



Zoning Board of Appeals Meeting

Wednesday, January 22, 2025 at 7:00 PM
City Council Chamber, Administration Building,
149 Main St., Watertown, MA 02472

Agenda

Pursuant to Chapter 2 of the Acts of 2023, the meeting and public hearing will be conducted with remote opportunities for participation. Remote participation and access methods include:

ACCESS INFORMATION:

- A. This meeting will be held on **January 22, 2025**, at **7:00 PM** Location: City Council Chamber, Administration Building, 149 Main St., Watertown, Massachusetts
 - B. The meeting will be televised through WCATV (Watertown Cable Access Television): wcatv.org/government
 - C. The Public may join the virtual meeting online: <https://zoom.us/j/606857230>
 - D. Public may join the virtual meeting audio only by phone: (877) 853-5257 or (888) 475-4499 (Toll Free) and enter Webinar ID: [606 857 230](https://zoom.us/j/606857230)
 - E. Public may comment through email: zba@watertown-ma.gov
 - F. Please Visit the Zoning Board of Appeals Website here: <https://www.watertown-ma.gov/228/Zoning-Board-of-Appeals>
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1. Administrative Business

- A. Approval of Meeting Minutes
 - i. Meeting Minutes-November 20, 2024
 - ii. Meeting Minutes-December 18, 2024

2. Cases

- A. **6 & 12 Church Hill St (*Request for Continuance*)**
 - i. 6 Church Hill St-William T Conti requests a Special Permit for the construction of a new 3-family dwelling (existing 2266 sq feet lot expanded to 2797 sq feet). The project would include demolition of an existing single-family structure. [Link](#)
 - ii. 12 Church Hill St- The owner, Brianna LLC, through its manager, William T Conti, requests a Special Permit for the construction of a new 3-family dwelling (existing 3373 sq feet lot decreased to 2840 sq feet). The project would include the demolition of an existing 2-family structure. [Link](#)
- B. **77 Forest St- (*Request for Continuance*)** Request to allow a full second floor addition to the existing building within setbacks (front, sides and rear), which includes new siding, windows and doors. The project also includes a change of use from a non-conforming commercial use to an allowed by right single-family residence use with no onsite parking (existing nonconformity) [Link](#)

- C. **9-11-13 Boyd St- (Appeal)**-First Path Daycare Inc. d/b/a First Path Day Care Center (Owner: The University Prints Building, LLC) requests to hear and rule on an Appeal of the Issuance of a Building Permit if, and only to the extent, it incorporates the conditions found in the December 20, 2023 decision of the Planning Board on Site Plan Review, particularly conditions 11 (a) through 11 (h).



CITY OF WATERTOWN
ZONING BOARD OF APPEALS
WATERTOWN ADMINISTRATION BUILDING
149 MAIN STREET
WATERTOWN, MASSACHUSETTS 02472

Melissa M. SantucciRozzi, Chairperson
David Ferris, Clerk
Christopher H. Heep, Member
Alexander Dale, Member
Sarah Baker, Member
Gregory Girard, Alternate
Samuel Odamah, Alternate

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MINUTES

On Wednesday evening, November 20, 2024, at 7:00 p.m. in the Council Chamber of the Administration Building, the Zoning Board of Appeals held a public hearing. The meeting and public hearing were conducted in a 'hybrid' format with options for public participation both in-person and via remote means, in accordance with applicable law.

Members in attendance (In-person): Melissa SantucciRozzi, *Chair*; Sarah Baker, *Member*; David Ferris, *Member*;

Members in attendance (Remote): Alexander Dale, *Member*; Samuel Odamah, *Alternate*;

Members Absent: Christopher Heep, *Member*; Gregory Girard, *Alternate*;

Staff present (in-person): Gideon Schreiber, *Director of Planning and Zoning*; Sameena Pirani, *Administrative Specialist*; Antonio Mancini, *Zoning Enforcement Officer*.

Chair SantucciRozzi opened the meeting stating that all votes would be via recall as some members were remote. She introduced staff, reviewed the agenda and noted the members in attendance via roll call.

Motion to approve September 25, 2024, meeting minutes was made by Member Ferris and seconded by Member Odamah. The motion was approved by roll call vote 4-0 with Chair SantucciRozzi, Dale, Ferris and Odamah voting in favor.

Motion to approve October 23, 2024, meeting minutes was made by Member Baker and seconded by Member Odamah. The motion was approved by roll call vote 4-0 with Chair SantucciRozzi, Baker, Dale and Odamah voting in favor.

Cases: 6 & 12 Church Hill St

At the Chair's request, the motion to continue the petition to the ZBA's January 22, 2025 meeting was made by Member Ferris, seconded by Member Baker. The motion was approved by roll call vote 5-0

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with Members Dale, Baker, Ferris, Odamah and Chair SantucciRozzi voting in favor. Attorney Leitner confirmed that an extension agreement had been signed.

1 Rosary Dr

Attorney Leitner, representing the petitioner Stephen Corbett, introduced the team. He detailed the historical context of the site, including the relevant permitting history. The overall development consisted of 59 townhouses, approved by overlapping petitions for a variance and a special permit around 1987, a housing project with 25 deed-restricted affordable units and a daycare facility, and a convent (Unit 61) consisting of about 45 dormitory style units. The latter had been abandoned and on the market since 2020. In 1987, with the change in the zoning classification for this parcel from T-Zone to Cluster Residential (CR), 11 out of the 13 buildings on site became non-conforming.

Attorney Leitner also detailed the forms of relief for the Board to consider. To redevelop 1 Rosary Drive with a total of 5 units, the petitioner had requested relief as an amendment to the 1987 Special Permit and a Special Permit Finding (considering the site as a whole, given that the apartment building on site was to remain). Explaining the scope of the project, Attorney Leitner said that the redevelopment would be within the same footprint and the setbacks would be greater than the present building, allowing for on-site parking. He said that under the Special Permit analysis the project would be an improvement to the property.

In the alternative, the petitioner had requested relief under multiple variances. Attorney Leitner explained that the only permitted use in the CR district was residential, and the convent was not counted as a unit because of the exempt Dover use. Therefore, a variance would be needed for any additional residential units, the lot area per dwelling unit ratio being one of other requirements. He believed that the project met the four conditions for a variance given its unique topography, limited parking, limited use in the CR district. The less intensive use proposed did not derogate from the intent of the Ordinance.

Attorney Leitner also addressed staff concerns about providing evidence of consent from the Condo for the proposed development. The trustees would need to ratify versus approve the proposal in advance.

Ron Bourque from Bourque Design went over the design and plans dated August 12, 2024. He said that because they were working within the existing footprint, the landscaping around it, which included many mature trees, would be maintained. Each unit would have a one-car garage with additional parking space on the exterior. Additionally, there would be two visitor parking spaces. The elimination of the existing building would allow an increase in open space. The materials and scale of the proposed buildings would be consistent with the existing.

Following the conclusion of his presentation, Architect Bourque invited Fergal Brennock to review the engineering plans. He said that the project would lead to a substantial reduction in impervious surface. Similarly, the footprint of the three new buildings was approximately half of the lot coverage of the existing convent. The existing sewer service would not need upgrading. Final utility provisions and other

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site requirements were under discussion with DPW. Overall, he concluded that the civil engineering plans were in harmony with the existing site.

Petitioner Steve Corbett, 14 Irving Park, provided the concluding remarks. He said he was disappointed by the Planning Board's recommendation to deny the petition. So far, his proposed plans had been embraced by the neighborhood and were consistent with the City's goals. It would contribute to the tax base. He said that this was a unique lot containing over 8 acres of land, a perimeter of more than half a mile and a grade elevation that varied more than 28 feet. All the buildings on this lot were governed by a master deed that required a super majority vote to modify. He said that there was nothing comparable to this situation in Watertown and "granting relief would not set any unwarranted precedent." The convent was the last piece in the redevelopment of the former Rosary Academy. He discussed its rezoning from the T Zone to Cluster Residential rendering it non-compliant with respect to density, setbacks, lot and impervious coverage and open space and making redevelopment of the convent impossible without zoning relief. The overwhelming support of the community to redevelop the site based on the proposed plans was unique, as this was rarely seen in most development proposals. He concluded his presentation by providing the rationale for granting the relief requested.

Following the conclusion of this presentation, Chair SantucciRozzi opened the meeting for public comments.

Gerri Blitzman, 2C Locust Lane, original owner for 37 years, expressed her support for the project. She was concerned about the state of uncertainty for the existing building. Parking was challenging and the use was limited. Many of the residents were elderly and longtime residents. Also, she noted that the sisters could benefit from the receipts of the sale. She appreciated the attention the project received from the Planning Board.

Angelo Defrancesco, 4 B Locus Lane, said he was a resident since 2006 and a trustee since 2007. He stated that the project had unanimous support from the public and checked all the boxes. The developer had worked in partnership with the community and listened to their feedback. He was concerned about the safety of a vacant and unmonitored building. Not deciding soon would take the community back in time to find a solution.

Toby Reed, 31 Angela Ln, said she had lived here for eight years and been a trustee for three years. Upon her request, with a show of hands, about 15-20 attendees, showed their support for the project. She said they were impressed with the thoughtfulness and consideration shown by the Planning Board to their petition and hoped to receive the same from the Zoning Board. This was a unique situation brought on because of rezoning. She expressed her sympathy for the sisters who continued to pay their share of the condominium fees, utilities and other expenses. The neighbors were concerned about the vacant building. She also reported an incident of flooding due to frozen pipes caused by heating being turned off. The project had the support of the neighbors, and the developers had worked well with the unit owners proposing a design that fitted with the existing, also taking into account the parking issues.

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Bob D'Amelio, 36 Angela Lane, expressed his support for the project. He said that the design was compatible with the existing town houses and would not exacerbate the parking issues on site. Parking was also provided within the footprint of the existing building.

Cathy Cote, 32 Angela Lane said that she was an original owner. This was a very special place and could be redeveloped with a plan that so many supported. She did not think the building was worth saving.

