



TOWN OF NEEDHAM
MASSACHUSETTS
BOARD OF APPEALS

Special Permit

Total Eclipse Dance Studio, LLC, applicant
Christ Episcopal Church, owner
1132 Highland Avenue
Map 74, Parcel 30

October 17, 2024

Total Eclipse Dance Studio, LLC (“the applicant”) applied for a Special Permit to allow a private school use under Section 3.2.1 and to waive strict adherence to the number of required parking spaces and the parking plan and design requirements under Sections 5.1.1.5, 5.1.2, 5.1.3 and any other applicable sections of the Zoning By-Law (the “By-Law”) to allow the operation of a private dance school in the Christ Episcopal Church (“the Church”). The property is located at 1132 Highland Avenue in the Single Residence B (SRB) zoning district. A public hearing was held in the Charles River Room, Public Services Administration Building, 500 Dedham Avenue on Thursday, October 17, 2024 at 7:30 p.m.

Documents of Record:

- Cover Letter prepared by George Giunta, Jr., September 20, 2024
- Application for Hearing, Clerk stamped September 23, 2024.
- Memorandum in Support with attachments Exhibit A and B, prepared by George Giunta, Jr., September 20, 2024.
- *1132 Highland Avenue – ZBA Special Permit – January 20, 2022.*
- Letter from Christ Episcopal Church, prepared by Woody Hughes, Facilities Manager, dated September 11, 2024.
- Letter from Lee Newman, Director of Planning and Community Development, dated October 15, 2024.
- Letter from Joseph Prondak, Building Commissioner, dated October 3, 2024.
- Email from Justin Savignano, Assistant Town Engineer, dated October 8, 2024.
- Email from Chief Tom Conroy, Fire Department, dated September 26, 2024.
- Email from Chief John Schlittler, Police Department, dated September 26, 2024.
- Email from Tara Gurge, Assistant Public Health Director, dated October 8, 2024.

- Email from David Hruska, 21 Rosemary Street, dated October 14, 2024.

October 17, 2024

The Board included Howard Goldman, Acting Chair; Nikolaos Ligris, Member; and Peter Friedenberg, Associate Member. Mr. Goldman read the public notice and opened the Public Hearing at 7:30 p.m.

George Giunta, Jr., the attorney representing the applicant, and Alicia Santamaria and Gemma Joyce, the joint owners of Total Eclipse Dance Studio, LLC, were in attendance. Since 2018, the dance studio has been a tenant at 1132 Highland Avenue, a property owned by the Christ Episcopal Church. The property is located at the corner of Rosemary Street and Highland Avenue consisting of 48,616 square feet. The premises include a one-story church building built in 1937. The building serves the congregation, and other tenants such as Needham ACE, an afterschool program, which was granted a Board decision (*1132 Highland Avenue – ZBA Special Permit – January 20, 2022*).

Total Eclipse Dance Studio is a full dance studio offering all styles at all levels of dance classes from toddlers to adults. The applicant is located in the lower level of the church. Neither the Church nor the Applicant were aware of the need for zoning relief, both believing that they were under the protection of the Dover Amendment. The applicant when seeking a Building Permit for a small expansion inside the church were made aware by the Building Department that they lacked the required zoning relief for use as a private school under Section 3.2.1 of the By-Law and needed to seek a Special Permit.

The applicant occupies 5,609 square feet which includes class space, office and break room. Mr. Giunta noted that there is a maximum of 40 students, divided among multiple classes, at any one time. During the academic year, classes are offered on weekday afternoons from 3:30 p.m. to 9:30 p.m. and on Saturdays from 9:00 a.m. to 4:45 p.m. In the summer, classes are offered one night a week to a maximum of 20 students and two week-long morning sessions for preschoolers.

