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**TOWN OF NEEDHAM
MASSACHUSETTS
BOARD OF APPEALS**

Special Permit

***Adam Dangelo, applicant
315 Chestnut Street Needham, LLC, owner
315 Chestnut Street
Map 46, Parcel 51***

June 20, 2024

Adam Dangelo, applicant, applied to the Board of Appeals for a Special Permit under for a Special Permit under Sections 3.2.2, 5.1.1.5, 5.1.2., 5.1.3 and any other applicable sections of the By-Law to permit use of the second floor space for a private school tutoring children in the third to eight grades, to permit more than one non-residential use on a lot and waiving strict adherence to the number of required parking spaces and the parking plan and design requirements. The property is located at 315 Chestnut Street, Needham, MA in the Chestnut Street Business (CSB) Zoning District. A public hearing was held in the Charles River Room, Public Services Administration Building, 500 Dedham Avenue, on Thursday, June 20, 2024 at 8:00 p.m.

Documents of Record:

- Application for Hearing, Clerk stamped May 24 2024.
- Cover Letter prepared by George Giunta, Jr., attorney, dated May 24, 2024.
- Memorandum in Support prepared by George Giunta, Jr., attorney, dated May 24, 2024
- Plan of Land, prepared by CHA stamped and dated by William J. Dorgan, Professional Land Surveyor, February 27, 2024.
- Letter of Authorization, signed by Daniel Pogorele, Manager, dated May 21, 2024.
- Letter from Lee Newman, Director of Planning and Community Development, dated June 4, 2024.
- Email from Justin Savignano, Assistant Town Engineer, dated June 11, 2024.
- Email from Joseph Prondak, Building Commissioner, dated June 11, 2024.
- Email from Chief Tom Conroy, Fire Department, dated May 31, 2024.
- Email from Chief John Schlittler, Police Department, dated June 11, 2024.
- Email from Tara Gurge, Assistant Public Health Director, June 10, 2024.
- 315-317 Chestnut Street – Special Permit – 8-30-1988

- *315-317 Chestnut Street – Special Permit – 9-1-1992*
- *315-317 Chestnut Street – Special Permit Amendment – 11-21-1996*
- *315 Chestnut Street – Special Permit – 4-24-2024*

June 20, 2024

The Board included Jonathan D. Tamkin, Chair, Nikolaos Ligris, Member and Peter Friedenbergl, Associate Member. Mr. Tamkin opened the hearing at 8:35 p.m. by reading the public notice.

George Giunta, Jr., attorney representing the applicant, reported that the applicant seeks to lease the second floor as a private school. The three-unit commercial rental property is located on a corner lot on Chestnut and Marsh Streets with approximately 75 feet of frontage on Chestnut Street and 85 feet of frontage on Marsh Street. The premises consists of 7,500 square feet of land and is occupied by an existing two story commercial building with associated parking.

The first floor is occupied by Kostas Pizza and Seafood, and the new Needham Coin and Jewelry Buyers. The Needham Coin and Jewelry Buyers has limited hours: Monday, Tuesday, Thursday-Saturday – 11:00 a.m. – 5:00 p.m.

The Board recently approved and issued a Special Permit to 315 Chestnut Street Needham, LLC, the owner of the property to convert the same space for a residential use on April 24, 2024. Mr. Giunta said that the applicant's proposal came the day after the Special Permit was filed with the Town Clerk and the property owner preferred this proposed use. The Special Permit has not been recorded with the Registry of Deeds and would be abandoned.

Mr. Giunta noted that there are no plans for changes to the interior or the exterior. The currently vacant second-story unit contains 1,552 square feet. The main entrance to the unit is located on Chestnut Street between the two downstairs businesses with an exterior emergency/fire escape exit in the back. The unit has been occupied by a variety of businesses including an architectural firm, a hairdresser and Cheney Engineering.

Mr. Giunta detailed the proposed use as a private school providing tutoring services for children from third to eight grades. The program will focus on helping high achieving students to excel. The instruction will be done individually and in small classes. Each student will have their own curriculum based on their skills and strengths. There will be a maximum of five students per group and a maximum of two groups per session. The maximum number of students at any time will be ten students. There will be a maximum of three staff. The hours of operation will be from 2:00 p.m. to 7:00 p.m. The hours will be extended on early release days. On holidays and Saturdays and Sundays there may be alternative hours.

Mr. Giunta reported there is on-site parking. There are eight spaces – two parallel spaces along the rear fence and six along the southern side of the building. Mr. Giunta noted that the students will be dropped-off and picked-up. The landlord has agreed to designate the two back parking spaces for drop-off, whereby the drivers will circulate down the shared drive and not use the spaces along the side of the building. This will have the least impact on the parking for Kostas

and the jewelry store. During the off hours of the tutoring program, the back spaces can be available to the other tenants. Mr. Giunta said the spaces will be signed and identified as drop-off spaces for the applicant.