Melissa Mintz, 20 Angela Lane, had been a resident for about 31 years and expressed her support for the project. She felt that the applicant had made a compelling case for the relief. The building had limited use from the inside, given the community bathroom, and community dining room that it had. The proposed building was more compatible with the rest of the site

Susan Lurier, said she had been on the Board of Trustees for 20 years. It was a community where everyone felt safe. She invited the Board to visit. Finding an appropriate use had taken a while and the proposed building blended well with other development in Watertown.

Emily Izzo, District City counsellor, expressed her support for the project, stating that the plans complemented the area and were consistent with the City's goals. They were well supported by the neighborhood, adding housing and green space to the city, and had ample parking. The plans presented the least financial burden to the owners and if not allowed, would impose a significant cost on all of them.

Vincent Piccirilli, City Council Vice President (remote) spoke about the uniqueness of the property to be considered, addressing the criteria for a variance. He stated that the building had limited uses. Based on the Staff Report, any use other than a vacant lot, religious use or education use would be non-conforming. Also, much had changed for the Catholic Church since the building was first constructed. Further, the convent was part of a condominium complex and any change to the site would require a two-third majority vote. No other property in Watertown had this requirement.

Councilor Piccirilli also said that the City's most recent Zoning Amendments supported more density, quite contrary to the spirit of Cluster Residential where the building was located. He also described the financial burden of this property to the sisters at present, and the consequences of any withdrawal of their share. He concluded his comments by asking the Board to seriously consider granting the variance

Chair SantucciRozzi read into the record names of residents who had provided comments via email.

Also read into the record was the letter received from Council President, Mark Sideris.

Chair opened the discussion to the Board. Member Odamah asked what other options had been considered for the site prior to the proposed plans. Steven Corbett said that the plans were designed to offer a low density project that was compatible with what was already on site in terms of scale. Also to leave space between the buildings.

Member Odamah asked if the community would prefer to replace the building. Steven Corbett said that the convent was an eyesore that did not fit with the existing buildings. Other uses of the building would conflict with the zoning requirements. He also discussed other configurations for the buildings, including

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eliminating access from Rosary Drive. Also to be taken into consideration was the requirement that it had to be approved by 75 % of the community.

Member Odamah clarified the amount of parking available—each townhouse unit would have 2 parking spaces. In addition, there would be two visitor spots.

Member Dale asked for clarification on the parking spaces for the entire site. Steven Corbett said that under the original special permit for Sienna Village, there were 162 parking spaces for St Joseph's Hall, daycare program and 59 units.

Member Dale summarized the options for the project—pull more variances or go through a rezoning process, as suggested by the Planning Board. He asked the petitioners why rezoning had not been pursued. Attorney Leitner explained the process it would entail, stating that this option was lengthy and had only been recently proposed.

Both Member Dale and Member Baker noted the unusual support shown by the residents.

Member Baker said that a higher density would impact not only Sienna Village but also the surrounding neighborhoods. She also commented on the orientation of the proposed buildings. It seemed that they were turned away from the rest of the neighborhood unlike the other buildings. Steve Corbett clarified that the front doors of three units faced Rosary Drive. The two-family in the back had the front door facing the interior driveway. Member Baker expressed concern that the proposed five units appeared separate from the others and were not integrated with the rest of the developments on site. Steve Corbett he did not see them as separate and isolated.

In response to concerns raised by Member Baker, Member Ferris said that he found the orientations similar to the existing. He also agreed that it created a little neighborhood just like other sections of the site. He also said that it seemed like a very special neighborhood, and it was impressive to see this turnout to support the proposal.

Member Ferris asked if the likely usability of the attic in Buildings 2/3 would impact the discussions. Staff said that those calculations would be reviewed by staff after the Board's determination.

He also noted that the grading allowed a walk-out basement for Buildings 2/3, providing the homeowners with additional living space with daylight. This was not reflected in the elevations which would need to be updated. Steve Corbett also confirmed that about 20 mature trees would be maintained.

Overall, Member Ferris said that the design seemed to fit well with the neighborhood. He asked for more detail and accuracy in the plans, including outdoor space plans for a potential patio/deck/retaining wall, which would not only enhance the marketability of the units but also give privacy and a neighborhood feel to the units, and resolve questions for the community regarding space utilization. He said that the plans should also reflect that the two two-family buildings were different. Each building should have its own floor plans and elevations to allow the garage door to be appropriately positioned. He also suggested the inclusion of a few smaller trees closer to the front entry of each unit.

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Chair SantucciRozzi asked questions related to the inspiration of the three- structure layout and number of units chosen. She also reiterated Member Ferris's request for more detail in the plans, including the outdoor space. Commenting on the nature of relief sought, she noted the various improvements proposed and the rationale for relief. She listed the revisions she wished to see including the half story calculations, updated elevations, plans for the outdoor space, floor plans and orientation of the garage, making sure the plans matched with what would be built. Also discussed was the fire truck access which needed to be finalized.

Motion to continue to December 18, 2024 was made by Member Ferris, seconded by Member Baker. Motion was approved (5-0) with Members Dale, Baker, Ferris, Odamah and Chair SantucciRozzi voting in favor.

Motion to adjourn was made by Member Ferris, seconded by Member Baker. Motion was approved (5-0) with Members Dale, Baker, Ferris, Odamah and Chair SantucciRozzi voting in favor.

The meeting ended at approximately 8:50 PM

MINUTES APPROVED:-----

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MINUTES

On Wednesday evening, December 18, 2024, at 7:00 p.m. in the Council Chamber of the Administration Building, the Zoning Board of Appeals held a public hearing. The meeting and public hearing were conducted in a 'hybrid' format with options for public participation both in-person and via remote means, in accordance with applicable law.

Members in attendance (In-person): Melissa SantucciRozzi, *Chair*; Sarah Baker, *Member*; David Ferris, *Member*, Greg Girard, *Alternate*;

Members in attendance (Remote): Alexander Dale, *Member*; Samuel Odamah, *Alternate*; Chris Heep, *Member*;

Staff present (in-person): Gideon Schreiber, *Director of Planning and Zoning*; Sameena Pirani, *Administrative Specialist*; Larry Field, *Senior Planner*; Matthew Neubacher, *Planner*;

Chair SantucciRozzi opened the meeting stating that all votes would be via recall as some members were remote. She introduced staff, noted the members in attendance and reviewed the agenda and order of cases.

Cases: 6 & 12 Church Hill St

The Chair noted that the petition had been continued to the ZBA's January 22, 2025 meeting.

1 Rosary Dr

Attorney Leitner, representing the petitioner Stephen Corbett, provided a recap of the relief sought and noted that the petition had received a favorable staff report based on the ratios for density and appropriate intensity of use. The proposed plans had also been fully supported by the Condominium Association. Following the conclusion of his presentation, he invited Petitioner Steven Corbett to go over the updated plans. These included separate floor plans for the two two-families reflecting the differently

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oriented garage doors because of the grade drop of the rear units; revised plan for the fire ladder truck turnaround and maneuvering, to allow backout with a 2-point turn, approved by the fire dept; parking spot swap of visitor spots with the Condo Association to create a fire lane; decks (unit 1, unit #2 and #3) and patios (unit # 4 and #5); Bulkhead walkouts for units #2 and #3; addition of basement windows for all three buildings; addition of larger trees, red maples, in front of units #1, #4 and #5 along Rosary Drive; material description and window specification on elevations; half-story calculation which required adjustments to the roof plan; maintaining 2 existing parallel parking spaces on Rosary Dr at the request of the Condo Association; the basement plan with the large family room, mechanical room and a storage room.

After confirming that there were no new comments from the audience and no hands raised on Zoom, the Chair opened discussion to the Board.

Member Ferris observed that the basement plans did not reflect the window wells. He appreciated the updates, noting that the petitioner had been very responsive to the Board's comments from the last meeting.

Member Dale noted that the stairwells in the first-floor plans for unit #4 and #5 were not reflected in the basement plans. Architect Ron Bourque from Bourque Design stated that these would be added in the construction documents.

Member Odamah expressed concern for the privacy of units #2 and #3 from the neighboring apartments. The petitioner said that the Condo Association had discussed this and requested the installation of fencing, which he had agreed to.

Member Odamah noted the unanimous support from residents and asked if there were any concerns or negative feedback expressed in the process. Petitioner Steve Corbett confirmed that he had not received any concerns. He had grown up in the neighborhood and knew a lot of the residents.

Chair SantucciRozzi expressed her appreciation for the updated plans. She had no additional comments.

Chair SantucciRozzi read into the record the letter from Councilor John Airasian, sharing his enthusiasm for the project and acknowledging Mr. Corbett's hard work and vision for the neighborhood.

Chair SantucciRozzi summarized the nature of relief requested, noting that there had been an addendum to the Staff Report. She requested updated calculations to the Zoning Table for the impervious coverage, building coverage and open space with the addition of the decks, bulkheads and alterations to parking. She especially noted the overwhelming support for the project, which had played an important role in the Board's consideration of the petition. She noted that any motions made would be predicated on the submission of an updated Zoning Block analysis.

Member Ferris moved to: 1) approve the requested variances and 2) amend Special Permit #86-87-17SP/make a Special Permit Finding to incorporate the new site plans, with the conditions proposed by staff and the additional condition that Petitioner update the zoning summary for this project. The motion was seconded by Member Dale. Motion was approved (5-0) with Members Dale, Baker, Ferris, Odamah and Chair SantucciRozzi voting in favor.

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77 Forest St

Chair said that Member Dale had recused himself and would not be participating in this case. Members participating would be Members Heep, Ferris, Baker, Girard and Chair SantucciRozzi.

Member Ferris read the legal notice.

Attorney Leitner, representing the petitioner and owner BYB LLC introduced the case, describing the relevant permitting history, scope of the project, proposed plans and nature of relief sought. He said that effort had been made to minimize the massing. Also, there was no parking on site, which was close to municipal parking and public transportation, and consistent with Watertown's Comprehensive Plan to provide affordable housing. The proposed plans had been discussed with the abutting three-family and well-received. The project also had a favorable staff report. Concluding his presentation, he invited architect Vahe Ohannessian from Boston Architects and Builders, Inc to detail the plans. Based on the presentation, the total increase in height would be about 4.5'. The living area on the second floor would be in the front. Most of the work would be in the interior. The shape of the building would remain the same.

