



CITY OF CAMBRIDGE, MASSACHUSETTS

PLANNING BOARD

CITY HALL ANNEX, 344 BROADWAY, CAMBRIDGE, MA 02139

NOTICE OF DECISION

| | |
|-----------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Case Number: | 252A Amendment 1 |
| Address: | 40 Norris Street |
| Zoning: | Residence B |
| Applicant: | Ahmed Farah 65 Cedar Street, Cambridge, MA 02140 |
| Owner: | La Court Family LLC 30 College Avenue, Somerville, MA 02144 |
| Application Date: | July 11, 2024 |
| Date of Planning Board Public Hearing: | August 6, 2024 |
| Date of Planning Board Decision: | August 6, 2024 |
| Date of Filing Planning Board Decision: | September 10, 2024 |
| Application: | Amendment to previously granted special permits for Conversion of Non-residential Structures to Residential Use (Section 5.28.2) to allow daycare center use in the previously permitted two commercial spaces in the basement. |
| Decision: | GRANTED with conditions. |

2024 SEP 10 PM 3:05
OFFICE OF THE CITY CLERK
CAMBRIDGE, MASSACHUSETTS

Appeals, if any, shall be made pursuant to Section 17 of Massachusetts General Laws, Chapter 40A, and shall be filed within twenty (20) days after filing of the above referenced decision with the City Clerk. Copies of the complete decision and final plans, if applicable, are on file with the Community Development Department and the City Clerk.

Authorized Representative of the Planning Board: Swaathi Joseph

For further information concerning this decision, please contact Swaathi Joseph at 617-349-4668, or sjoseph@cambridgema.gov.

DOCUMENTS SUBMITTED

Application Documents and Supporting Material

1. Application for Amendment to Special Permit PB-252A – 40 Norris Street from Ahmed Farah, dated 7/2/2024.
2. Presentation slides shown to the Planning Board on 8/6/2024.

City of Cambridge Documents

3. Memorandum to the Planning Board from Community Development Department (CDD) staff, dated 7/30/2024.

Other Documents

4. Email communication to the Planning Board from Kevin Crane, dated 7/31/2024.
5. Email communication to the Planning Board from Robert Reardon, dated 8/5/2024.
6. Email communication to the Planning Board from Connor Malloy, dated 8/6/2024.
7. Email communication to the Planning Board from Young Kim, dated 8/6/2024

APPLICATION SUMMARY

The requested amendment is to permit a “Private preschool, day care, kindergarten” use in two commercial spaces which were previously permitted as “commercial/retail” spaces. A daycare center is not an allowed use on this lot per the base zoning regulations. However, zoning Section 5.28.20 allows the Planning Board to permit by Special Permit certain uses not otherwise allowed in the base zoning district, including “Private preschool, day care, kindergarten (4.33.b2),” subject to certain other conditions and limitations.

FINDINGS

After review of the Application Documents and other documents submitted to the Planning Board, testimony given at the public hearing, and review and consideration of the applicable requirements and criteria set forth in the Zoning Ordinance with regard to the relief being sought, the Planning Board makes the following Findings:

1. Conversion of Non Residential Structures to Residential Use (Section 5.28.2)

Where it is proposed to convert an existing principal use structure, designed and built for non residential use, to residential use (excluding Transient Accommodations and Trailer Park or Mobile Home Park listed in Section 4.31 (i-j)), the dimensional standards generally applicable in the district as set forth in the Tables of Dimensional Requirements in Section 5.30 and other applicable regulations in this Ordinance, including permitted uses, Section 4.30 – Table of Use Regulations, shall apply. However, where some or all of those requirements cannot be met, including any use, dimensional or procedural requirement that may apply in the base district, the following provisions shall apply to such conversion after issuance of a special permit by the Planning Board. The provisions in this Section 5.28.2 shall apply in all zoning districts with the exception of districts with an Open Space designation.

5.28.20 Allowed Uses

The Planning Board may permit uses not otherwise allowed in the base zoning district, subject to the following conditions and limitations:

(a) The permitted uses shall be limited to the following:

- (1) All residential uses listed in Section 4.31 (a-h), but specifically excluding Transient Accommodations and Trailer Park or Mobile Home Park listed in Section 4.31 (i-j).*
- (2) The following institutional uses: Religious uses (4.33.a); Public or non-profit educational uses (4.33.b.1); Private preschool, day care, kindergarten (4.33.b2); Local government or other government facility (4.33.f, 4.33.g); Private museum, library, non-commercial gallery (4.33.h.2).*

