55 parking spaces, the larger east parking lot in front of the Mandarin Cuisine restaurant and a smaller west

parking lot behind Mighty Subs that the Applicants currently use.

5. Presently the School's hours of operation are from 7:00 a.m. to 6:00 a.m. weekdays and they serve up to 114 children and have 15 staff members.
6. The Applicants propose that the School increase the capacity of the School to 154 children with 18 staff members with the same hours of operation.
7. The required parking under the By-Law for the School is 30 spaces and 45 for the restaurant, resulting in a total requirement of 75 spaces.
8. There are currently 55 parking spaces on the east parking lot and on the west parking lot.
9. No employee or staff parking shall be permitted on site and the Applicants has arranged for parking for all 18 employees and staff off site at the nearby Restaurant Depot building. In effect, the Applicants have 55 available parking spaces against a By-law requirement of 75 spaces. The peak periods for the restaurant parking are 11:30 am to 1:30 pm when there will be no drop off or pick up for the school and 5:30 pm to 9:30 pm when there is minimal pick up at the school. With the off- site parking for employees and staggered parking demand, the 55 on-site spaces provide adequate parking.
10. The Applicants have implemented certain parking lot and traffic flow improvements for the property after the Board's approval of the school's expansion in 2021, and these improvements have aided in the continued safe drop off and pick up of children at the School.
11. The Applicants have also redesigned the main (east) parking area and restriped the smaller (west) parking area since the Board's 2021 decision. A portion of the west parking lot is now being used as a play area.
12. The School faces the main (east) parking area and is close to Highland Avenue. The Applicants have and will continue to require parents or caregivers to pull as far into the parking lots as possible, park, and walk their children to and from the School's entrance.
13. The redesigned parking lot since 2021 has created a six-foot wide sidewalk along the edge of the eastern side of the building. This sidewalk has allowed pedestrians who have parked in the east parking lot to safely walk to the front entrance on that side of the building.
14. The Board was not made aware of any parking or drop off complaints by neighbors near this site and no Town department who was asked to comment on this application stated parking or drop off concerns with the existing operation at the School or the proposed increased operations.

15. The operation of the School at this location has worked well for parents, students and the community over the past seven years, and also with the other remaining tenant.
16. The restaurant's hours of operation will not conflict with those of the School and as there will continue to be only two tenants on the site.
17. Special circumstances exist for waiving of the design requirements and the number of parking spaces under the requirements set forth in the By-Law.
18. The issuance of a Special Permit for the expanded operation of a Montessori school on the property, and as proposed by the Applicants, is consistent with the allowed uses in the District and the criteria of Section 7.5.2.1 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, grants the Applicants an amendment to the Special Permit issued by the Board on July 21, 2016, as amended by three previous amendments to the Special Permit dated September 19, 2017, dated April 26, 2018, and March 18, 2021 and pursuant to Section 3.2.5.2 to permit: a) the expansion of the Applicants' private Montessori operation school in the building to accommodate more students and faculty; and b) pursuant to Section 5.1.1.5, a waiver of the design requirements for parking and the required number of parking spaces on the site, provided that the School's parking plan, parking lots, walk way, and student drop off and pick up operations continue in full force and effect, and subject to the following additional conditions:

1. Hours of operation of the School will remain limited to 7:00 am to 6:00 pm Monday through Friday. No school operations will be allowed on Saturday or Sunday.
2. The number of students at the School shall be limited to 154.
3. The number of employees and staff of the School shall be limited to 18 employees or staff, inclusive of teachers, instructors and administrative staff.
4. The Applicants will manage parking and traffic flow as presented with the application, and shown on the plans, so that there is no back up of cars on Highland Avenue waiting to enter the parking lots used by the Applicants. If back up is a problem, the Applicants will continue to take measures to eliminate any backup, such as to assign employees or staff to monitor traffic flow student drop off or pick up or adjustment of the periods of drop off/pick up.
5. The Applicants will obtain all licenses required for its increased operation of the

School.

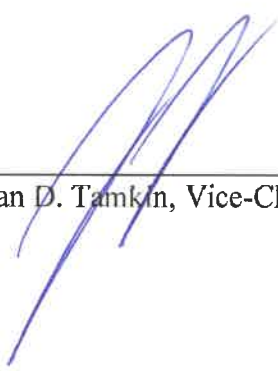
6. No employee or staff parking shall be permitted on site.
7. As provided in the Board's previous decisions for this Special Permit, the owner of the property shall be required to appear before the Board to apply for a Special Permit relating to any new or additional tenant operating thereon, and any change in the number and design of parking spaces and before any future vacancy in the building or on the property can be filled.

SIGNATORY PAGE – 238 HIGHLAND AVENUE



Jon D. Schneider, Chair

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Jonathan D. Tankin, Vice-Chair

SIGNATORY PAGE – 238 HIGHLAND AVENUE



Howard S. Goldman, Member