Chair SantucciRozzi opened the discussion to the public.

Jeet Chakraborty, resident in the adjacent 3-family, stated that the petitioners had been very receptive to their feedback. As residents on the second story, they had expressed concerns about privacy and the additional height, which had been effectively addressed.

Margaret Wong, 74 Forest St, (attending remotely) said she wanted to make the correction that the property was located at the corner of Fayette and Forest St, not Forest and Summer as stated by Attorney Leitner. Also, she asked if there were any improvements to visibility for that intersection given current safety concerns. Staff explained the challenges of addressing this issue. It had a historically hard corner. Also, what looked like a city sidewalk, was the owner's front yard, limiting the City's options for improvement. Chair SantucciRozzi said that an easement would be unreasonable given the size of the lot. In response to Margaret Wong's request for a 4-way Stop Sign, staff suggested this be discussed with the Traffic Commission and DPW.

Rosmary Sheehan, 24 Quirk St, (attending remotely) reiterated the concerns expressed by Margaret Wong. She was concerned about the lack of on-site parking. Future parking on Fayette St by the owners would exacerbate the visibility issue and parking along Forest St was already a challenge.

After confirming that there were no other public comments, Chair SantucciRozzi opened discussion to the Board.

Member Heep, attending remotely, expressed his support for the project, saying that this was an "interesting and positive use" of the property. He recognized the limited space on the lot and asked if the petitioners had proposed any improvements to the site, in terms of planting or landscaping. Attorney Leitner said that the only space available was owned by the adjacent condominium and "fenced in". Once relief was granted, the owners of the condominium and the single family could discuss

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improvements to the grassy area. Member Heep would like to see the plans for the proposed improvements to this area prior to the granting of relief.

Based on further discussion, Chair SantucciRozzi noted the absence of easements on the plot plan. Attorney Leitner confirmed that the area under discussion would remain grass, and have a gate. Member Heep concluded his comments by saying that he would like to hear about this from other members of the Board.

Member Odamah agreed with the comments made by Member Heep regarding improvements to the site, and the visibility and parking concerns raised by neighbors. In response to his question about on-site parking, Attorney Leitner stated that the grassy portion under discussion was not large enough.

Member Odamah asked why the petitioners had chosen to limit height to 18 ft versus the allowed 35 feet. Attorney Leitner said that it was to minimize the impact on the neighbors, especially the 3-unit condominium. Also, any improvements would be in conjunction with these neighbors, given the shared space.

Member Baker supported comments made by Members Heep and Odamah for improvements in the landscaping. She also confirmed that the portion of the property that was a sidewalk would remain as it is. She noted that the flat roof was unlike others on the street, and while there had been several improvements and rebuilds in the neighborhood, she wondered about the “visual cohesiveness” of the design with other developments. She asked if this had been discussed with the neighbors. Also, given the limited footprint, if there was a reason for leaving the basement unfinished, instead of using it for living space. Attorney Leitner said that the plan was to leave it unfinished for storage.

Member Girard appreciated the choice of a flat roof to minimize the impact on the abutters. He asked about the nature of the mechanical equipment screened on top. Attorney Leitner said that the location of the condensers had been chosen to mitigate the noise and not use the limited ground space. Architect Ohannessian said that the new equipment was quiet and would be screened. It was five feet away from property lines which would help mitigate sound and visual impact.

Member Girard noted that the property seemed vacant when he had passed by that morning. He had observed signs for “No Dumping.” Based on this, he said any development would be an improvement. He asked about run-off and drainage given the flat roof. Architect Ohannessian addressed these concerns, saying that a gutter and downspout system would be put in place along with adjustments to the roof pitch, to divert water from the public way. He also asked about the colors on the exterior. The architect confirmed that there would be altogether three colors chosen to break up the massing visually. He also favored the full glass exposure at the corner. While the design was unique and unlike most on the street, he felt that it could be a bridge to future design.

Member Ferris asked a few questions about the history of the site and building. Staff explained that in 1954, it was formally created into three lots A, B, C which included another lot beyond the 3-family which also had shared access. He asked why the petitioners had chosen to have a family room versus an additional bedroom. Other questions related to the thickness of the siding, if the addition would touch the electrical wires overhead, height of the rooftop element around the mechanical equipment, and

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building materials. He noted that the window placement in the elevations did not coordinate with the floor plans.

Member Ferris expressed his concern about the extent of relief sought stating that the site was in compliance only with open space ratios.

Chair SantucciRozzi reiterated Member Ferris's concerns about the extent of relief sought, given the existing commercial use and non-conforming current and proposed parking. She noted the absence of a site plan. The plot plan only showed the building footprint. They did not display the easements that had been described. The architectural plans also lacked detail. She said that many of the questions asked by the Board were triggered by the absence of sufficient detail in the plans. She also questioned the accuracy of the Zoning table, completed as part of the application. While she supported the adaptive reuse of the property, the Board did not have adequate and accurate data to determine that the change would not be substantially more detrimental. She would like to see the plans include details of the interior and exterior, entry and exit ways, open space and landscape plans. She asked if the changes would be itemized in the updated submittal.

Member Ferris also asked that the petitioners reconsider and further explore the option of a more cohesive single design for the exterior, aligned with the other houses in the neighborhood.

Chair SantucciRozzi read into the record a letter received by Kelly and Ryan Kurlbaum expressing their concerns about the relief requested, based on the limited space, no setbacks or parking.

Member Ferris clarified that the petitioners had no relationship with the owners and/ or residents of the adjacent condominium.

Motion to continue to the January 22, 2025 meeting was made by Member Ferris, seconded by Member Girard. Motion was approved 5-0, with Members Heep, Ferris, Baker, Girard and Chair Santucci-Rozzi voting in favor.

Motion to adjourn was made by Member Ferris, seconded by Member Baker. Motion was approved (5-0) with Members Heep, Baker, Ferris, Girard and Chair SantucciRozzi voting in favor.

The meeting ended at approximately 8:50 PM

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**PETITION TO APPEAL THE ISSUANCE OF
BUILDING PERMIT, BUT ONLY TO THE EXTENT
IT INCORPORATES CERTAIN CONDITIONS IMPOSED
AFTER SITE PLAN REVIEW**

WATERTOWN, MA
2024 NOV 27 AM 11:29

TOWN OF WATERTOWN

ZONING BOARD OF APPEALS
149 MAIN STREET
WATERTOWN, MA 02472
(617) 972-6427
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SUBJECT PROPERTY ADDRESS: 9-11-13 Boyd Street, Watertown, MA

PETITIONER: First Path Daycare Inc. d/b/a First Path Daycare Center

Petitioner's Address: 25 Whiles Avenue, Watertown, MA 02472

PETITIONER'S SIGNATURE: M. S.

617 926-4690
Daytime Phone Number

SUBJECT PROPERTY OWNER:

Owner's Address: 13 BOYD STREET
The University Prints Building LLC, 25 Whiles Avenue, Watertown, MA 02472

OWNER'S SIGNATURE: M. S.

If petitioner or owner is a corporation, please identify the officers of the corporation as currently listed in the Secretary of State's records. (Should there be more than one corporation, list the officers and their addresses for each corporation and attach to the application.) SEE ATTACHED¹

President: Aleksandra Pikus

Home Address: 101 Woodland Street, Sherborn, MA 01770

Treasurer: Maksim Bolyasnyy

Home Address: 101 Woodland Street, Sherborn, MA 01770

The Petitioner herein requests the Board of Appeals to hear and rule on an Appeal of the Issuance of a Building Permit for the Subject Property if, and only to the extent, it incorporates the conditions found in the December 20, 2023 decision of the Planning Board on Site Plan Review, in accordance with Section 9.19 of the Zoning Ordinance specific to the application of the following section(s)² of the Zoning Ordinance and/or M.G.L. Chapter 40A: Section 9.03 and 9.19 of the Zoning Ordinance; M.G.L. A. c. 40A, sections 3, 8, 13, 14, and 15. Please see attached Notice for further explanation of the basis for and timing of this appeal.

and requests a finding by the Board specific to the following action: Modify the Building Permit, but only if, and to the extent that, it incorporates certain conditions found in the Site Plan Review Decision issued on December 20, 2023. Please see attached Notice for further explanation of the basis for and timing of this appeal.

Notice to Applicants: In accordance with Chapter XVII of the Watertown Ordinance, the Board of Appeals may deny the application for an Appeal of any person or corporation who owes any outstanding taxes or charges to the Town.

x Melissa M. Moussey
Town Treasurer's Approval (As required by Ch. 40, § 57)

Filing Fee: \$ 165
Filing Deadline: Nov. 29, 2024

1. IN THE CASE WHERE THE PETITIONER IS A TRUST, LIST TRUSTEES AND THEIR ADDRESSES; FOR ANY OTHER TYPE OF OWNERSHIP OR LEGAL ENTITY, LIST THE TYPE OF ORGANIZATION, THE LEGAL STATUS OF THE ORGANIZATION, THE NAME OF THE OFFICERS OR MEMBERS, THEIR AFFILIATION WITH THE ORGANIZATION AND THEIR ADDRESSES.

2. THE PETITIONER MUST SPECIFY EACH SECTION(S) OF THE ZONING ORDINANCE UNDER WHICH THE PETITIONER SEEKS AN APPEAL OF A DECISION BY THE ZONING ENFORCEMENT OFFICER. ONLY THOSE SECTIONS SPECIFIED AS REQUESTED FOR APPEAL WILL BE CONSIDERED.

MINIMAL SUBMISSION DOCUMENTATION ACCOMPANYING THIS APPLICATION SHALL INCLUDE BUT NOT BE LIMITED TO: APPLICATION FORM FILED IN TRIPLICATE; WRITTEN STATEMENT DETAILING CONSIDERATIONS OF THE APPEAL AND A COPY OF THE WRITTEN DECISION (IF APPLICABLE) OF THE ZONING ENFORCEMENT OFFICER UPON WHICH THE APPEAL IS BASED. THE APPLICANT IS ADVISED THAT ALL APPLICATION REQUIREMENTS AS SET FORTH IN THE BOARD OF APPEALS "RULES OF PRACTICE AND PROCEDURES" MUST BE COMPLIED WITH BEFORE THIS APPLICATION WILL BE ACCEPTED. [WWW.WATERTOWN-MA.GOV/DOCUMENT CENTER/COMMUNITY DEV'T & PLANNING/ZONING](http://WWW.WATERTOWN-MA.GOV/DOCUMENT%20CENTER/COMMUNITY%20DEV'T%20&%20PLANNING/ZONING).

