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**TOWN OF NEEDHAM
MASSACHUSETTS
BOARD OF APPEALS**

Special Permit

***Harvey Family Dental, PLLC, applicant
Philnorston Realty LLC, owner
1183 Highland Avenue
Map 266, Parcel 57***

March 17, 2022

Harvey Family Dental PLLC, applicant, applied to the Board of Appeals for a Special Permit under Sections 5.1.1.5, 5.1.2, 5.1.3 and any other applicable Sections of the Zoning By-Law to waive strict adherence to parking and parking design requirements associated with the use of a dental practice. The subject property is located at **1183 Highland Avenue, Needham MA** in the Business District. A public hearing was held remotely on Zoom on Thursday, March 17, 2022 at 8:15 p.m.

Documents of Record:

- Application for Hearing, Clerk stamped February 18, 2022.
- Cover Letter prepared by Gregory R. Richard, dated February 18, 2022.
- Letter/Memorandum prepared by Gregory R. Richard, dated February 24, 2022.
- Site Plan prepared by Field Resources Inc., stamped by Bradley J. Simonelli, professional land surveyor, dated February 16, 2022.
- Floor Plan prepared by Patterson Dental, dated February 2, 2022.
- Letters from Gary B. Smith, owner/manager, dated February 17, 2022.
- Letter from Lee Newman, Director of Planning and Community Development, dated March 15, 2022.
- Email from Dave Roche, Building Commissioner, dated March 10, 2022.
- Letter from Thomas A. Ryder, Assistant Town Engineer, dated March 17, 2022.
- Email from Tara Gurge, Assistant Public Health Director, March 8, 2022.
- Email from Chief Dennis Condon, Fire Department, dated February 25, 2022.
- Email from Chief John Schlittler, Police Department, dated March 8, 2022.

March 17, 2022

The Board included Jon D. Schneider, Howard S. Goldman, Member; and Peter Friedenberg, Associate Member. Also participating was Nik Ligris, Associate Member. Mr. Schneider opened the hearing at 9:08 p.m. by reading the public notice.

Greg Richard, attorney representing the applicant, said that the applicant was proposing to use the space for a dental practice. Under the By-Law this use in the Business District is allowed by right. The former location of Lotus Mind and Body Spa, 2,500 sq. ft. located at 1183 Highland Avenue, will be renovated to accommodate seven dental operatories. There will be no exterior modifications.

Based on the Zoning By-Law, the proposed dental practice will require off-street parking of one space per 200 sq. ft. of floor area. The 2,500 sq. ft. unit will require 13 parking spaces.

There are three other commercial units who share a common parking lot. Hungry Coyote requires 29 off-street parking spaces (one space for every three seats plus ten spaces for one takeout station); Subway requires 14 spaces (one space for every three seats plus ten spaces for one takeout station); and Verizon requires 7 spaces (one space per 300 sf office space). Adding the applicant's proposed dental office, the building has a total parking requirement of 63 parking spaces. The current parking lot, behind the building, has a total of 30 parking spaces including two handicapped parking spaces. There is a deficit of 33 parking spaces.

In addition to a parking number waiver, the applicant seeks a waiver for the parking design as the existing lot serving the building does not meet setback, maneuvering or lighting requirements.

The expected hours of operation for the dental practice are 8:00 a.m. to 5:00 p.m. with staff arriving and leaving thirty minutes before and after the hours of operation. Patients will be seen by appointment only. The practice will operate three dental units when it opens but hopes to expand to seven units in two to three years. The practice will max out at 22 people, including staff and patients.

Mr. Richard noted that the busiest time for both Hungry Coyote and Subway is lunch time between 11:00 a.m. to 1:00 p.m. and that these businesses attract a lot of foot traffic. Lunch time will be the dental practice's least intensive time, when they will be closed for 30 minutes for lunch.

Mr. Richard said that there are approximately 70 on-street parking spaces within a quarter mile of the proposed dental practice, and that the Lotus Mind and Body Spa was granted a special permit for a maximum capacity of twenty-six people, four more than the maximum number of people that are expected for the dental practice.

Comments received:

- Planning Board had no comment.
- Building Department was not in favor of granting a waiver as the off-street parking provides for less than half the required spaces. More compelling evidence of surplus

parking is required.

- Engineering Department concurs with the Building Department and believes the applicant should be required to submit a parking study.
- Health Department had no comment.
- Fire Department had no comment.
- Police Department had no concerns.

Mr. Schneider said that the Board can waive the parking design requirements since there is no new construction but requires documentation that the number of parking spaces works for the building. The applicant can use on-street parking in a count, but he thought that on-street parking spaces located a quarter of a mile from the dental office are too far to expect a patient to walk. A parking assessment is needed to determine if there is sufficient parking to meet the demand. Mr. Friedenbergh concurred.

Mr. Ligris asked if there was a number of parking spaces dedicated for the tenants by the landlord. Mr. Richard responded that the landlord does not dedicate parking spaces. The spaces in the lot are used in common.

Mr. Richard asked for a continuance to allow time for a parking analysis to be conducted. Mr. Friedenbergh asked staff to provide the name of the traffic consultant who has conducted prior parking demand studies in this area.

Mr. Goldman moved to continue the public hearing to April 28, 2022. Mr. Friedenbergh seconded the motion. The motion was unanimously approved.

The meeting adjourned at 9:35 p.m.

