



**TOWN OF NEEDHAM
MASSACHUSETTS
BOARD OF APPEALS
SPECIAL PERMIT**

***Elmo Fudburger, LLC, Applicant
Commercial Street 229 Limited Partnership, Owner
77 Charles Street
Map 74, Parcel 33
November 20, 2024***

Elmo Fudburger, LLC, ("the Applicant") applied for a Special Permit to allow the use for indoor athletic or exercise facility under Section 3.2.6.2 and to waive strict adherence to the number of required parking and the parking plan and design requirements under Sections 5.1.1.5, 5.1.2, 5.1.3 of the By-Law to allow the operation associated with Burn Boot Camp. The property is located in the Mixed Use-128 (MU-128) zoning district at 77 Charles Street in Needham ("the Premises"). A public hearing was held in the Charles River Room, Public Services Administration Building, 500 Dedham Avenue on Wednesday, November 20, 2024 at 7:45 p.m.

Documents of Record:

- Application for Hearing dated October 24, 2024, Clerk stamped October 28, 2024.
- Letter from George Giunta, Jr., dated October 24, 2024.
- Memorandum in Support prepared by George Giunta, Jr. dated October 24, 2024.
 - Exhibit A – Parking Counts
 - Floor Plan
 - Alta/NSPS Land Title Survey, prepared by WSP, signed and stamped by Darren J. Hardy, Registered Professional Land Surveyor, dated November 22, 2022.
- Letter from Scott Ravelson, Managing Partner, Commercial Street 229 Limited Partnership.
- Letter from Joe Prondack, Building Commissioner, November 6, 2024.
- Letter from Lee Newman, Director of Planning and Community Development, November 19, 2024.
- Letter from Thomas Ryder, Town Engineer, November 12, 2024.
- Email from Tara Gurge, Assistant Public Health Director, November 8, 2024.
- Email from John Schlittler, Chief of Police, Police Department, November 4, 2024.

- Email from Thomas M. Conroy, Fire Chief, Fire Department, November 6, 2024.

November 20, 2024

The Board included Howard S. Goldman, Acting-Chair; Nikolaos Ligris, Member; and Valentina Elzon, Member. Also in attendance Peter Friedenberg, Associate Member. Mr. Goldman opened the hearing at 7:45 p.m. by reading the public notice.

George Giunta, the attorney representing the Applicant, and Christine D'Amico and Alexis Gates from Burn Boot Camp were in attendance. The property is located in the Mixed-Use 128 zoning district with frontage on both Charles and Wexford Streets. It contains approximately 46,647 square feet of land with 253.43 feet of frontage on Charles Street and 195.87 feet of frontage on Wexford Street. The property contains an existing 20,104 square foot, one-story, mixed-use commercial building. The building was built in 1964.

The building is divided into multiple rental commercial units occupied by G Medical, a wholesale distributor of medical equipment; Golftec, a retail golf store; Pure Performance Training, an indoor athletic facility providing one-to-one and small group training, and Fast Splits, a bicycle retail business with a cycling instruction component.

The applicant will be occupying the space formerly occupied by Fast Splits. The 5,851 square feet space will be allocated as follows: 4,600 square feet for Burn Boot Camp, and 1,251 will be retained by the landlord for office and storage space.

Burn Boot Camp is a fitness business that started in 2012 in North Carolina and quickly grew and gained popularity establishing 400 franchises in 38 states. In 2018, Christine D'Amico, the principal of Elmo Fudburger LLC opened a Burn Boot Camp franchise in Newton on Needham Street. The Applicant proposes to relocate the life-style fitness business to the Premises in Needham. The Burn Boot Camp clients are primarily women who participate in 45-minute workouts. Burn Boot Camp also offers free on-site daycare for their clients during their workouts.

The Applicant provides that the Needham location operating hours will be as follows:

- Monday through Friday: 5:15 a.m. – 10:30 a.m., and 4:00 p.m. -7:30 p.m.
- Saturdays: 7:00 a.m. – 11:00 a.m.
- The facility is closed all other times and on Sundays.

Mr. Giunta added that a pre-opening, post-closing cushion is also requested to allow staff to open and set-up.