Mr. Giunta noted that the private school use requires a parking waiver. The Church owns the parking lot across the street at 1139 Highland Avenue which has 85 spaces, 65 of which are leased to the Town for library use, making only 20 spaces available for the various users of the Church building. In addition, there are four spaces in the rear of the premises reserved for the handicapped and for church administration, and two spaces on an asphalt pad along Rosemary Street. The applicant is limited to the 20 spaces across the street and to any available on-street spaces. Mr. Goldman inquired if the parking spaces at Memorial Park parking lot were available. Mr. Giunta said they were not included in the applicant's parking calculations. However, they could be used for overflow.

In identifying the parking number need, Mr. Giunta reported that he applied the parking calculations used in prior Decisions for afterschool programs. That standard, for enrollments under 45 students, is one space for every five students, plus one for each employee. As agreed by the Building Commissioner, the calculation of required parking for the applicant is as follows:

- Maximum enrollment is $40 \text{ students} \div 5 = 8$
- Maximum 4 staff at any one time is $= 4$
- Spaces required: $8 + 4 = 12$

This 12 parking spaces requirement, when added to the seven spaces requirement for the ACE program (as previously determined by the Board in its January 20, 2022 Decision) yields a total requirement of 19 spaces, one below the parking spaces available. However, when calculating all the users, assuming for these purposes that the Church services have an attendance of 60 parishioners, their associated parking demand (at one space per 3 seats) would be 20 spaces. When you add the total parking demand associated with worship services and Sunday school, the total parking demand of all users is 39 spaces, substantially in excess of available parking and a waiver of the required number of parking spaces under Section 5.1.1.5 of the By-Law is sought.

Nevertheless, Mr. Giunta noted that services generally occur when both the dance studio and ACE are closed. With the additional on-site parking spaces, available on-street parking along Rosemary Street and Highland Avenue, and the spaces available for overflow at the Memorial Park parking lot, Mr. Giunta opined that there were sufficient parking spaces to support all the uses at 1132 Highland Avenue.

Mr. Goldman asked about the pick-up and drop-off process for the studio. Mr. Giunta reported that parents are instructed to park in the Highland Avenue parking lot across the street and walk their children. Some parents, however, disregard the instructions and do a pick-up/drop-off from Rosemary Street. Ms. Santamaria and Ms. Joyce have provided their contact information to abutting neighbors so that they can address any issues that may arise. Mr. Giunta reasoned that in practice the 20 spaces in the Highland Avenue lot provide sufficient parking.

Mr. Giunta noted that parking design waivers for a pre-existing non-conforming parking design are also required. He indicated that the parking lot does not meet the front set-back of ten feet, but the parking lot has been in existence and unchanged since the 1970s, predating the parking provisions of the By-Law. No changes are planned to the parking lot.

Mr. Friedenberg asked for information regarding the policy for dropping and picking up the students. Ms. Santamaria said that there is a written policy instructing parents to escort their students under 11 years old across Highland Avenue using the controlled crosswalk. Mr. Giunta indicated that Exhibit B, *Sample Letter to Parents and Students*, included in the application, spells out the Pick-up/Drop-Off and parking protocols.

Ms. Santamaria relayed that despite their program being closed on Sundays, the Lease Agreement with the Church excludes the use of the parking lot on Sunday mornings.

Gunna Svensen, Newton resident, was a Needham teacher in the public schools for 38 years. She was supported of the applicant and thought the program was good for the children and students. She had not experienced or observed any parking issues when attending the dance studio.

Mr. Goldman asked where the students come from. Ms. Joyce said that 70-80% of the students

were from Needham.

Jenna Harrington, 91 Winding River Road, reported that she had two daughters who attend the dance studio who love the program and teachers. She indicated that there is good communication between the parents and the school about where to park and parking protocols. She has had no issues with the parking.

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 issue.
- The Health Department had no comments.
- David & JB Hruska, neighbors, were supportive of the granting of the Special Permit.

Mr. Ligris was supportive of granting the Special Permits and waivers. He emphasized the need to maintain the policy in place prioritizing the safety of children when parking and crossing Highland Avenue.