- (3) *The following office uses: Office of an accountant, attorney, or other non-medical professional (4.34.b); Real estate, insurance or other agency office (4.34.c); General office use (4.34.d).*
- (4) *Any uses allowed as accessory uses to the permitted principal uses.*
- (b) *All permitted non-residential uses shall be limited to the ground floor or basement of the building. The Planning Board may permit non-residential uses to occupy other floors of the building only after determining that the location and design of such spaces, including access and egress, will not impact the privacy or security of residential occupants. However, the total floor area occupied by non-residential uses shall not exceed the floor area of the ground floor and basement.*
- (c) *The Planning Board shall determine that any proposed non-residential uses are generally compatible with residential uses in the area, including the dwelling units located within the same building, and will not cause harm or nuisance to surrounding uses.*
- (d) *The Planning Board shall determine that by permitting non-residential uses, there will be a compensating reduction in the number of dwelling units that would otherwise be permitted, and that the proposed non-residential uses will balance the potential adverse impacts of additional residential units, such as demand for nighttime parking.*

The Board finds that the proposed amendment complies with the above conditions and limitations. A Private preschool, day care, kindergarten (4.33.b2) is allowed by this Special Permit and the non-residential use is limited to the basement of the building. Additionally, the Board finds that a day care use is generally compatible with the residential uses in the area and that demand for parking for this use is limited and complimentary to residential parking patterns.

5.28.28 *Criteria for approval of a Special Permit*

In acting upon this special permit, the Planning Board shall consider the standards and criteria set forth in Sections 10.43, 10.47 and 10.47.1 of this Ordinance in addition to the following review standards.

5.28.28.1 *Criteria Applicable to All Projects.*

- (a) *Provision of Parking. Where it is proposed to add dwelling units above the limits established in the base zoning regulations, the Board shall evaluate the impact of increased numbers of dwelling units above that normally permitted in the district on the demand for on-street parking by residents and visitors to the proposed building, particularly in neighborhoods where off street parking is limited.*

The Board finds that there is an adequate provision of parking for the amendment's proposed use. A change from one non-residential use to another non-residential use, with no accompanying change to the number of dwelling units or parking spaces approved by PB-252A, will not result in new significant impacts.

(b) Privacy Considerations. Where significant variations from the normally required dimensional standards for the district are proposed, the Board shall evaluate the impact on residential neighbors of the new housing use and any other proposed use as it may affect privacy. The location and size of windows, screening elements, decks, entries, security and other lighting, and other aspects of the design, including the distribution of functions within the building, shall be reviewed in order to assure the maintenance of reasonable levels of privacy for abutters. In reviewing a proposed development plan, the Board shall consider, among other factors, the potential negative impacts of the new activity on abutters as a result of the location, orientation, and use of the structure(s) and its yards as proposed.

The Board finds that this amendment is consistent with PB-252A, and that there are no alterations to the previously approved location, orientation, use of the structure, or yard for the previously approved housing use and its impact on residential neighbors.

(c) Reduction in Private Open Space. Where it is proposed to reduce the amount of on-site Private Open Space below that required in the applicable district, the Board shall evaluate the proposal in light of the following:

- (1) The extent to which screening and buffering from neighbors will be accomplished*
- (2) The quality and viability of the proposed open spaces as they are designed*
- (3) The tradeoff in benefits and negative impacts of the loss of green space in order to provide the required amount of parking, including consideration of the feasibility of alternate parking arrangements that might produce additional green area, such as placing some or all parking within the structure*
- (4) The availability of common recreational spaces within the building to compensate for the loss of usable outdoor open space*

The Board finds that this amendment is consistent with PB-252A, and that there is no reduction in Private Open Space. The proposed amendment will not result in any floor area changes or changes to the building footprint.

(d) Community Outreach. The Planning Board shall consider what reasonable efforts have been made to address concerns raised by abutters and neighbors to the project site. An applicant seeking a special permit under this Section 5.28.2 shall solicit input from affected neighbors before submitting a special permit application. The application shall include a report on all outreach conducted and meetings held, shall describe the issues raised by community members, and shall describe how the proposal responds to those issues

The Board finds that reasonable efforts have been taken to address concerns raised by neighbors and that questions raised during the public hearing about the provision of parking were adequately addressed by the applicant.

10.47.4 Criteria for approval of Townhouses and Multifamily Dwellings. In reviewing applications for townhouse developments and multifamily dwellings, the special permit granting authority shall consider and address the following site plan criteria as applicable:

- (1) Key features of the natural landscape should be preserved to the maximum extent feasible. Tree removal should be minimized and other natural features of the site, such as slopes, should be maintained.*
- (2) New buildings should be related sensitively to the existing built environment. The location, orientation and massing of structures in the development should avoid overwhelming the existing buildings in the vicinity of the development. Visual and functional disruptions should be avoided.*
- (3) The location, arrangement, and landscaping of open space should provide some visual benefits to abutters and passersby as well as functional benefits to occupants of the development.*
- (4) Parking areas, internal roadways and access/egress points should be safe and convenient.*
- (5) Parking area landscaping should minimize the intrusion of onsite parking so that it does not substantially detract from the use and enjoyment of either the proposed development or neighboring properties.*
- (6) Service facilities such as trash collection apparatus and utility boxes should be located so that they are convenient for resident, yet unobtrusive.*

The Board finds that this amendment is consistent with PB-252A, and that there is no alteration to the existing site plan.