April 28, 2022

The Board included Jon D. Schneider, Chair; Howard S. Goldman, Member; and Peter Friedenbergh, Associate Member. Mr. Schneider opened the hearing at 7:31 p.m. by reading the public notice.

Mr. Richard informed the Board that Vanasse and Associates, Inc. ("VAI") had been hired to conduct the requested parking assessment. VAI determined there were four available parking zones in the vicinity of the project totaling 124 parking spaces – Zone 1, the parking lot at 1183 Highland Avenue with 30 spaces; Zone 2, Highland Avenue between Rosemary Street and Oakland Avenue with 32 on-street spaces; Zone 3, Oakland Avenue between Highland Avenue and Kingsbury Street with 20 on-street spaces; and Zone 4, Highland Avenue between Oakland Avenue and May Street with 42 on-street spaces.

The results of a parking demand survey conducted between 8:00 a.m. and 5:00 p.m. on Wednesday, March 30, 2022 indicated that the overall peak parking demand occurred at 11:30 a.m. and 1:30 p.m. when a total of 62 spaces were occupied representing a parking occupancy of 50% of the parking spaces VAI included in their study. The VAI study concluded that there was sufficient parking.

Mr. Schneider thought patients were not going to park on the street and walk from ¼ mile away, but even considering only the on-site spaces and the street spaces in Zone 2, the study showed that there was sufficient available parking to accommodate 13 more cars. At the 11:30 a.m. and 1:00 p.m. peak times there were 7-8 open spaces on-site and 13 spaces available in Zone 2. Mr. Schneider was concerned for the five to six days a year when there are events at Memorial Field when all the spaces may be occupied. Mr. Schneider suggested that the applicant inform the patients of the availability of the off-street parking lot behind the building because it was not easy to find.

Mr. Goldman thought the study confirmed that there was sufficient parking. Mr. Friedenberg concurred.

Mr. Goldman moved to grant a Special Permit under Sections 5.1.1.5, 5.1.2 and 5.1.3 of the Zoning By-Law to waive strict adherence to parking and parking design requirements associated with the use of a dental practice at 1183 Highland Avenue. Mr. Friedenberg seconded the motion. The motion was unanimously approved.

Findings

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

1. The premises which is the subject of this application is located at 1183 Highland Avenue in the Business District. The premises contain approximately 2,500 s.f. and were formerly occupied by Lotus Mind and Body Spa.
2. The applicant proposes to use the premises as a dental office with up to seven examination/treatment rooms (starting with three initially).
3. The proposed dental office will require 13 parking spaces based on the Zoning By-Law's requirement of one space per 200 s.f. of office space.
4. The premises are located in a building which currently contains three other businesses: the Hungry Coyote restaurant, a Subway restaurant and a Verizon retail store. The Zoning By-Law requires 29 off-street parking spaces for the Hungry Coyote, 14 off-street spaces for the Subway and 7 spaces for the Verizon store, for a total of 50 parking spaces. Adding the 13 parking spaces required for the proposed dental office results in a total of 63 off-street parking spaces required for these 4 premises. The on-site parking lot serving the building which houses these three businesses, and the proposed dental office contains 30 parking spaces.
5. The applicant's traffic consultant, Vanasse and Associates, Inc. conducted a parking count on March 30, 2022. Focusing just on the on-site parking lot and "Zone 2" along Highland Avenue in close proximity to the property, there are a total of 62 parking spaces available. The parking study showed a peak number of parked cars at 11:30 a.m. (23

parked in the on-site lot and 21 parked along Highland Avenue in “Zone 2”) and again at 1:00 p.m. (22 parked in the on-site lot and 19 parked along Highland Avenue in “Zone 2”). This study showed that these two parking areas had 16-19 parking spaces available at these peak times. This study also showed many more parking spaces available further down Highland Avenue.

6. Based on the parking study, and the fact that the peak patient hours at the dental office are not anticipated to coincide with the current peak parking demand, there appears to be sufficient available parking on-site and on-street for the proposed dental office at this location.
7. The applicant has requested a Special Permit pursuant to Section 5.1.1.5 of the Zoning By-Law to waive strict adherence with the requirements of Section 5.1.2 (Required Parking) and Section 5.1.3 (Parking Plan and Design Requirements). Based on the findings above concerning the availability of parking spaces for the proposed dental office, and the fact that the on-site parking lot has been in existence for many years in its current configuration and cannot be brought into conformity with the requirements of Section 5.1.3 of the By-Law without significant expense and probable loss of parking spaces, the Board finds that there are special and unique circumstances justifying the waiver of certain design requirements and parking space number requirements here. The Board further finds that these waivers are consistent with the intent of the By-Law and will not be detrimental to the Town or to the general character and visual appearance of the surrounding neighborhood and abutting uses.

Decision:

On the basis of the evidence presented at the hearing, following due and open deliberation, upon motion duly made and seconded, the Board by unanimous vote grants the applicant 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 5.1.3 (Parking Plan and Design requirements) of the By-Law in connection with the existing off-street parking area which the applicant’s dental patients and staff will have the right to use.

SIGNATORY PAGE - 1183 HIGHLAND AVENUE



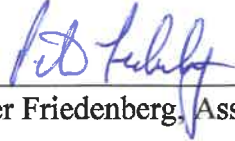
Jon D. Schneider, Chair

SIGNATORY PAGE – 1183 HIGHLAND AVENUE



Howard S. Goldman, Member

SIGNATORY PAGE – 1183 HIGHLAND AVENUE



Peter Friedenberg, Associate Member