Mr. Giunta noted that with second floor office space there was a total a required parking demand of 25 spaces: 6 spaces for office use, 15 spaces for Kostas and 4 spaces for the retail use.

Calculating the parking demand under Section 5.1.2 sub-section 12 of the By-Law for *Colleges, vocational and high schools* is based on one half of the expected enrollment. The ten tutoring students would have a parking demand of five spaces. If applying the parking demand calculations used for CodeWiz in *329 Chestnut Street – Special Permit – April 22, 2022* the demand is 1 space for each staff and 1 space for every five students. Based on that equation the tutoring program would be require five parking spaces as well. With a parking requirement of five spaces for the school use, the total building parking demand for the building is **24 spaces**: 5 for the private school use, 15 for Kostas and 4 for the retail use – a net improvement of one space compared to office use. A parking number waiver of 16 parking spaces is required.

Mr. Giunta reported that the parking designs does not meet the design requirements of the By-Law. The back spaces do not meet the setback requirement as they are on the property line instead of four feet away from the property line; and are shorter than the 22 feet required. The spaces along the side of the building are not setback 20 feet from Chestnut Street. In addition, the parking does not comply with the landscaping or tree requirements. The parking and building have been in existence for many years and there are no plans to change the parking or the exterior of the building.

Mr. Giunta thought the school was a great use for the second floor of the building and was compatible with the current users on the first floor. The school should have a minimal impact on the current tenants as there will be a quick turn-over in the drop-off and pick-up of the students and their schedule is limited.

Mr. Tamkin noted that the recent Special Permit for the residential use approved in April had a parking demand of 21 spaces.

Adam Dangelo, applicant, said that he taught in the public schools and is applying his experience for individual students, tailoring instruction to the student's personal interest. The subject matter offered will not be limited. Mr. Dangelo thought the location was perfect as it was in walking distance to many schools.

Comments received:

- The Police Department had no issues.
- The Planning Board had no comment.
- The Engineering Department had no comment or objection.
- The Building Department had no concerns.
- The Fire Department had no issues.
- The Health Department had no comments.

Dr. Alex Bejian, 41 Cynthia Road and the owner of the adjacent property at 329 Chestnut Street, reported that he shared the driveway with the building and there have been parking problems for many years at the site. He noted that patrons of Kostas Pizza bring traffic and park in the spaces for his own orthodontic patients and students attending CodeWiz, another school located at 329 Chestnut Street. He questioned whether parents would actually drop-off students as they tend to accompany the students and linger. His responsibility is to his tenants and to see that they have available parking for their customers. He also questioned the designation of the drop-off spaces at the back because it is the exit for the building's parking lot circulation. Patrons also park in the driveway which blocks drivers and impacts the vehicular circulation. He was supportive of the school but was concerned about the parking issues. The peak time for his orthodontic practice and CodeWiz is the same as the proposed school. He is also concerned about staff parking for the applicant's business.

Mr. Giunta acknowledged it was a tight location for parking. He thought the school had a less intensive parking need than an office use. He thought parking management would be key to the successful use of the lot. Parking issues are unavoidable in a tight lot but with a school use there is an opportunity to manage the parking to minimize the impact.

Mr. Tamkin asked Mr. Dangelo how he would manage parents from parking and staying with their children on site. Mr. Dangelo advised that the sessions are for 90 minutes. Parents will not be encouraged to stay on site. He thought the drive line would be several minutes for dropping off. Three of the school's employees would be using three spaces.

Mr. Tamkin asked if he could arrange for his staff to park off-site. Mr. Dangelo didn't think he had to make concessions given the number of spots allocated for Kostas. He was open to anything if it did not impact his staff or his own fair use. Mr. Giunta suggested limiting parking to one staff person and two spaces for pick-up and drop-off. Mr. Dangelo did not think it was fair when comparing the several tenants' square footage. Mr. Giunta suggested two spaces for staff.

Mr. Friedenbergs was concerned about the applicant's posture regarding parking noting that the parking issue exists, and the applicant is seeking permission from the Board to locate his business in a building that does not have sufficient parking. The Board often conditions parking waivers by limiting or excluding staff parking. Parking waivers are granted based on existing conditions. Accommodations need to be made. He suggested limiting or excluding staff parking as a condition of a decision.