The Applicant represented that the maximum attendance at any given time is usually 45 people, which generally occurs during the first hour of operations. The Applicant represented that the peak hours of operation are from 5:15 a.m. to 7:30 a.m., and that generally the maximum staff on site and any given time is 4.

The By-Law requires one parking space for every 150 square feet for athletic facilities. At 4,600 square feet, the Premises requires 31 parking spaces under the By-Law. In addition, the By-Law requires one parking space for every three staff. At a maximum of four staff, the requirement is two spaces. Based on the By-Law, the parking requirement for the applicant is 33 spaces. When added to the existing uses at the complex, there is a total parking demand of 104 parking spaces under the By-Law. There are 62 parking spaces on site, which leaves a deficit of 42 parking spaces.

Mr. Giunta argued that the required demand does not meet the actual parking spaces needed. Mr. Giunta represented that the landlord has experience balancing the available parking with compatible commercial users to have sufficient parking. Mr. Giunta represented that until 7:00 am, and during the majority of the Applicant's peak operating hours, from 5:15 a.m. to 7:30 a.m., the Applicant is the only business open at the complex. Mr. Giunta noted that Pure Performance and G-Medical both open at 7:00 a.m., According to Mr. Giunta, the landlord asked all the tenants to provide the parking number of spaces actually used. Between 7:00 a.m. and 10:00 a.m. G-Medical used four spaces, Golftec used four spaces, and Pure Performance used between six to eight spaces. Collectively, the complex used a maximum of 16 spaces between 7:00 a.m. to 10:00 a.m. In the afternoon, that parking demand increases to a maximum of 20 spaces. In addition, the landlord conducted a three-day parking survey which indicated a peak parking use on Tuesday of 19 cars at 9:00 a.m. and at 10:00 a.m., which was consistent with the self-reported use by the tenants. Mr. Giunta reported that at the peak usage demand time, there were 43 parking spaces available based on the surveyed use, which would leave a surplus of 10 parking spaces above the Applicant's 33 spaces required under the By-Law.

Mr. Goldman asked that the applicant describe in more detail the business. Ms. Gates, a partner of Elmo Fudburger, LLC, reported that Burn Boot Camp is a group-based exercise program lead by one staff person going through a series of exercises and stations throughout the gym. The community-based program focuses on self-improvement where the participants leave feeling better than they came in. Mr. Giunta added that Burn Boot Camp is a successful business and will be a positive addition to the Needham community, as well as a good addition to the tenants of the building.

Mr. Giunta noted that in addition to the Special Permit for the use, the applicant seeks a Special Permit to waive the strict adherence to the parking number, and a Special Permit to waive the strict adherence to the parking plan and design. He reported that the parking lot was built in the 1960s, prior to the adoption of the parking plan and design By-Law. No changes are proposed to the parking lot. Waivers are sought for lighting, parking space size, lay-out, maneuverability, aisle size, interior landscaping, trees plantings and bicycle racks.

There are two handicap parking spaces. Mr. Goldman asked for bicycle racks to be installed. Mr. Giunta argued that he saw no good location in the lot for a bicycle rack. Mr. Goldman thought a bike rack would be a logical addition consistent with the bike road improvements in Needham, and with the athletic patrons of the Burn Boot Camp. Mr. Giunta said the applicant does not have the authority to give up any parking lot spaces, that authority lies with the landlord.

Scott Ravelson, property manager and owner, reported that he balances the parking needs with the mix of tenants to the available parking spaces. He was agreeable to locating a bicycle rack at the property. Mr. Ravelson added that he had letters from all the tenants supporting the addition of Burn Boot Camp as a tenant at the property. In addition, he had photo documentation of the results of the parking count survey to provide for the record file.

Mr. Giunta said that the Town By-Law requires one bike parking slot for every 20 parking spaces. For the 62-space parking lot the requirement would be a bicycle rack accommodating 4 bikes.

Ms. Elzon was familiar with the Burn Boot Camp, as she had attended a “Bring a Friend” day, and was supportive of the Applicant’s claims that its program would be a good addition to the Needham community. Ms. Elzon asked if there was any on-street parking available.

Mr. Giunta said there was some on-street parking, which is generally available during the Applicant’s peak operating hours between 5:15 a.m. and 7:30 a.m.

