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**TOWN OF NEEDHAM
MASSACHUSETTS
BOARD OF APPEALS**

SPECIAL PERMIT AMENDMENT

***72 School Street Needham, LLC, applicant
72 School Street
Map 47, Parcel 31***

June 15, 2023

72 School Street, LLC, applicant (correct name 72 School Street Needham, LLC), applied to the Board of Appeals for a Special Permit Amendment under Sections 5.1.3(i) (j) and any other applicable Sections of the By-Law to waive strict adherence to parking plan and design requirements. This request is associated with an addition of a second floor of approximately 1,500 square feet containing a play area for children, administrative offices and a 500 square foot apartment. The property is located at 72 School Street, Needham, MA in the Single Residence B (SR-B) District. A public hearing was held in person in the Charles River Room, Public Services Administration Building, 500 Dedham Avenue, Needham, MA, with livestream Zoom on Thursday, June 15, 2023 at 7:30 p.m.

Documents of Record:

- Cover letter and Application for Hearing, Clerk stamped May 22, 2023.
- Letter prepared by Evans Huber, dated May 22, 2023.
- Certified Plot Plan, prepared by VTP Associates Inc, stamped by Joseph R. Porter, Professional Land Surveyor, dated May 17, 2023.
- Plans AO-A2, prepared by Clinton Designs Architects, stamped by Edward F. Clinton, Registered Architect, undated.
- Email from Chief John Schlittler, Police Department, Chief John Schlittler, May 9, 2023.
- Email from Tara Gurge, Assistant Public Health Director, June 6, 2023.
- Email from Dave Roche, Building Commissioner, June 6, 2023.
- Letter from Lee Newman, Director, Planning and Community Development, June 6, 2023.
- Letter from Thomas A. Ryder, Town Engineer, June 6, 2023.
- Email from Matt and Betsy Ruderman, June 7, 2023.
- Email from Katie and Onnie Mayshak, June 8, 2023.
- Email from Ameer T. Shah, June 7, 2023.
- Email from Min Ma, June 8, 2023.
- Email from Ania and Ryan Bigda, June 8, 2023.

- Email from Kate and Jay Carter, June 10, 2023.
- Email from Davidson Family, June 12, 2023.
- Email from Anee Shah, June 8, 2023.
- Email from Alexandra Ross, June 8, 2023.
- Email from Aaron Remonrenko, June 14, 2023.
- Email from Gena Bezdek, June 14, 2023.
- Email from Katelyn DeMaio, June 14, 2023

June 15, 2023

The Board included Jon D. Schneider, Chair; Jonathan D. Tamkin, Vice-Chair; and Howard S. Goldman, Member. Also participating was Peter Friedenberg, Associate Member. Mr. Schneider chaired the meeting and opened the hearing at 7:30 p.m. by reading the public notice.

Stephanie Beaudet, business owner, reported that the four-classroom childcare program serving 2.9- to 5-year-olds had outgrown its one-story space. The 15,000 square foot lot contains a lawn area and parking for 16 cars. The program serves 61 children and allowed to have a maximum of 66 children under the existing Special Permit. The program operates from 7:30 a.m. to 6:00 p.m., Monday through Friday

Currently there is no indoor space for gross motor activities nor space for staff to congregate. The proposal is to allow a 1,733 square foot second floor addition to include a play area for the children, administrative offices, bathrooms, an elevator and a 500 square foot hotel style apartment for the exclusive use of family members of the property/childcare business owners. The proposal also includes a fire alarm and sprinkler system.

There are no plans to increase the number of students, nor will there any additional traffic generated nor the need to increase the parking number.

Comments were received from:

- The Building Commissioner had no issues with the proposal as long as the residential unit is not rented, and the enrollment is not increased.
- The Police Department had no issues.
- The Engineering Department had no objections.
- The Planning Board had no comment.
- The Health Department noted that if food is to be served or prepped on site an online Public Health Division Food Permit Plan Review packs must be submitted electronically for approval. The apartment must not be used for conducting food preparation for the daycare business.
- The following program participants submitted comments in support: Matt and Betsy Ruderman; Katie and Onnie Mayshak; Ameer Shah; Min Ma; Ania and Ryan Bigda; Kate and Jay Carter; Victor Davidson; Anee Shah; Alexandra Ross; Aaron and Mary Beth Remorenko; Gena Bezdek; and Katelyn DeMaio.

Carol McCarthy, 78 Lincoln Street, was in support of the project and program. She thought the school and teachers were wonderful and had no issues with the parking use or random stray balls from the play area.

Cheryl McSherry, 39 Grant Street, wondered if the basement could be renovated rather than adding a second floor. Edward Clinton, architect for the project, reported that the basement was uninhabitable. With a 6'6" height, the basement does not have the required 8-foot height to allow for programming use. Ms. McSherry complained that her view of sunsets would be impacted by the second story addition.

Mr. Goldman requested that the applicant describe in more detail the program and proposed project in relation to the previous decisions (*Special Permit Amendment – April 26, 2012; Plan Substitution June 21, 2001; and Special Permit, October 16, 1997*). Mr. Clinton noted that the program has operated without incident for the past 15 years. He indicated that there is an access ramp that takes up a parking space and an elevator will be installed. There will be a NFPA 13 compliant sprinkler system to ensure the safety of the children and a quick emergency response time. He added that there are no additional parking waivers or changes to the parking plan or design requirements.

Mr. Tamkin requested more details about the residential use. Mr. Clinton noted that the residential use it is not a complete studio apartment. The residential component is like a hotel style unit providing a place to sleep for the owners on late working days or inclement weather. The owners commute from the Cape. Ms. Beaudet and Mary Tobin, property owner and co-business owner, said that the unit would be used exclusively by them and their families. The proposal includes four classrooms, a gross motor space, an elevator, bathrooms and an apartment, but the actual interior construction details may change from the plans submitted. Mr. Schneider noted that an updated plan should be submitted to the Board when the details are finalized.