MGL c. 40A, §15: Any appeal under section eight to a permit granting authority shall be taken within thirty days from the date of the order or decision which is being appealed. The petitioner shall file a notice of appeal specifying the grounds thereof, with the city or town clerk, and a copy of said notice, certified by the town clerk shall be filed forthwith by the petitioner with the officer or board whose order or decision is being appealed, and to the permit granting authority, specifying in the notice grounds for such appeal. Such officer or board shall forthwith transmit to the board of appeals or zoning administrator all documents and papers constituting the record of the case in which the appeal is taken.

From: mb@maxpost.net
Sent: Tuesday, November 26, 2024 11:41 PM
To: Robert Krauss
Subject: ATTACHMENT TO PETITION TO APPEAL

ATTACHMENT TO PETITION TO APPEAL
DECISION OF ZONING ENFORCEMENT OFFICER
9 - 11 - 13 BOYD STREET

INFORMATION REGARDING PROPERTY OWNER
THE UNIVERSITY PRINTS BUILDING LLC

ADDRESS WHERE RECORDS ARE MAINTAINED: 13 BOYD ST, WATERTOWN, MA 02472

RESIDENT AGENT: MAKSIM BOLYASNYY, 13 BOYD ST, WATERTOWN, MA 02472

MANAGERS: MAKSIM BOLYASNYY AND ALEKSANDRA PIKUS, 13 BOYD ST, WATERTOWN, MA 02472

SOC SIGNATORIES: MAKSIM BOLYASNYY AND ALEKSANDRA PIKUS, 13 BOYD ST, WATERTOWN, MA 02472

PERSONS AUTHORIZED TO EXECUTE RECORDABLE INSTRUMENTS REGARDING REAL PROPERTY:
MAKSIM BOLYASNYY AND ALEKSANDRA PIKUS, 13 BOYD ST, WATERTOWN, MA 02472



CITY OF WATERTOWN BUILDING PERMIT

Permit No: BP-23-660
Date Issued: October 30, 2024

PERMISSION IS HEREBY GRANTED TO: Kevin Foley

KEVIN J FOLEY

TO PERFORM WORK AT:

APPLICANT CSL HOLDER
9 BOYD STREET 617-823-3796
PROPERTY ADDRESS TELEPHONE
University Prints Building LLC. CS-064995
OWNER LICENSE NO. HIC REG #

TO PERFORM THE FOLLOWING WORK: To convert existing B use to an I-4 use for Daycare.

In conjunction with BP-24-337, EP-24-324, GP-24-358, PP-24-430, SM-24-127, FA-24-32, FS-24-27 and BP-24-736 for the new day care.
the day care is located in the back (1 story) portion of the building on the above grade 1st floor.

CONDITIONS:

CONSTRUCTION WORKING HOURS: MON-FRI 7AM-7PM SAT 8AM-7PM NO WORK ON SUNDAYS

Providing that the person accepting this permit shall in every respect conform to the terms of the application on files in this office, and to provisions of the Statutes and Ordinances relating to the construction of Buildings in the City of Watertown. Any Violation of any terms above noted shall cause an immediate revocation of this permit. Under the Acts of 1972 Chapter 802 applicant shall comply to the Commonwealth of Massachusetts State Building Code, Applicable Edition. (INCLUDING STRETCH CODE) (780 CMR Ninth Edition with Mass Amendments 2015) IECC 2018

Building	Electrical	Gas	Plumbing	Fire
Rough:	Underground:	Underground:	Underground:	Rough:
Insulation:	Rough:	Rough:	Rough:	Insulation:
Final:	Final:	Final:	Final:	Final:

- SIGNATURES BY INSPECTORS DOES NOT RELEASE CONTRACTOR OF HIS RESPONSIBILITY TO COMPLY WITH ALL "CODES" CREATED".
- OCCUPANCY PERMITS REQUIRED FOR "CHANGE IN USE AND/OR "NEW SPACE
- THE HOLDER OF THIS PERMIT IS RESPONSIBLE TO VERIFY AND DISPOSE OF ANY HAZARDOUS MATERIAL ENCOUNTERED PER D.E.P. REGULATIONS.
- D.P.W. NON-EXCAVATION PERMITS ARE REQUIRED BEFORE ANY VEHICLE DRIVES OVER CURBS, GRASS PLOTS OR SIDEWALKS.

Paul Johnson
Building Official

This card must be displayed in a conspicuous place on the premises and not taken down or removed until all final inspections have been done.

No footings/foundation to be poured until excavation/rebar have been inspected
No insulation to be done until all rough trade inspections have been completed.

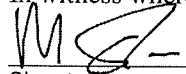


Permission to Inspect Premises With
RELEASE, INDEMNIFICATION, AND WAIVER
For An Individual

I, MAKSIM BOLYASNYY of Sherborn, MA and my successors and assigns, give and extend to the Zoning Board of Appeals of Watertown and to the City of Watertown, a municipality in the County of Middlesex and the Commonwealth of Massachusetts, my express permission to come onto the premises owned by, occupied by or under the control of the above named individual, to any member or agent of the Zoning Board of Appeals, Planning Board or respective staff members of Watertown for the purpose of conducting an inspection of the premises which has been brought to the attention of the Zoning Board of Appeals or Planning Board of Watertown as a result of the petition that I have placed before it. The permission to conduct an inspection shall extend for the full time period during which the petition before the respective Boards of Watertown is pending and any related period of decision. I hereby forever discharge and release and will at all times, defend and save and hold harmless the City of Watertown, the members of the Zoning Board of Appeals and Planning Board, and any of the officers, employees, and agents of either who direct or conduct said inspections from any and all claims, demands, civil action, suits, liabilities, judgments, or damages of any kind, including but not limited to those for alleged trespass, invasion of privacy or warrant-less search, in any way arising out of any inspection by the Respective Board members or their agents or the City's agents, and hereby waive any and all claims that I may now have or may ever have against the City or any of its officers, employees or agents for such inspections except for such matters arising from gross negligence or willful misconduct of such parties, which matters are not discharged, released or waived.

I further state that I carefully read the foregoing Permission with Release, Indemnification, and Waiver and know the contents thereof, and I sign the same as my own free act.

In witness whereof, I have hereunto set my hand this 27 day of November, 2024


Signature

101 Woodland St. Sherborn, MA 01770
Petitioner's Printed Name and Address

State of Texas, County of Dallas

On this the 27 day of November, 2024, before me, Jennifer Frazier,
Day Month Year Name of Notary Public

Personally appeared: MAKSIM BOLYASNYY

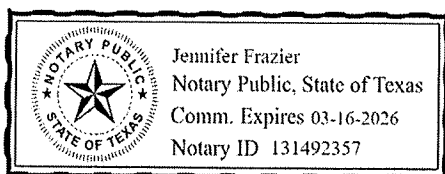
Name(s) of Signer(s)

Proved to me through satisfactory evidence of identity, which was/were:

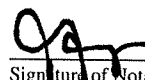
MA DL

Description of Evidence of Identity

To be the person(s) whose name(s) was/were signed on the preceding or attached document in my presence, and who swore or affirmed to me that the contents of the document are truthful and accurate to the best of his/her/their knowledge and belief.



Notarized Online with NotaryLive.com



Signature of Notary Public
Jennifer Frazier

Printed Name of Notary
03/16/2026

My Commission Expires

Place Notary Seal above



Janet Buck, Chair
Payson Whitney
Jason Cohen
Abigail Hammett
Rachael Sack

CITY OF WATERTOWN

Planning Board
Administration Building
149 Main Street
WATERTOWN, MASSACHUSETTS 02472

Telephone (617) 972-6417
Facsimile (617) 972-6484
www.watertown-ma.gov

711 DRIVE
CITY CLERK'S OFFICE
WATERTOWN, MA
2023 DEC 20 AM 9:37

PLANNING BOARD DECISION

On December 13, 2023, with three (3) members present, the Planning Board voted unanimously (3-0) to conditionally approve the Site Plan Review for case PB-2023-05. The following is this Planning Board's Decision.

Case Number:	PB-2023-05 Site Plan Review
Subject Property:	9-11-13 Boyd Street
Parcel ID:	1504 11, 1505 3 0, 15505 4 0
Zoning District:	Two-Family (T) District)
Owner/Petitioner(s):	First Path Daycare
Zoning Relief Sought:	Site Plan Review under §9.03 and §5.01.2 (licensed day care use)
Special Permit Granting Authority:	Planning Board
Staff Recommendation (Report Date):	December 8, 2023; Addendum (12/13/23)
Planning Board Hearing:	December 13, 2023
Date of Decision:	December 13, 2023
Date Stamped with City Clerk:	December 20, 2023

Decision to be Recorded at the Middlesex Registry of Deeds by the Land Owner

I. PUBLIC NOTICE (M.G.L. c. 40A, §11)

A. Procedural Summary

Petition PB-2023-05 was heard by the Planning Board on December 13, 2023. As required by the Watertown Zoning Ordinance, notice was given as follows:

- Published in the *newspaper of record (Boston Globe)* on November 28 and December 5, 2023
- Posted at the Administration Building on November 28, 2023
- Mailed to Parties of Interest on November 27, 2023

B. Legal Notice

"9-11-13 Boyd St—First Path Daycare. d/b/a First Path Day Care Center (Owner: Maksim Bolyasnyy, Petitioner: Aleksandra Pikus) requests the Planning Board grant a site plan review approval in accordance with WZO § 5.01 (2) (a) (2) and Licensed day care use as defined by M.G.L.c. 40A, § 3, for the conversion to a daycare use of the industrial portion of a mixed-use and nonconforming building and site. Located in the Two-Family (T) Zoning District. PB-2023-05."