2. General Criteria for Issuance of a Special Permit (Section 10.43)

The Planning Board finds that the project meets the General Criteria for Issuance of a Special Permit, as set forth below.

10.43 Criteria. Special permits will normally be granted where specific provisions of this Ordinance are met, except when particulars of the location or use, not generally true of the district or of the uses permitted in it, would cause granting of such permit to be to the detriment of the public interest because:

- (a) It appears that requirements of this Ordinance cannot or will not be met, or ...*

With the granting of this amendment the requirements of this Ordinance will be met.

- (b) traffic generated or patterns of access or egress would cause congestion, hazard, or substantial change in established neighborhood character, or ...*

The proposed non-residential use is compatible with the neighborhood character of the existing residential district and provides a valuable community amenity. A change from one non-residential use to another non-residential use, with no accompanying change to the number of dwelling units or parking spaces approved by PB-252A, will not result in new significant impacts.

- (c) the continued operation of or the development of adjacent uses as permitted in the Zoning Ordinance would be adversely affected by the nature of the proposed use, or ...*

The amendment allows conversion of an existing non-residential use to another non-residential use and will not affect the development of adjacent uses as otherwise permitted by the Zoning Ordinance.

- (d) nuisance or hazard would be created to the detriment of the health, safety and/or welfare of the occupant of the proposed use or the citizens of the City, or ...*

No nuisance or hazard will be created. The project will comply with all applicable health and safety standards.

- (e) for other reasons, the proposed use would impair the integrity of the district or adjoining district, or otherwise derogate from the intent and purpose of this Ordinance, and ...*

The amendment complies with the requirements of Article 5.28.2 of the zoning ordinance, which provides a framework for determining the appropriate density and scale for adaptive reuse projects and promotes the preservation of historic buildings. The amendment makes no significant change to the overall character of the development.

- (f) the new use or building construction is inconsistent with the Urban Design Objectives set forth in Section 19.30.*

The amendment makes no changes to the previously approved site plan and is consistent with the Urban Design Objectives set forth in Section 19.30.

DECISION

Based on a review of the Application Documents, testimony given at the public hearing, and the above Findings, the Planning Board hereby GRANTS the requested Special Permits subject to the following conditions and limitations. Hereinafter, for purposes of this Decision, the Permittee shall mean the Applicant for the requested Special Permits and any successor or successors in interest.

1. All use, building construction, and site plan development shall be in substantial conformance with the Application Documents and other supporting materials submitted to the Planning Board, except as modified by the additional Conditions of this Special Permit Decision. No changes to the existing building exterior, site layout, and dimensional features of the project are permitted.
2. The Planning Board approves the uses as described and depicted in the Application Documents, which include “Private preschool, day care, kindergarten (4.33.b2)” uses. Any other use shall require approval from the Planning Board.
3. Except as explicitly set forth above, the Conditions of Special Permit Decision PB-252A shall continue to be in effect.

Voting in the affirmative to grant the requested Special Permits were Planning Board Members H Theodore Cohen, Mary Flynn, Diego Macias, Ashley Tan, Adam Westbrook, and Associate Members Daniel Anderson and Joy Jackson, appointed by the Chair to act on the case, constituting at least two thirds of the members of the Board.

For the Planning Board,

A handwritten signature in cursive script that reads "Mary Flynn". The signature is written in black ink and is positioned above the printed name.

Mary Flynn, Chair

A copy of this decision PB-252A shall be filed with the Office of the City Clerk. Appeals, if any, shall be made pursuant to Section 17, Chapter 40A, Massachusetts General Laws, and shall be filed within twenty (20) days after the date of such filing in the Office of the City Clerk.

ATTEST: A true and correct copy of the above decision has been filed on September 10, 2024 with the Office of the City Clerk, by Swaathi Joseph, duly authorized representative of the Planning Board. All plans referred to in the decision have been filed with the City Clerk on said date.

Twenty days have elapsed since the above decision was filed in the office of the City Clerk and:
_____ no appeal has been filed; or

_____ an appeal has been filed within such twenty days.

The person exercising rights under a duly appealed special permit does so at risk that a court will reverse the permit and that any construction performed under the permit may be ordered undone. This certification shall in no event terminate or shorten the tolling, during the pendency of any appeals, of the periods provided under the second paragraph of G.L. c. 40A, §6.

Date: _____, City Clerk

Appeal has been dismissed or denied.

Date: _____, City Clerk