Mr. Ligris asked if there were any Board Decisions at this address. Ms. Collins noted that existing Decisions in this area were under the Planning Board’s jurisdiction. Mr. Giunta reported that there was a Planning Board Decision for Pure Performance which has a 43 car parking requirement. However, based on the landlord’s current survey Pure Performance’s parking use was only six to eight cars. Mr. Giunta believed this discrepancy between the parking requirements and the actual parking use can be traced back to the Planning Board’s concern about the Town being overwhelmed by athletic facilities when the Planning Board first allowed the use, which led to the adoption of restrictive parking number requirements to control the use. Pure Performance only provides one-to-one training. Their actual parking use is based on the number of trainers, and not the space’s square footage as calculated under the By-Law. Mr. Giunta said the By-Law has waivers in place to allow accommodation for the actual business use.

Mr. Ligris asked about the size of the Newton facility and the number of participants. Ms. Gates said that the facility has 3,500 square feet with 30 participants. She expected the larger facility will allow an increase in the number of clients served and provide more space for each client to work-out.

Mr. Goldman asked about the details of the childcare. Ms. Gates said that there are about 12 children and the parents are there on site. There is a separate room to accommodate children. Mr. Ligris asked if the Public Health Commissioner was aware that there is a childcare facility. Mr. Giunta responded that they received the application to review.

Comments received:

- The Building Commissioner had no objection with the proposal.
- The Fire Department had no objection.
- The Police Department had no concerns.
- The Health Department had no concerns.
- The Engineering Department had no comment or objection.
- The Planning Board had no comment.

There were no comments from the public.

Mr. Ligris was concerned that the number of participants and cars would be one to one correlation. He was in support of the business. He supported the installation of a bike rack, but he questioned whether it would be used. Mr. Ligris questioned why there was no Special Permit for Fast Split, the former tenant of the space. Mr. Giunta believe it may have been because it opened as a retail store with training incidental to the purchase of the equipment.

Ms. Elzon agreed with Mr. Ligris to limit a maximum number of participants, and Mr. Giunta advised that the Applicant is willing to agree to cap the maximum number of participants in any class to 45 people.

Mr. Ligris moved to grant a Special Permit pursuant to Section 3.2.6.2 to allow the use for an indoor athletic or exercise facility; and a Special Permit pursuant to Sections 5.1.1.5, 5.1.2, and 5.1.3 to waive strict adherence to the number of required parking and the parking plan and design requirements under of the By-Law per the plans submitted with the following conditions:

- the hours of operation would be from 5:15 a.m to 7:30 p.m. Monday through Friday, and 7:00 a.m. to 11:00 on Saturday;
- the maximum number of clients shall not exceed 45 with a maximum of 4 staff on site; and
- a bike rack for four bicycles shall be installed.

Ms. Elzon seconded the motion. The motion was unanimously approved.

The meeting adjourned at 8:25 p.m.

Findings:

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

1. The Premises is a 45,647 square feet lot with frontage on Charles Street and Wexford Streets, known and numbered as both 77 Charles Street and 19 Wexford Street. The Premises is improved by an existing 20,104 square feet, one-story, mixed use commercial property built in 1964 with 62 off-street parking spaces located in the Mixed-Use 128 Zoning District with a small corner of the property located in the Highland Commercial - 128 Zoning District.
2. The building is divided into multiple commercial rental units. The Applicant is leasing 4,600 square feet of space formerly occupied by Fast Splits. The leased space is addressed as 77 Charles Street and located entirely in the MU-128 Zoning District.
3. The Applicant seeks zoning relief under Sections 3.2. 6.2(i) of the By-Law for an indoor athletic or exercise facility.
4. Since 2018 the Applicant has operated the Burn Boot Camp Newton, 60 Needham Street,

Newton, MA, a lifestyle fitness facility providing 45-minute workouts to clients. Free childcare is provided to clients at the facility during workouts. The Applicant proposes to relocate its business to Needham.