II. DESCRIPTION

A. Site Characteristics

Based on the City's records, the lot is 10,977 sf occupied by a two-story brick building with an attached rear addition. Assessor records state that one portion of the structure contains a basement, first floor, and second floor of 2,420 sf each and a second portion with a first floor and a lower level of 4,264 sf each, as well as two porches of about 120 sf for a gross floor area of approximately 15,943 sf including the lower levels.

The building's front portion includes a full basement, two apartments (a one bedroom unit and a two bedroom unit) on the second floor, and vacant spaces on the first floor with access to the first floor of the rear portion. The rear portion includes a partially below-grade finished lower level (appears to have more than 50% above grade so would not be defined as a basement under the Watertown Zoning Ordinance) and a first floor. The front portion is shaped like a letter "L" so that there is pavement in a recessed area where the two portions meet.

There are two paved front yard driveways with curb cuts and additional paving immediately east of the building, including the recessed area. The Petitioner states there are five existing parking spaces. There are four unmarked spaces in the front and spaces along the eastern façade marked by signs affixed to the building, although the latter spaces likely require use of the abutting property for maneuvering. There is no physical barrier or buffer between the site and the abutting property to the east (135-145 Galen Street), a series of row houses with rear parking accessed from Boyd Street. There is no legal agreement allowing use of this abutting property.

There is access to the front portion of the building via a front concrete walk and stairs to the first floor, as well as through the recessed area to stairs leading to the first floor and basement. There is access to the rear portion via a second concrete walk on the left side and stairs to the first floor, and through the recessed area to stairs leading to the basement. The Petitioner states that all of the existing uses have access to separately metered mechanical systems in the unfinished front basement.

B. Surrounding Land Use

The property is within the T District with commercial uses nearby in the T and LB (starting south on Boyd Street and on the west side of Galen Street toward the Newton border and along the east side of Galen Street going north). There is additional residential in the R.1.2 District on the east side of Galen Street southeast of the site and lower density residential directly to the west and south of the site.

C. Nature of the Request

The Petitioner proposes to operate a day care facility for 64 students with 12 teachers (13 staff in total). (The plans note a capacity for 74 students.) The Petitioner has operated for many years from the lower level of the Boys' and Girls' Club in a rented space at 25 Whites Avenue. The Petitioner is moving because this space is no longer available for rent.

The Petitioner initially applied for a building permit, stating that site plan review was not required because it will only be converting 3,944 sf for the facility. After the Zoning Enforcement Officer found that site plan review was required, and this determination was upheld by the Zoning Board of Appeals, the Petitioner filed this application. The Petitioner seeks a Site Plan Review approval in accordance with §9.03 and is applying as a licensed daycare use under §5.01.2. As a licensed daycare use, this review must comply with *M.G.L.c. 40A, § 3* (known as the "Dover Amendment").

As discussed further below, the site consisted of a mix of uses prior to First Path's acquisition in February 2023. The Petitioner is only seeking to convert the first floor of the rear portion to the daycare use; however, this will require changes to the site (e.g., parking spaces to accommodate the new use) and a portion of the basement will be occupied by updated mechanical systems that will serve the new use.

The Petitioner also plans to continue renting the two apartments on the second floor/front. Site plan review is not required for continuing this use and the existing second floor plan has been provided as reference for the Planning Board.

The Petitioner has labelled the remaining spaces (basement and first floor/front) with their last known use. Although the Petitioner has provided for potential offsite parking for these uses, neither a zoning determination to confirm continuation of a use, nor a conversion to a new use with zoning relief, is part of this Decision.

D. Public Comment

Three written comments were received by the Planning Board prior to the December 13, 2023 meeting. In addition, one City Councilor communicated a comment via Zoom "chat" during the meeting. All of the comments raised similar issues about parking and circulation and the main points are summarized below:

- There were questions and concerns about how the Petitioner would handle drop off and pick up. Residents were concerned about safety of the parents and children and concerned about the impact of congestion on the neighborhood (queuing on the street, double parking, blocked driveways, etc).
- Particular concern was expressed about the congestion on Galen Street during peak hours and how getting to or from Galen Street would be affected by the project.
- Residents also had questions and concerns about staff parking, and parking by anyone else occupying the site (e.g., residential or office tenants).

- One of the residents also raised concerns about maintenance of the property and fitness of the building for children.

E. Relevant Permitting History

The site was first documented with a structure at or around 1916, with a building permit for an office building (University Printing) and then an addition in 1925 for "printing purposes," per the Building Department and Assessor Records. Both dates are prior to zoning. The 1931 Zoning Map shows this area as Store Purpose-2B which was renamed as Business District from 1935-1971 at which time it was amended to be the T Zone on the Zoning Map.

There are two prior decisions and one zoning compliance note in the city's records. This documentation indicates that the property included a non-conforming structure and light industrial and office use (mainly, a printing company) in a residential zone, as well as two apartments.

- Request by printing company for a temporary use variance to rent part of the building to another company for preparing and packing frozen cookie mix. The ZBA granted the variance for one year, subject to certain stipulations not attached to the copy in the city's files. ZBA-1955-468 (April 5, 1955).
- There is a note in the Building Department files from the Inspector of Buildings dated May 8, 1957 stating that there is "no [zoning] violation relating to the acquisition of first floor for printing business as is [sic] now being conducted in the basement thereof by the present tenant and by the same company."
- Request for a use variance to use and occupy the premises at 9 Boyd Street, first floor, left side for an industrial use, specifically for sewing and stitching clothing. The decision states that the first floor of the building has 18,000 sf, with the left side proposed for the 'industrial' commercial sewing use, with the second floor having two apartments rented, and a separate rear unit identified as 13 Boyd occupied by a printing operation with offices. It also states that there is a rear portion with a separate entrance used by a printing company. The Board determined that a special permit finding was the more appropriate form of relief and granted the special permit. ZBA-79-80-1 (June 21, 1979).

Staff reported its understanding that the site was most recently occupied by a mix of uses, including two apartments (a 1BR and 2BR), offices and remnants of the printing press and an area being used as artist spaces in the finished lower level to the rear. The commercial sewing use may have been abandoned years ago. The Petitioner states that printing equipment was in the building's rear portion when the property was acquired in February 2023. Since the Petitioner's request is limited to the daycare use, the plans refer to these uses and spaces solely to document the present understanding. Determination of allowed uses and ability to occupy these other spaces will require an application or determination.

III. ANALYSIS AND FINDINGS

A. Plan Consistency

No Findings Necessary: Since the Petitioner's proposed project consists of renovations to allow a Dover Amendment use, it was not necessary for the Board to make any findings with respect to consistency with the City's current plans. The Petitioner is not proposing to change other uses on the site.

B. Site Plan Review §9.03 (c)

The Board reviewed the ten criteria for Site Plan Review provided in §9.03(c) of the WZO and identified the criteria that are appropriately considered with respect to a use protected by the Dover Amendment, G.L. c. 40A, §3. The Board also considered the appropriate scope for such review and the existence of conditions that can advance valid municipal objectives while not preventing the protected use or imposing unreasonable burdens. The following are the findings through analysis of the project:

1. Preservation of Landscape: *"The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal, and any grade changes shall be in keeping with the general appearance of neighboring developed areas. Adequate landscaping shall also be provided, including screening of adjacent residential uses, provision of street trees, landscape islands in the parking lot and a landscape buffer along the street frontage."*

Conditionally Met: The current site has little open space (5.4%) because of the building, parking and walkways). The proposed plans will increase the open space slightly (to 7.1%) by adding a small, landscaped area. The Petitioner has indicated it could be used for an outside play area but, as configured, would only accommodate small classes. Given the need to maximize drop off/pick up space and parking on the site, no significant opportunities to increase landscaping were identified. The Petitioner agreed to work with planning staff to look at options to expand the landscaped/green space near the easterly entrance to accommodate a larger sized class.

2. Relation of Buildings to Environment: *"Proposed development shall be integrated into the terrain and the use, scale and architecture of existing buildings in the vicinity and shall be in accordance with the Comprehensive Plan or other plans adopted by the Town guiding future development. The Planning Board may require a modification in massing so as to reduce the effect of shadows on abutting property in all districts or on public open space."*

Met: The proposed project is reusing an existing building and is not changing the relation of this building to the environment.

3. Open Space: *"All open space required by this Zoning Ordinance shall be so designed as to maximize its visibility for persons passing the site, encourage social interaction, maximize its utility, and facilitate its maintenance."*

Met: The proposed project is reusing an existing building and not changing its footprint. Given the proposed daycare use, the new open space is (appropriately) not designed to encourage interaction with people passing the site.

4. Circulation: *"Special attention shall be given to traffic circulation, parking areas and access points to public streets and community facilities in order to maximize convenience and safety of vehicular, bicycle and pedestrian movement within the site and in relation to adjacent streets."*

Conditionally Met: Reasonable conditions will be necessary for circulation and parking to work for the daycare facility at this site. The Petitioner must accommodate drop-off and pick-up of 64 children during designated times; the potential that up to 13 staff members will need to park; parking for two residential units; and parking for other potential uses in the building (office and light industrial).

Drop-off and pick-up. The Petitioner states, based on its track record at the Boys' and Girls' Club, that it can handle the drop-off and pick-up at this new location. The Petitioner has provided a transportation and parking analysis from Howard Stein Hudson. The analysis uses a count of the Petitioner's drop-off and pick-up activity at its current location to project the likely number of spaces needed at the new location. It concludes that between 3 and 7 short-term spaces are needed, depending on the time of day, for drop-off and pick-up. In addition to the spaces available on the site (five including a required accessible van space), it is estimated that there are between 12 and 15 on-street parking spaces available on the south side of Boyd Street and nearby on Galen Street. The Petitioner has submitted a letter stating that it has operated at its current location with scheduled drop off/pick up. Each family provides an "exact window of time", and the arrivals are staggered. The Petitioner has also provided a turning template showing that there is room to maneuver into and out of the two drop-off on-site spaces. This turning maneuver would use the striped area shown on the plans as pedestrian access to the daycare's front door.