Keith LaFace, 504 Chestnut Street, brother-in-law of the applicant, was supportive of the applicant and the proposed school. He thought parents would take advantage of the 90 minutes instead of hanging in the class. As a neighbor he said that people walk to neighborhood businesses. He advocated for staff parking. Mr. Tamkin responded that the Board conditions the exclusion of staff parking because the limited parking needs to be available for the patrons and customers of the businesses. Mr. Tamkin also thought the parking could work if it was managed properly. He asked the applicant if he was willing to make accommodations.

Mr. Ligris asked if there was a lease agreement. Mr. Dangelo said yes. Mr. Giunta clarified that

all the spaces are used in common and that they are not reserved. The owner is allowing the applicant to use the back two spaces for pick-up and drop-off. Mr. Ligris was in support of the business and for the vitality it brings to the Town and business community. He recognized that parking was challenging with the orthodontic practice, two afterschool programs, and a restaurant. He was supportive of limiting staff parking.

Dr. Bejian was concerned that proper circulation pattern be observed so as not to block traffic flow on the lot. Mr. Dangelo said he would develop a drop-off/pick-up management plan with a diagram of the lot and the plan for the parents. Mr. Tamkin said a drop-off/pick-up management plan, describing circulations and times, could be made a condition of the decision.

Art Campbell, representative of the owner, said he had been working with Mr. Giunta and the applicant in developing a parking management plan. He was committed to getting one done.

Mr. Friedenbergr found the private school a great program and addition to the community. He supported conditioning the Special Permit by limiting staff parking to no more than two employees and the implementation of a parking management plan with pick-up and drop-off located at the back two spaces so as not to block the exit or circulation of the lot and that it be communicated to all the parents and that the applicant to be responsible for implementation and oversight of the plan.

Mr. Friedenbergr asked about the hours of operations. Mr. Giunta said it was from 2:00 p.m. to 7:00 p.m. and expanded on holidays, school early dismissal days and weekends.

Mr. Friedenbergr moved to grant a Special Permit at 315 Chestnut Street (i) under Sections 3.2.2 of the By-Law to permit the use of the second floor space for a private school tutoring children in the third to eighth grades, and to permit more than one non-residential use on a lot, and (ii) under Sections 5.1.1.5, 5.1.2 and 5.1.3 of the By-Law waiving strict adherence to the number of parking spaces (of the 24 required spaces, 16 spaces are waived) and parking plan and design requirements conditioned on the following:

- a maximum of 10 students and three staff may be on site at any one time;
- operating hours shall be limited from 2:00 p.m. to 7:00 p.m. with extended hours permitted on holidays, on weekends, and during school vacation periods and early dismissal days;
- the applicant shall work with the landlord and consult with abutters to promulgate parking and traffic flow plans, and shall provide instructions and notifications to all parents of students regarding pick-up and drop-off procedures;
- the rear two spaces will be designated for pick-up and drop-off of students;
- a redacted lease shall be provided to the Board indicating the rear two spaces have been allocated to the applicant for designated student pick-up and drop-off; and
- this Decision supersedes and replaces the *315 Chestnut Street – Special Permit dated April 24, 2024* which shall be deemed to be null and void.

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

The meeting adjourned at 9:18 p.m.

Findings:

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

1. The premises is a 7,500 square feet lot improved by a two-story commercial building with off-street parking in the Chestnut Street Business Zoning District. The building consists of three tenant spaces. The first floor of approximately 2,400 square feet is divided into two tenant spaces. The second floor of 1,552 square feet contains one tenant space.
2. The applicant is leasing the second floor to operate a private school tutoring third to eighth graders. There will be a maximum of five students per group and a maximum of two groups per session. The maximum number of students on site at any time will be ten students. There will be a maximum of three staff on site at any time. Each session will be for 90 minutes. The school's hours of operation will be from 2:00 p.m. to 7:00 p.m. with expanded hours permitted on weekends, holidays and during school vacation periods and early dismissal days.
3. The property contains eight existing parking spaces on the premises – two parallel spaces along the fence at the rear of the property and six perpendicular angled spaces along the south side of the building. There is a common driveway easement along the perpendicular parking shared with 329 Chestnut Street. The parking lot's vehicular circulation has cars entering from Chestnut Street and exiting onto Marsh Street.
4. The parking area has been in existence prior to the adoption of the parking design guidelines of 1980 and none of the parking spaces comply with the existing parking plan and design requirements of Section 5.1.3 of the By-Law. The design non-conformities include parking space size, parking setbacks, landscape areas and trees.
5. Based on the current By-Law the parking demand for the most recent commercial use at the property is 25 spaces (15 spaces for Kostas Pizza and Seafood; 4 spaces for Needham Coin and Jewelry Store; and 6 spaces for the second-floor office space). Based on the change from office to a private school on the second floor, the total parking demand will decrease to 24 spaces calculated as follows:
 - Kostas Pizza and Seafood: 15 seats (five spaces) and one take-out station (ten spaces) requiring fifteen (15) parking spaces per Section 5.1.2 sub-section 9 of the By-Law;
 - Needham Coins and Jewelry: One space per 300 square feet (1,200 square feet) requiring four (4) spaces per Section 5.1.2 sub-section 6 of the By-Law;
 - Private School: One half of the expected 10 student enrollment per Section 5.1.2 sub-section 12, five (5) spaces are required.Twenty-four (24) parking spaces are therefore required for the current commercial uses and the new proposed private school use. There are only eight (8) spaces on-site which results in a shortfall of sixteen (16) parking spaces.
6. The property owner has agreed to designate the rear two (2) spaces for the drop-off and pick-up of students during the private school hours of operation. The remaining six (6)