Mr. Tamkin thought the program was a community asset. Mr. Schneider thought the addition would make the structure look more residential. Ms. McCarthy noted that prior to the daycare the building was the office for various medical offices.

Ms. Beaudet noted that some application materials identified the addition to be 1,500 square feet. She wished to clarify for the record that the correct addition size is 1,733 square feet.

Mr. Goldman moved to grant a Special Permit Amendment under Sections 5.1.3(i) (j) and any other applicable Sections of the By-Law to waive strict adherence to parking plan and design requirements associated with an addition of a second floor of 1,733 square feet containing a play area for children, administrative offices, bathrooms, elevator and a 500 square foot apartment conditioned on the following:

- the apartment to be used by the owners and family of the building and business;
- the school enrollment and hours remain the same;
- the addition will be built as presented in the plans submitted and any changes to the exterior will require an updated plan be presented to the Board for approval.

Mr. Tamkin 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 premises is an approximately 15,000 square foot lot (14,792 square feet according to the assessors' records) improved with a one-story building containing 2,839 square feet according to the assessors' records located at the corner of School and Lincoln Streets in the Single Residence B District. There is some lawn space and parking for 16 cars in a paved area.
2. The building was used for medical offices from 1971 until 1997 under a use variance dated January 12, 1971. Since 1997 the property has been used as a childcare facility by the Tobin/Beaudet family. The facility is currently operated by Tobin Beaudet Schools, Inc.
3. Childcare is an allowed use in the District.
4. The applicant proposes to construct a second story to the existing building with approximately 1,733 square feet that will be used mostly for classrooms and a play area for the children but will also contain an apartment of approximately 500 square feet to be used exclusively by the owners and their families. The apartment will not be rented to or used by other parties. The structure will comply with dimensional requirements in the District.
5. The apartment is a single-family residential use that is allowed in the District.
6. The parking does not comply with all of the design requirements of the By-law in that the maneuvering aisle is only 12 feet as contrasted with a requirement of 18 feet and one space is too close to the building because a bulkhead extends near the space. The Board has previously waived these design deficiencies imposing various conditions on the operation of the facility including that traffic will be one way with a clearly marked entrance and exit. There was no testimony that there is a problem with the parking and no change is proposed to the parking. There will be no increase in the enrollment.
7. The conditions imposed on the operation of the facility are set forth in a Special Permit dated October 16, 1997, issued to Mark and Mary Beth Tobin, Trustees of Race Point II Realty Trust, as amended on June 21, 2001 and April 26, 2012. The 2012 amendment was issued in the name of Race Point II Venture, LLC. The parties to the Special Permit and the amendments are prior owners of the property that is now owned by the applicant.
8. One condition is that enrollment is limited to 66 students. The applicant currently has 61 students and does seek to increase the number beyond 66 students.
9. The proposal was supported by one abutter and there was support from many parents who have children in the facility. One abutter was concerned that the second story would block her view of sunsets.

10. The proposed amendments to the existing Special Permit will not be detrimental to the Town or the general character of the surrounding neighborhood and are consistent with the intent of the By-Law.
11. This Decision is intended to set forth all the conditions on the operations currently applicable and to replace the conditions set forth in the prior Special Permit and amendments.

Decision:

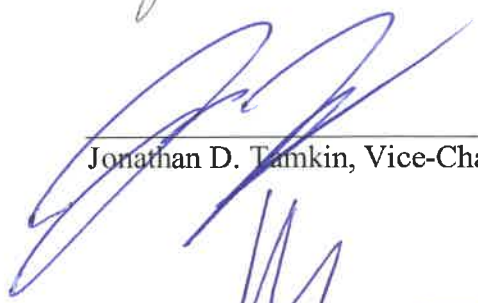
On the basis of the foregoing findings, following motion duly made and seconded, after open deliberation, the Board, by unanimous vote amends the Special Permit to allow the construction of a second story to the existing building containing approximately 1733 square feet as shown in the plans presented with the application, subject to the following:

1. Enrollment is limited to 66 students;
2. Hours of operation will not exceed 7:30 am to 6:00 pm Monday through Friday.
3. Parking for 16 cars shall be maintained on the premises in accordance with the plan submitted with the application;
4. Traffic flow shall be one way entering from Lincoln Street and exiting on School Street;
5. The applicant shall maintain signs that clearly mark the entrance and exit;
6. All employees shall be required to park off street;
7. Drop off and pickup of children shall be made within the off-street parking area;
8. School buses and vans may be used to transport children to and from the facility, but such buses and vans shall not idle while at the facility;
9. No more than 25 children shall be allowed outside to play at any given time;
10. No children will be allowed to play outside before 9:30 a.m.;
11. The facility will not permit balls to be bounced, thrown or otherwise hit the 6-foot fence located along the property lines between the facility and the abutters;
12. The facility will use reasonable efforts to prevent balls from going over the fence onto the property of abutters;
13. The facility will not permit staff or students to go onto the property of abutters for any reason;

14. The facility will maintain and preserve the existing 6-foot fence and the 3-4 foot fence along its property lines, at their current height;
15. There will be no further expansion of the day care center;
16. The exterior of the second floor will be built and maintained substantially in accordance with the plans presented with the application;
17. The apartment may be used only by the owners of the building and the operators of the childcare facility and their families. It may not be rented or used by third parties;
18. Violation of any of the foregoing conditions may result in revocation of the Special Permits upon such notice as the Board shall deem appropriate under the circumstances.



Jon D. Schneider, Chair



Jonathan D. Tamkin, Vice-Chair



Howard S. Goldman, Member