Staff and occasional parent parking. The Petitioner needs to provide or show that a reasonable number of parking spaces are provided. The Zoning Ordinance suggests that the number of spaces for a school (the City has consistently applied the school parking metric to daycare) is based on the number of staff (13 staff members). The Petitioner has arranged to lease spaces from LAZ Parking at a garage on Pearl St in Newton that is 0.2 miles from the site. The Petitioner has obtained assurances that sufficient spaces will be available on a long-term basis at this garage, or another commercial parking lots in the vicinity. The Petitioner does not expect all staff to need parking and, at present, only seven staff members commute to work by car. The petitioner states that if it leases 13 spaces for the daycare, there will be spaces available if needed for longer term parent visits.

Demand for non-daycare uses at the site. The Petitioner has proposed off-site and shared parking arrangements to address the actual and potential parking demand generated by the other uses on the site. Up to 3 spaces will be needed for the tenants leasing the two residential units. The Petitioner will include a shared parking arrangement for these residential uses, so that the tenants will be able to use the two spaces in front of the building only during off-peak times (after daycare hours of operation overnight). They will have access to two spaces in the garage/parking lot at all times. With respect to demand by potential commercial tenants, the Petitioner has committed to leasing up to 14 additional garage spaces, based on office and light industrial uses.

In order for the site circulation and offsite parking arrangements to be successful, this approval includes a condition for a Parking Management Plan to be submitted and approved by DCDP staff, with allowance for staff to amend the plan as needed. The staff report recommended that the plan include further detail as to how Petitioner will schedule and enforce drop-off and pick-up times and include the shared parking and off-site parking arrangements. The Board added a requirement for an additional, opening plan for parking operations, as well as an initial quarterly report to DCDP for the first year (at three, six, nine and 12 months) on the effectiveness of the plan in minimizing safety and traffic issues on Boyd Street. The plan can be updated to mitigate offsite impacts if issues arise.

The proposed plans include a pedestrian/bike walkway from Boyd Street to the daycare entrance. This will be a multi-modal area, to allow cars to maneuver and for pedestrians and bicyclists to have a marked route. The Board noted that options for using the building's secondary entrance (on the west side) should be considered to address potential pedestrian safety issues (e.g., using both entrances during peak hours).

5. **Surface Water Drainage:** *"Special attention shall be given to proper site surface drainage so that removal of surface waters will not adversely affect neighboring properties or the public storm drainage system. Proposed developments shall seek to retain storm water runoff on site to the maximum extent possible, incorporating best practices in storm water management and Low Impact Design techniques. In cases where storm water cannot be retained on site, storm water shall be removed from all roofs, canopies and paved areas and carried away in an underground drainage system."*

No Finding Necessary: The Petitioner will be using existing stormwater management on the site. DPW will determine whether any additional measures are required by the City's Stormwater Management Ordinance.

6. **Utility Service:** *"Electric, telephone, cable TV and other such lines and equipment shall be underground. The proposed method of sanitary sewage disposal and solid waste disposal from all buildings shall be indicated."*

No Finding Necessary: The Petitioner will use existing utilities to serve the site. As the Petitioner is reusing an existing building, undergrounding such lines and equipment is not required.

7. **Environmental Sustainability:** *"Proposed developments shall seek to diminish the heat island effect; employ passive solar techniques and design to maximize southern exposures, building materials, and shading; utilize energy-efficient technology and renewable energy resources; and minimize water use. All new developments requiring Site Plan Review in the NB, LB, CB, I-1, I-2, I-3, RMUD, and PSCD Districts must meet LEED Silver Certifiable requirements as outlined by the United States Green Building Council's Leadership in Energy and Environmental Design (current addition as applicable) as a minimum."*

No Finding Necessary: The Petitioner is reusing an existing building and is not required to meet heightened environmental sustainability standards.

8. **Screening:** *"Screening, such as screen plantings, shall be provided for exposed storage areas, exposed machinery installations, service areas, truck loading areas, utility buildings and structures, and similar accessory areas and structures in order to prevent their being incongruous with the existing or contemplated environment and the surrounding properties."*

Conditionally Met: The Petitioner has proposed two locations for trash, recycling and compost bins (both enclosed). One location is for the residential units and the other for the daycare facility. The proposed locations and screening are appropriate. However, if new locations would facilitate an increase in the amount of open space for the daycare facility, these locations can be incorporated in the revised site plan submitted to staff.

9. **Safety:** *"With respect to personal safety, all open and enclosed spaces shall be designed to facilitate building evacuation and maximize accessibility by fire, police, and other emergency personnel and equipment."*

Met: The site and building have many existing conditions that are sufficient and updates to the site plan and interior plans are designed to meet all safety requirements, with no issues identified. Final plans must be reviewed as part of the building permit to ensure compliance with all required codes. The site is accessible by emergency vehicles from Boyd Street.

10. Design: *"Proposed developments shall seek to protect abutting properties from detrimental site characteristics resulting from the proposed use, including but not limited to air and water pollution, noise, odor, heat, flood, dust vibration, lights or visually offensive structures or site features."*

Conditionally Met: The proposed licensed daycare use has minimal site characteristics that would be detrimental to abutting properties. While some degree of noise from young children is inevitable, the Petitioner is a long-term daycare operator with experience in minimizing this potential issue. Since this is a daytime use, building and parking lights should not be an issue and are appropriately addressed through a reasonable condition.

IV. STAFF RECOMMENDATION:

Staff recommended Conditional Approval of the Petitioner's requested relief and, in its staff addendum, recommended clarifications to proposed conditions 8 and 9.

V. BOARD DELIBERATION

The Board discussed the Petitioner's presentations, the staff report and addendum, and public comments.

Members were concerned about the ability of parents to drop off and pick up their children safely and without causing undue impact on the neighborhood and Boyd Street travel. Particular issues and possible conditions to address them were discussed by the Board, including:

- The plans contemplate parents/children walking along the marked 5-foot shared portion of the lane on the east edge of the property, which is also an area used by cars maneuvering out of the two parking spaces on the east. Members thought that using the west entrance to the rear addition could be safer, especially during peak periods. Since this would also increase the potential impact on the abutting property, members thought that using both means of access (possibly using the secondary entrance only during peak hours) would be a reasonable solution, but emphasized that pedestrian safety was the highest priority.
- A member asked if the Petitioner would be willing to post a staff member outside to help direct traffic. The Petitioner said they would be willing to do this during peak hours, but requested that this be discontinued at some point if it became unnecessary. Other members agreed this would help address the concerns raised.
- One member asked about whether short-term parking could be permitted on the north side of Boyd Street (there is currently no parking allowed on that side. The Petitioner suggested earlier in the meeting that changing this would improve the situation. Staff noted this type of change is within the Traffic Commission's jurisdiction and the Petitioner could request such a change. In the alternative, the Petitioner could request that some of the spaces on the south side of Boyd Street be switched from one-hour parking to more short-term parking (e.g., 15 minutes).our parking on the southside of the street if switching the spaces was not feasible.
- In answering questions about operations, the Petitioner noted that there was a parent "handbook." Members said that the Petitioner should use the handbook, as well as other communications, to educate parents about how to do drop off/pickup without causing impacts on Boyd Street and its residents.

- One member asked if the offsite leased spaces would be available to staff without cost to them (to minimize any incentive to park on Boyd Street). The Petitioner said yes.
- Members felt that one report by the Petitioner—and allowing six months of operation before such a report—was not adequate. Staff noted the possibility of requiring an “opening” plan somewhat similar to what was required for some other uses. Members thought that this and quarterly reports during the first year would help in monitoring and resolving any issues around drop off and pick up.
- One member asked what would happen if the proposed drop off/pickup plan did not work. Staff acknowledged that the Petitioner would need to take further steps if problems like queuing, parking in the travel lane, or U-turns occurred. Members agreed that there should be a specific reference to identifying those further steps as part of the parking management plan.

There was discussion as to whether the daycare’s enrollment would stay at 64 children. The Petitioner said the facility had been kept at 64 children for many years, that the state license was limited to 64, and there was no plan to expand. It was explained that the reference to 74 children on the floor plan was to the space’s capacity. Given the possibility of a license change and increase, a member suggested that increased enrollment be a further trigger for an amended parking management plan.

There was also discussion about whether the amount of landscaped or green space could be increased, particularly near the main daycare facility entrance. The Petitioner said that it would be good to add such space, assuming that this did not complicate circulation or other site issues. Staff suggested that there could be a condition allowing leeway for a revised plan to be approved by DCDP without coming back to the Planning Board.

The Board voted 3-0 to grant Site Plan Review approval, based on the finding that the proposed project meets the criteria set forth under §9.03, with the general purpose of the Ordinance outlined in §1.00 of the WZO, under and §5.01.2 for the use and construction of the proposed licensed daycare facilities, all with the conditions set forth below. The motion specifically included the conditions recommended by staff (as amended by the staff addendum) and changes identified during the deliberations.