spaces are to be used in common by all tenants and all of the eight (8) spaces are to be used in common by the other tenants during the off-hours of the school.

7. The applicant shall work with the landlord and abutters to develop a drop-off and pick-up management plan, describing circulation patterns, designated spaces, and times, with clear instructions for parents.
8. There was no opposition or objections to the proposal from the public, nor from any Town departments.
9. There are three other Board Decisions associated with the property: *315-317 Chestnut Street – Special Permit – August 30, 1988* to allow a pizza establishment for take-out service only; *315-317 Chestnut Street – Special Permit-September 1, 1992* to allow seating for 15 persons in addition to take out and to waive strict adherence to parking number and requiring five additional parking spaces to be made available at the strip shopping center across Chestnut Street; and *315-317 Chestnut Street – Special Permit Amendment-November 21, 1996* where the Board recognized that the properties had been sold and that the seller had granted the use of five parking space to the rear of the Village Square across the street for employee parking. The terms and conditions of all the above Special Permits are not modified by this decision and shall remain in full force and effect. The recent *Special Permit dated April 24, 2024* issued to 315 Chestnut Street Needham, LLC, to allow a residential use on the second floor shall be superseded by this Decision and declared null and void.
10. Based on the evidence submitted to the Board during the hearing, the Board finds the use of the second story for a private school located in the Chestnut Street Business (CSB) to comply with Section 3.2.2 of the By-Law and is compatible with the characteristics of the surrounding area. The issuance of a special permit is consistent with the criteria of Section 7.5.2 of the By-Law.
11. The Board agreed that parking is challenging and tight at this location but can be managed with a traffic management plan for pick-up and drop-off and that special circumstances exist to waive the required number of parking spaces.
12. The applicant proposed no exterior changes to the existing structure or changes to the parking lot. It would not be possible to comply with design requirements without reductions in the number of spaces. The Board finds there are special circumstances that justify waiver of the By-Law's design requirements.

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 applicant a Special Permit under Sections 3.2.2, 5.1.1.5, 5.1.2, 5.1.3, of the By-Law to permit the second floor space for private school use and waive the strict adherence of the parking number and parking plan and design requirements per the plans submitted, subject to the following:

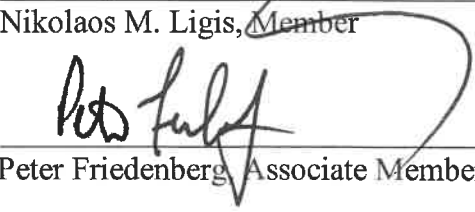
1. There will be a maximum of 10 students and three staff on site at any one time;
2. The operating hours shall be generally limited from 2:00 p.m. to 7:00 p.m. with extended hours permitted on weekends, holidays, and during school vacation periods and early dismissal days;
3. No more than two staff persons shall park on-site at any one time;
4. The applicant shall work with the landlord and consult with abutters to promulgate parking and traffic flow plans, copies of which shall be provided to the Board and Building Department. The applicant shall further provide instructions and notifications to all parents of students regarding pick-up and drop-off procedures, and shall monitor and enforce compliance of parents;
5. The rear two spaces shall be designated for pick-up and drop-off of students;
6. There shall be no drop-off or pick-up of students conducted on Chestnut Street and all pick-up and drop-off shall occur on site in the parking lot in the designated rear parking spaces;
7. A redacted lease shall be provided to the Board indicating the rear two spaces have been allocated to the applicant for designated student pick-up and drop-off;
8. This decision supersedes the *315 Chestnut Street – Special Permit dated April 24, 2024* which shall be deemed to be null and void;
9. In all other respects, the other terms and conditions of prior decisions and special permits relating to this property shall not be modified and shall remain in full force and effect; and
10. There shall be no modifications of this Special Permit without further approval of the Board.



Jonathan D. Tamkin, Chair



Nikolaos M. Ligis, Member



Peter Friedenberg, Associate Member