Peg O'Reiley, 40 Livingston Circle, was supportive of the program and the application.

Mr. Ligris moved to grant Eclipse Dance Studio, LLC. a Special Permit to allow a private dance school under Section 3.2.1 and to waive strict adherence to the parking number, parking plan and design requirements under Sections 5.1.1.5, 5.1.2, 5.1.3 conditioned on the following:

- a) The applicant maintains a strict written student safety policy and procedures for pick-up/drop-off and parking which is communicated to the parents;
- b) That the program be limited to a maximum of 40 students and maximum of 4 staff; and
- c) The hours of operation will be Monday – Friday 3:00 p.m. to 9:30 p.m., Saturday 9:00 a.m. to 4:45 p.m., with no classes on Sunday. Operating hours during summer school vacation may be different from these.

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

The meeting adjourned at 8:06 p.m.

Findings

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

1. The premises is a 48,616 square foot lot occupied by a one-story church building built in 1937 in the Single Residence B (SRB) zoning district. The building is used for worship services and other church related activities by the Christ Episcopal Church, the owner, and leased and used by other organizations such as Needham ACE and the Total Eclipse Dance Studio.
2. Since 2018 the applicant has been leasing and using approximately 5,609 square feet of

space in the lower level of the premises for classes, office and break room associated with the operation of the dance school without the required zoning relief. Recently the applicant approached the Building Department about expanding into the Church and the absence of a Special Permit was discovered. The applicant was advised to apply for a Board Special Permit.

3. The applicant offers private and group classes of various styles for toddlers through adults of all levels. The maximum students on site at any one time is 40 students and 4 staff. During the academic year the dance school hours are Monday through Friday from 3:00 p.m. to 9:30 p.m. and on Saturdays from 9:00 a.m. and 4:45 p.m. No classes are held on Sundays. During the summer, generally only one evening class per week, and a two-week morning class for preschoolers are offered.
4. The property contains a small parking area to the north of the building containing four parking and handicapped spaces and a driveway off Rosemary Street that can accommodate two vehicles. These six spaces are for the limited use of the Church and its staff.
5. Across the street at 1139 Highland Avenue, adjacent to the Town Library, is a Church owned parking lot, containing 85 spaces. 65 spaces are leased to the Town, leaving 20 spaces for use by the applicant, Needham Ace and the Church. There is also on-street two-hour parking available along one side of Rosemary Street and both sides of Highland Avenue in front of Sudbury Farms and Needham High School.
6. Based on the current By-Law and previous decisions issued by the Board in connection with similar uses, the parking demand is calculated as follows:
Eclipse Dance Studio: Enrollment of 40 students at one space for every five students is eight spaces, plus one space for each of the four employees, so 12 spaces are required.
ACE Needham: Enrollment of 25 students at one space for every five students is five spaces, plus one space for each of the two employees, so seven spaces are required.
Congregational Episcopal Church: For a congregation of 60 congregants, public assembly with seating facility is one space per three seats of capacity, so 20 spaces are required.
39 spaces are required for the current users of the building, which exceeds the available 26 on-site parking spaces available either on-site or in the Church-owned lot at 1139 Highland Avenue.
7. The parking demand for church usage occurs only on Sundays when both the applicant and the ACE program are closed. In addition, the lease agreements exclude the use of the parking lot on Sundays. As a result, in practice, there is adequate parking, as the parking demand associated by Eclipse Dance Studio and ACE Needham is 19 spaces, just below the 20 spaces available at the parking lot at 1139 Highland Avenue.
8. The applicant has in place a parking plan and a letter is provided to the parents and students delineating the safe and timely drop-off/pick-up and parking protocols. Of note, all students under 11 years of age must be escorted in/out of the studio and all students

must use the controlled crossing at the intersection of Rosemary and Highland Avenue.