5. The Applicant will operate its facility Monday through Friday: 5:15 a.m. to 4:30 p.m., and 4:00 p.m. to 7:30 p.m.; and Saturdays 7:00 a.m. to 11:00 p.m. The facility would be closed on Sundays.
6. There will be a maximum number of 45 clients on site; and there will be a maximum of 4 staff.
7. The Applicant has requested a Special Permit pursuant to Section 5.1.1.5 of the By-Law to waive strict adherence under Section 5.1.2 (18) *Required Parking - Indoor Athletic or Exercise Facility of Personal Fitness Services Establishment* of the By-Law. The total parking required as calculated based on one parking space for each 150 square feet and one space for each three employees is **33 parking spaces** (4,600 square feet/150 square feet = 31 spaces, plus 4 employees = 2 spaces).
8. Currently the mixed-use building complex is occupied by G. Medical, Goftec, PurePerformance Training and Landlord Office space with a total parking requirement of **71 spaces** allocated as follows:
 - G. Medical: 11 parking spaces
 - Goftec: 13 parking spaces
 - PurePerformance Training: 42 parking spaces
 - Landlord Office: 5 spaces
9. The total on-site parking is 62 spaces. The grand total parking demand for all current tenants is **104 spaces** (33 spaces + 71 spaces = 104 spaces), which leaves shortfall of 42 spaces under the By-Law.
10. A canvas of the current tenants' use, and a parking survey was conducted by the landlord between October 8 - October 10, 2024 which indicated that the maximum spaces used was 19 spaces on a weekday at 9:00 a.m. and at 10:00 a.m. The Applicant's peak demand hours are on weekdays between 5:15 a.m. and 7:30 a.m., when there is a reduced use of parking by of the other tenants in the building. Based on the consistent numbers provided by the survey and canvas and the peak demand hours of the Applicant, there are expected to be 43 parking spaces available during the Applicant's peak operating hours, 10 spaces in excess of the total calculated parking demand under the By-Law of 33 spaces for the Applicant.
11. The Board finds that the parking is adequate and that special circumstances exist to waive the required number of parking spaces pursuant to Sections 5.1.1.5 and 5.1.2 (18).
12. The parking lot has been in existence prior to the adoption of the off-street parking requirements and does not comply with the current design requirements to Sections 5.1.3 of the By-Law relative to a) minimum lighting; f) parking size; h) space layout; i)

maneuvering aisle; k) landscaping; l) trees; and n) bicycle racks. The Applicant proposes no 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 the waiver of the By-Law's design requirements.

13. The proposed use is consistent with the general purpose of the Zoning By-Law, is compatible with the characteristics of the surrounding area, is not detrimental to the other uses at the premises and is in harmony with the general intent and purposes of the By-Law pursuant to the requirements of Section 7.5 of the Zoning By-Law.

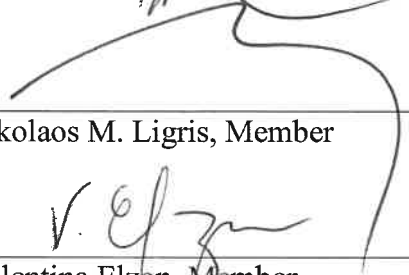
Decision:

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 (1) a Special Permit under Sections 3.2.6.2 (i) of the Zoning By-Law for an Indoor athletic or exercise facilities at 77 Charles Street, 2) a Special Permit under Section 5.1.1.5 of the By-Law waiving strict adherence with the requirements of Section 5.1.2 (Required Parking), and 3) a Special Permit under Section 5.1.3 (Parking Plan and Design Requirements) of the By-Law, subject to the following conditions:

- A. The hours of operation are from 5:15 a.m to 7:30 p.m. Monday through Friday, and 7:00 a.m. to 11:00 on Saturday.
- B. The maximum number of clients shall not exceed 45 with a maximum of 4 staff on site.
- C. A bike rack for four bicycles shall be installed.
- D. This Special Permit is issued to the Applicant only and may not be transferred set over or assigned by the Applicant to any other person or entity without the prior written approval of the Board of Appeals following such hearing and notice, 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 owning the business, directly or indirectly, or by operation of the law, shall be deemed a transfer/assignment requiring approval of the Board.
- 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 discretion, shall deem due and sufficient.

Signatory Page


Howard S. Goldman, Vice-Chair


Nikolaos M. Ligris, Member


Valentina Elzon, 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