#	Condition	Timeframe for Compliance	To be Verified by
1.	Control Documents. This approval is based upon the application materials and the Control Documents identified below: 1. C-1 Site Plan, dated December 7, 2023, by DGT Associates Surveying and Engineering 2. C-2 Site Details, dated December 7, 2023, by DGT Associates Surveying and Engineering 3. Pick-Up/Drop-off Vehicle Maneuver Plan, dated December 7, 2023, by DGT Associates Surveying and Engineering 4. Architectural Drawing 1, Existing Basement Plan, dated December 6, 2023, by RAV & Associates 5. Architectural Drawing 2, Existing First Floor Plan, dated December 6, 2023, by RAV & Associates 6. Architectural Drawing 3, Existing Second Floor Plan, dated December 6, 2023, by RAV & Associates 7. Architectural Drawing 4, Proposed First Floor Plan, dated December 6, 2023, by RAV & Associates	Perpetual	ZEO/ ISD

#	Condition	Timeframe for Compliance	To be Verified by
	8. Architectural Drawing 5, HC Details, dated December 6, 2023, by RAV & Associates 9. Architectural Drawing 6, Typical Structural Details, dated December 6, 2023, by RAV & Associates 10. Cover letter re First Path pick up/drop off plan, dated December 6, 2023, by First Path Day Care Center, attaching Transportation and Parking Impact Memorandum, dated December 6, 2023, by Howard Stein Hudson Engineers + Planners 11. Cover letter re LAZ parking arrangement, dated December 6, 2023, by First Path Day Care Center, attaching draft License Agreement for Use of Parking Spaces, parking chart and email exchange with LAZ Parking dated November 16, 2023 Plan Updates: Petitioner must update any plans that require change because of these conditions. In addition, the architectural plans must be revised to show the gross square footage of the commercial area, with the gross area for each tenant space for the front portion of the building, the daycare facility, and the lower level of the rear portion.		
2.	Plan Modifications. Neither the Petitioner nor any present or future owner of any interest in the project shall change or modify either the control plans referenced in this decision, or the project itself, without first filing a formal request with the DCDP Director, Zoning Enforcement Officer, and Building Inspector, for an opinion as to whether or not such change or modification requires further review from the Permit Granting Authority. Minor modifications may be considered and approved by the DCDP Director that are found to be consistent with the project approval.	Perpetual	ZEO/ DCDP
3.	Prior Approvals. All previous approvals and conditions of special permits and variances relating to any part of this site are amended to the extent required to implement this Site Plan Review approval.	Perpetual	ZEO
4.	Recordation. Prior to sign-off of building permits for this use, the Petitioner shall provide evidence to the Zoning Enforcement Officer that the approval has been filed with the Registry of Deeds, and/or Land Court.	BP	ZEO
5.	Codes/Regulation Compliance. The Petitioner shall comply with all other applicable local, state, and federal requirements, ordinances, and statutes.	CO	ZEO/ ISD
6.	Signage. No signs shall be permitted except those that meet the signage requirements in Article 7 of the WZO, and those shall be subject to a separate review and permit process.	Perpetual	ZEO
7.	Certificate of Occupancy/Final Inspection. A copy of any Building Permits with final approval signatures from all relevant inspectors must be submitted to the Zoning Enforcement Officer upon completion of the project.	CO	ZEO
8.	Utilities/Sewer/Stormwater. If applicable, DPW review and final approval of the water, sewer, and stormwater plans and connections are required prior to Building Permit.	DPW Permit	ZEO/DPW

#	Condition	Timeframe for Compliance	To be Verified by
9.	Site Plan, Landscaping and Lighting. A. Prior to issuance of the Building Permit, the Petitioner shall submit plans showing installation of sidewalk and granite curbing, where appropriate, along the property frontages per DPW requirements. B. Prior to issuance of the Building Permit and if applicable, the Petitioner shall submit plans showing that all exterior lighting for the site will be fully shielded and full cutoff. C. All interior lighting in the daycare facility, except lights needed for safety, will be turned off when the building is not in use. D. Petitioner can increase (if possible) the amount of landscaped and/or green space; with any revised plan to be viewed as a minor modification and reviewed/approved by DCDP staff.	A, B, D: BP Permit/ C: Perpetual	DCDP
10.	Waste Management and Recyclables. The Petitioner shall provide for solid waste disposal and recycling collected by a private waste management company with hours of operations between 7am – 7pm, or as determined by DPW.	BP/ Perpetual	DCDP
11.	Parking Management. a. Neighborhood Parking. In no instance shall staff (employees/contractors) vehicles be allowed to be parked on the public ways or within the surrounding neighborhood. Active monitoring to ensure this does not occur shall be implemented. If necessary, the applicant will take further action to ensure that parking impacts to the surrounding neighborhood will be addressed. b. Offsite Parking for Staff/Parents/Tenants. The project shall make provision for off-site parking for up to 24 vehicles (per the parking management plan) at a garage or surface parking lot within reasonable walking distance of the site. Parking spaces for staff shall be provided at no cost. c. Shared Parking. Residential leases will provide for shared parking on the site. These shared parking arrangements will allow the daycare facility to have full use of all on-site parking spaces during daycare hours of operation. The Petitioner will monitor compliance with these shared parking arrangements and will enforce them so that drop-off and pick-up operate effectively and without any impediment to travel lanes and vehicles using Boyd Street. d. Initial Parking Management Plan. The Petitioner will submit an Initial Parking Management Plan for review and approval by DCDP staff. The Plan shall provide details about the operations plan for drop-off and pick-up at the site and how this will be communicated to parents. The Plan must include specific steps that the Petitioner will take if drop off and pick up results in queuing or parking in the travel lanes, blocked driveways, U-Turns, or other behavior that negatively affects use of Boyd Street. The plan must also summarize the offsite and shared parking arrangements and attach a fully-executed lease with the garage/parking lot operator that, among other things, documents the number of leased spaces and the lease's duration. If the Plan proposes to lease less than 24 spaces, the Petitioner must explain how this lower number meets the parking demand on the site given the number of staff members and tenants. e. Amendments to Parking Management Plan. The Petitioner shall submit a revised Parking Management Plan for review and approval whenever there is a change in circumstances, including (but not limited to) changes in the drop-off/pick-up arrangements, number of children enrolled, off-site parking	Prior to Opening/ Perpetual	DCDP

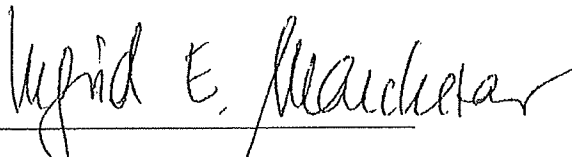
#	Condition	Timeframe for Compliance	To be Verified by
	location, number of leased spaces or shared parking arrangements between uses on the site. f. Opening Plan. The Petitioner, after submitting the Initial Parking Management Plan and at least ten (10) days before opening, shall submit an opening plan for review and approval by DCDP staff. This plan may overlap with the Initial Parking Management Plan but is designed to specifically focus on drop off and pick up operations for the daycare facility over its first week of operation. The plan shall include the specific arrangements for drop off and pick up, how the parents and nearby residents have been informed of the plans, how compliance will be monitored, and what immediate steps will be taken if problems arise. g. Required Reports. In the first twelve months after opening, the Petitioner shall submit quarterly written reports to DCDP on the Parking Management Plan, with information including (but not limited to) any complaints about traffic and parking on Boyd Street and the site, and utilization of the on-site and off-site parking spaces. These reports will be due at the end of each three-month period starting three months from the first week the daycare opens and is operational. h. Staff outside. For the first six months after opening, the Petitioner shall locate at least one staff member outside helping to direct drop off/pick up of children during peak hours (7:30 AM to 9:30 AM and 4 PM to 5:30 PM). Continuing this practice after the first six months, or increasing the number of staff stationed outside, are possible measures that the Petitioner could include in the Initial Parking Management Plan as ways to address problems that arise.		
12.	Screening. All aspects of the project shall be required to provide appropriate screening for all storage areas, exposed machinery, HVAC, roof-top mechanicals, service areas, loading areas, transformers and utility connections, where appropriate.	Prior to CO/ Perpetual	ZEO/ DCDP
13.	Increased use of facility's secondary access. Petitioner shall investigate increased use of the western entrance to the daycare facility to reduce the number of parents/children using the marked multi-use lane to the main entrance during peak hours. If this requires changes to the control documents, any revised plan shall be viewed as a minor modification and reviewed/approved by DCDP.	Prior to CO/ Perpetual	ZEO/ DCDP
14.	Permit Expiration. In accordance with WZO §9.13, a Special Permit granted under §9.04 shall lapse one year from the date of grant thereof if substantial use thereof has not sooner commenced except for good cause, or, in the case of a permit for construction, if the construction has not begun by such date except for good cause, or as allowed by applicable State or Federal law.	Perpetual	ZEO

Petition PB-2023-05 IS APPROVED by the vote (3-0) of the Planning Board.

The Planning Board:

Janet Buck (Chair)(**recused**)
Jason Cohen
Abigail Hammett
Payson R. Whitney, III
Rachael Sack (**absent**)

Attest, by the Clerk to the Planning Board:


Ingrid E. Marchesano

Decision to be Recorded at the Middlesex Registry of Deeds by the Land Owner

From: mb@maxpost.net
Sent: Tuesday, November 26, 2024 11:38 PM
To: Robert Krauss
Subject: Notice of appeal

CITY OF WATERTOWN
ZONING BOARD OF APPEALS
NOTICE OF APPEAL

Appellant First Path Day Care, Inc. ("First Path") hereby appeals the Building Permit issued for the property at 9-11-13 Boyd Street in Watertown on October 30, 2024 (attached), but only if, and only to the extent, it incorporates the conditions set forth in the December 20, 2023 Decision of the Planning Board on Site Plan Review (also attached).

This appeal is being brought at this time because, while the enactment of bylaws providing for Site Plan Approval is a recognized and legal practice, see *Y.D. Dugout, Inc. v. Board of Appeals of Canton*, 357 Mass. 25, 31 (1970), the Zoning Act, M.G.L. c. 40A, is silent with respect to how a Site Plan Review decision may be appealed. The issue is thus controlled by case law. "An approval after site plan review, when required in connection with the issuance of a building permit, is not a final action, but only a prerequisite to the grant of the permit. The Appeals Court has said, we think correctly, that the right of an aggrieved person to appeal a local planning board's site plan review decision arises only when the building permit for the proposed project is issued or denied by the building inspector." *Dufault v. Millennium Power Partners, L.P.*, 49 Mass. App. Ct. 137, 141–42 (2000) citing *St. Botolph Citizens Comm., Inc. v. Boston Redev. Authy.*, 429 Mass. 1, (1999); *Quincy v. Planning Bd. of Tewksbury*, 39 Mass. App. Ct. at 20–22 (1995); *McDonald's Corp. v. Seekonk*, 12 Mass. App. Ct. 351, 353 (1981).

First Path is appealing the conditions imposed by the Site Plan Review Decision, particularly conditions 11(a) through 11(h), for several reasons:

1. Those conditions exceed the permissible scope of "reasonable regulation" of child care facilities set forth in M.G.L. c. 40A, § 3, the so-called Dover Amendment.
2. Those conditions substantially interfere with the utility of the project as proposed, and impose excessive cost of compliance, without appreciably advancing any legitimate municipal interest.
3. Those conditions are unreasonable as a factual matter.