9. All three Church parking areas existed before the adoption of off-street parking design requirements in 1980 and do not comply with the requirements of 5.1.3 of the By-Law.
10. Based on the number of the Church's available parking spaces, the availability of public on-street parking, the fact that the church service parking demand on Sundays does not overlap with the applicant's weekday parking demand, and that the applicant's program has been operating since 2018 without parking incidents or complaints from tenants, abutters or the public, the Board finds the parking to be adequate.
11. Based on the evidence submitted to the Board during the hearing, the Board finds the use by the applicant for private school use at 1132 Highland Avenue located in the Single Residence B (SRB) district to comply with Section 3.2.2 of the By-Law and is compatible with the characteristics of the surrounding area.
12. The applicant proposed no exterior changes to the existing structure or changes to the parking lot. It would not be possible to bring the existing parking areas into compliance with the By-Law's design requirements without the reduction in the number of spaces. The Board finds there are special circumstances that justify waiver of the requirements of Section 5.1.3 of the By-Law. The Board does not find the issuance of the special permit to be detrimental to the Town or the general character and visual appearance of the surrounding neighborhood and abutting uses and is consistent with the intent of the By-Law.

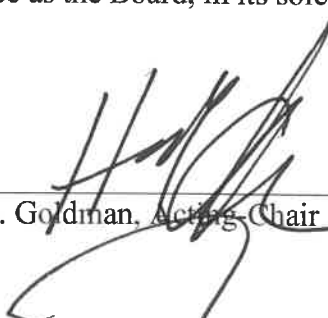
Decision:

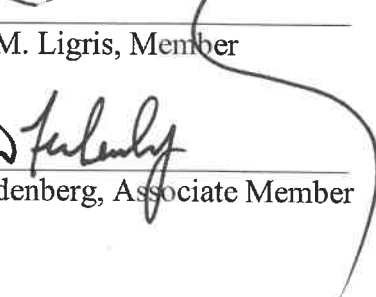
On the basis of the foregoing findings, following due and open deliberation, upon motion duly made and seconded, the Board by unanimous vote, grants the applicant a Special Permit under Sections 3.2.1, 5.1.1.5, 5.1.2, 5.1.3, of the By-Law to allow use of a portion of the premises for the purpose of the applicant's dance instruction studio as a private school use, and to waive the strict adherence to the parking number and parking plan and design requirements associated with the applicant's dance instruction studio, subject to the following:

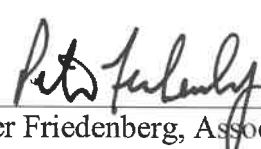
- a) The applicant maintains a strict written student safety policy and procedures for pick-up/drop-off and parking which is communicated to the parents;
- b) That the program be limited to a maximum of 40 students and maximum of four staff;
- c) The hours of operation will be Monday – Friday 3:00 p.m. to 9:30 p.m., Saturday 9:00 a.m. to 4:45 p.m., with no classes on Sunday. Operating hours during summer school vacation may be different from these;
- d) This Special Permit is issued to the applicant only, and may not be transferred, set over or assigned, directly or indirectly, by the applicant to any other person or entity without the prior written approval of the Board of Appeals following such notice and hearing, if any,

as the Board, in its sole and exclusive discretion, shall deem due and sufficient. Any transfer of control by the person(s) or entities currently owning the applicant, whether directly or indirectly or by operation of law, shall be deemed a transfer/assignment requiring approval of the Board; and

- e) Failure to comply with each and any of the foregoing conditions at any time may constitute cause for the revocation of this Special Permit by the Board after hearing with notice to the applicant and with such other notice as the Board, in its sole and exclusive discretion, shall deem due and sufficient.


Howard S. Goldman, Acting Chair


Nikolaos M. Ligris, Member


Peter Friedenberg, Associate Member

Twenty-Day Appeal Certification

I certify that the 20-day statutory appeal period for this Decision by the Needham Zoning Board of Appeals has passed,

☐ *and there have been no appeals filed in the Office of the Needham Town Clerk or*

☐ *there has been an appeal filed.*

Date

Louise Miller, Town Clerk