CITY OF WATERTOWN
Department of Community Development & Planning
149 Main Street
Watertown, MA 02472
www.watertown-ma.gov

Legal Notice Verification Form

In accordance with Massachusetts General Laws (MGL), c. 40A, §11, which reads in part:

"Notice shall be given by publication in a newspaper of general circulation in the city or town once in each of two successive weeks, the first publication to be not less than fourteen days before the day of the hearing..."

I hereby authorize Boston Globe Legals Department to bill me directly for the required Legal Notices to be published for two successive weeks in the Boston Globe on the following dates:

_____ and _____

for the property located at: _____, Watertown, MA.

I understand that the Boston Globe Legals Department may require **prepayment** for this ad.

Please print legibly

Bill To: _____
Address: _____
City/State/Zip: _____
Telephone: _____
Email: _____

First Path Day Care
Center
13 Boyd St
Watertown, MA
02472
firstpath@firstpathda
ycare.com
617 926 4690

Signature

Date

11/22/24

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23 BOYD STREET #2
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attachment



CITY OF WATERTOWN

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To: Zoning Board of Appeals
From: Department of Community Development and Planning
Date: January 17, 2025
Re: **9-11-13 Boyd Street appeal (ZA 2024-1)**

SUMMARY

This case arises out of the Petitioner's interest in reusing a portion of a property occupied by an existing two-story building for a new day care facility.

Staff recommends denial of the appeal because the Petitioner has not met its burden of proving that the challenged site plan conditions are unreasonable under the circumstances.

PROCEDURAL HISTORY

This is the third appeal relating to the Petitioner's use of this property for a day care facility. The procedural history, briefly, is the following:

- In July 2023, the Petitioner applied for a building permit (BP-23-660) in order to conduct renovations necessary to convert a portion of the building into the new day care facility.
- The Petitioner appealed a zoning determination that its proposal required site plan review. On October 25, 2023, the Zoning Board of Appeals denied the appeal and concluded that a site plan review before the Planning Board was required. This decision has been appealed to the Land Court.
- On December 13, 2023, the Planning Board granted site plan approval, with conditions.
- The Petitioner proceeded with the building permit application that was previously "on hold" (BP-23-660). Because of circumstances that are not relevant to this appeal, a second, separate building permit was issued to allow certain limited work and was the subject of a second appeal.¹
- On October 30, 2024, BP 23-660 was issued to allow for the remaining work to be done. The Petitioner is completing the permitted work and is operating the daycare facility under a temporary certificate of occupancy.
- The Petitioner appealed the building permit on November 27, 2024, "but only if, and only to the extent, it incorporates the conditions set forth" in the Site Plan Review Decision issued on December 20, 2023. The Petitioner noted that its appeal was "particularly" concerned with Conditions 11 (a) through 11 (h).

¹ The appeal of this separate building permit (BP 24-337) was heard and denied by the ZBA on July 24, 2024, for lack of jurisdiction.

SITE INFORMATION

Property address: 9-11-13 Boyd Street, identified as 11 Boyd in assessor records (parcel 111 19 0)

Owner: The University Prints Building LLC (Petitioner is First Path Daycare Inc., a related entity)

Zoning District: Currently Neighborhood Mixed Use (NMU), but at the time of the subject building permit application, Two-Family (T)

Building: Two-story brick building with an attached rear addition. The front portion includes a full basement, two apartments on the second floor, and vacant former offices on the first floor with direct access to the first floor of the rear portion. The rear portion includes a partially below-grade unoccupied lower level and a first floor. The Petitioner converted the first floor of the rear addition for the daycare use, with some alteration to allow access from a common area of the building.

NOTICE

Notice for this hearing was given as follows:

- Published in the newspaper of record (*Boston Globe*) on January 7 and 14, 2025
- Posted at the Administration Building and on the City Website on January 7, 2025
- Mailed to Parties in Interest on January 3, 2025

9-11-13 Boyd- First Path Daycare Inc. d/b/a First Path Day Care Center (Owner: The University Prints Building, LLC) requests the Zoning Board of Appeals to hear and rule on an Appeal of the Issuance of a Building Permit if, and only to the extent, it incorporates the conditions found in the December 20, 2023 decision of the Planning Board on Site Plan Review, particularly conditions 11 (a) through 11 (h). This is in accordance with Section 9.19 of the Watertown Zoning Ordinance (WZO) specific to the application § 9.03 and 9.19 of the WZO; M.G.L. c. 40A, sections 3, 8, 13, 14, and 15. Located in the Neighborhood Mixed Use (NMU) Zoning District. ZA-24-1

SITE PLAN REVIEW DECISION BY PLANNING BOARD

The Petitioner states that it is challenging the reasonableness of the Planning Board's site plan conditions relating to managing the drop-off/pick-up needs of the day care, as well as the parking needs of the day care and other uses on the site. Condition 11 (a) through 11 (h) of the decision states:

“11. Parking Management.

- Neighborhood Parking.** In no instance shall staff (employees/contractors) vehicles be allowed to be parked on the public ways or within the surrounding neighborhood. Active monitoring to ensure this does not occur shall be implemented. If necessary, the applicant will take further action to ensure that parking impacts to the surrounding neighborhood will be addressed.
- Offsite Parking for Staff/Parents/Tenants.** The project shall make provision for off-site parking for up to 24 vehicles (per the parking management plan) at a garage or surface parking lot within reasonable walking distance of the site. Parking spaces for staff shall be provided at no cost.
- Shared Parking.** Residential leases will provide for shared parking on the site. These shared parking arrangements will allow the daycare facility to have full use of all on-site parking spaces during daycare hours of operation. The Petitioner will monitor compliance with these shared parking arrangements and will enforce them so that drop-off and pick-up operate effectively and without any impediment to travel lanes and vehicles using Boyd Street.
- Initial Parking Management Plan.** The Petitioner will submit an initial Parking Management Plan for review and approval by DCDP staff. The Plan shall provide details

about the operations plan for drop-off and pick-up at the site and how this will be communicated to parents. The Plan must include specific steps that the Petitioner will take if drop off and pick up results in queuing or parking in the travel lanes, blocked driveways, U-Turns, or other behavior that negatively affects use of Boyd Street. The plan must also summarize the offsite and shared parking arrangements and attach a fully-executed lease with the garage/parking lot operator that, among other things, documents the number of leased spaces and the lease's duration. If the Plan proposes to lease less than 24 spaces, the Petitioner must explain how this lower number meets the parking demand on the site given the number of staff members and tenants.

- e. **Amendments to Parking Management Plan.** The Petitioner shall submit a revised Parking Management Plan for review and approval whenever there is a change in circumstances, including (but not limited to) changes in the drop-off/pick-up arrangements, number of children enrolled, off-site parking location, number of leased spaces or shared parking arrangements between uses on the site.
- f. **Opening Plan.** The Petitioner, after submitting the Initial Parking Management Plan and at least ten (10) days before opening, shall submit an opening plan for review and approval by DCDP staff. This plan may overlap with the Initial Parking Management Plan but is designed to specifically focus on drop off and pick up operations for the daycare facility over its first week of operation. The plan shall include the specific arrangements for drop off and pick up, how the parents and nearby residents have been informed of the plans, how compliance will be monitored, and what immediate steps will be taken if problems arise.
- g. **Required Reports.** In the first twelve months after opening, the Petitioner shall submit quarterly written reports to DCDP on the Parking Management Plan, with information including (but not limited to) any complaints about traffic and parking on Boyd Street and the site, and utilization of the on-site and off-site parking spaces. These reports will be due at the end of each three-month period starting three months from the first week the daycare opens and is operational.
- h. **Staff outside.** For the first six months after opening, the Petitioner shall locate at least one staff member outside helping to direct drop off/pick up of children during peak hours (7:30 AM to 9:30 AM and 4 PM to 5:30 PM). Continuing this practice after the first six months, or increasing the number of staff stationed outside, are possible measures that the Petitioner could include in the Initial Parking Management Plan as ways to address problems that arise.”

ANALYSIS

On appeal, the Petitioner has the burden of proving that the parking management and site circulation conditions in the Planning Board's approval constitute unreasonable regulation of the proposed use.²

The Petitioner has made conclusory assertions of law in its Notice of Appeal³ without producing any factual evidence to support them. The challenged conditions relate to a recognized municipal interest in 1) ensuring the safety of those using the site or passing the site along Boyd Street and 2) ensuring there is adequate parking for the site and for the neighborhood.

² Whether site plan review is required is not at issue in this appeal, having been decided by this Board in October 2023 and being the subject of a pending Land Court action.

³ Petitioner merely asserts that the conditions “exceed the permissible scope of reasonable regulation,” “substantially interfere” with the project/“impose excessive cost” without “appreciably advancing any legitimate municipal interest,” and are “unreasonable as a factual matter.” Notice, p. 1.

The Planning Board's Decision was based on information provided by the Petitioner, staff, and members of the public who participated in the public process. As noted in the Planning Board's Decision, operating the site requires drop-off and pick-up of 64 children during designated times; the potential that up to 13 staff members will need to park; parking for two residential units; and parking for other potential uses in the building (office and light industrial). (See Decision, p.5, attached to the Appeal) The Petitioner, recognizing the parking issues raised by the proposed uses, presented the Planning Board with assurances about an off-site parking arrangement with a nearby garage. (Decision, p. 6) Members of the public raised concern about traffic congestion and safety on Boyd Street during peak hours because of its proximity to busy Galen Street. (Decision, p. 3) The Planning Board's decision specifically referenced these concerns:

Members were concerned about the ability of parents to drop off and pick up their children safely and without causing undue impact on the neighborhood and Boyd Street travel. (Decision, p. 8)

The specific conditions are reasonably related to the municipal interest in safety and adequate parking. The conditions provide flexibility to "sunset" or reduce requirements based on monitoring results. If Petitioner believes that one or more of Conditions 11(a) through 11(h) are unnecessary or excessive, it may request modifications or amendment of the decision from the Planning Board.

RECOMMENDATION

Based on the facts and analysis provided, staff recommends the Board deny the Petition because the Petitioner has not met its burden of proving that the challenged site plan conditions are unreasonable under the circumstances. Moreover, Petitioner has the option of seeking a modification of the Site Plan Review Decision through the Planning Board.