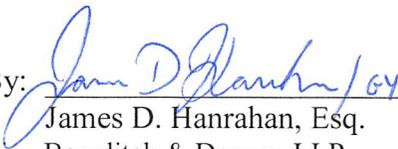


DEVELOPMENT IMPACT STATEMENT OF  
THE LEARNING CENTER FOR DEAF CHILDREN, INC.  
FOR PROPERTY LOCATED AT  
330 PROSPECT STREET, FRAMINGHAM

<p><u>Civil Engineer:</u> The Berkshire Design Group, Inc. 4 Allen Place Northampton, MA 01060</p> <p>Richard M. Klein 413-582-7000 413-582-7005 - fax <a href="mailto:Rick@berkshiredesign.com">Rick@berkshiredesign.com</a></p>	<p><u>Counsel:</u> Bowditch &amp; Dewey, LLP 175 Crossing Boulevard, Suite 500 Framingham, MA 01702</p> <p>James D. Hanrahan, Esq. 508.416.2404 508.929.3016 - fax <a href="mailto:jhanrahan@bowditch.com">jhanrahan@bowditch.com</a></p>
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By:  \_\_\_\_\_  
James D. Hanrahan, Esq.  
Bowditch & Dewey, LLP  
175 Crossing Boulevard, Suite 500  
Framingham, MA 01702

This application (“Application”) is submitted to the Framingham Planning Board by The Learning Center for The Deaf, Inc. (“Applicant”), a Massachusetts not for profit corporation having a mailing address of 848 Central Street, Framingham, Massachusetts 01701 in connection with its property known as 330 Prospect Street, Framingham (the “Property” or “Project Site”), as shown on the site plan prepared by The Berkshire Design Group, Inc., dated June 1, 2016, entitled “Existing Conditions” (“Site Plan”).

As shown on the Site Plan, the Property consists of approximately 27,667 square feet of land located at 330 Prospect Street and the Property currently provides eleven (11) off-street parking spaces. The Applicant currently uses the Property for a nonprofit educational program to provide support to families with an emotionally disturbed child living at home. The use is more fully described in Section 1.B below.

As detailed in Section 1.B below, prior to filing this Application, the Applicant received a determination from the Framingham Building Inspector that the Project is entitled to the protections of Massachusetts General Laws, Chapter 40 A, Section 3 (the “Dover Amendment”) and except for site plan review in accordance with Section VI.F of the By-Law, as limited by Article 20 of the Town of Framingham Planning Board Rules & Regulations. Accordingly, this Application is before the Town of Framingham (“Framingham”) Planning Board for Site Plan review pursuant to Section VI.F of the By-Law for off-street parking.

## 1. PROJECT SUMMARY

### A. Existing Conditions and Site History

The Property is located in an “R-3” Single Family Residence Zoning District (“R-3 District”). The Property has frontage on both Central Street and Prospect Street in Framingham. According to the Framingham’s Residential Property Record Card, the one story structure on the Property was built in 1945 and contains ten (10) rooms with a finished area of 1,296 square feet.

According to the Site Plan, the Property currently contains the following improvements and features: (i) an existing building (the “Structure”); (ii) a paved driveway and parking area to the front and northwest side of the Structure; and (iii) landscaping. The driveway onto Central Street and Prospect Street is of sufficient width to provide safe access to accommodate

emergency vehicles, and the Property is located on a corner lot with ample street access for emergency vehicles from both Central Street and Prospect Street.

B. Current Use

The current use creates an educational setting (“Current Use”) for the Applicant’s on-site educational program (“Program”), which includes providing a range of services to families with an emotionally disturbed child living at home from the surrounding community. Educational services are provided by the Applicant and its non-profit affiliate Walden Community Services, a program of Walden School, in the context of a family and social support network, family support and training from experienced caregivers, and participation in an educational planning process created by a specially assigned care coordinator to develop individual care plans for each family.

Massachusetts General Laws, Chapter 40A, Section 3 (the “Dover Amendment”) states that no ordinance or bylaw shall “prohibit, regulate or restrict the use of land or structures for educational purposes on land owned or leased by the commonwealth or any of its agencies, subdivisions or bodies politic or by a religious sect or denomination, or by a nonprofit educational corporation; provided however, that such land or structures may be subject to reasonable regulations, concerning the bulk and height of structures and determining yard sizes, lot area, setbacks, open space, parking and building coverage requirements [emphasis added].”

As shown on the Site Plan, the Property does not require zoning relief for dimensional compliance with the By-Law concerning bulk and height of structures, front yard setbacks, and determining open space and building coverage requirements; provided, however, the Property does not comply with minimum lot area and side yard setback. On March 8, 2016, the Applicant received confirmation that the Framingham Building Inspector, Michael A. Tusino, that the Current Use is entitled to the protections of Massachusetts General Laws, Chapter 40 A, Section 3 (the “Dover Amendment”) and site plan review in accordance with Section VI.F. of the By-Law, as limited by Article 20 of the Town of Framingham Planning Board Rules & Regulations is required for the Project. The Framingham Building Commissioner's written response to the Applicant is attached hereto as Exhibit A. Based upon the Building Commissioner’s determination that the Project qualifies as a nonprofit educational use under the Dover Amendment, and the compliance of the Project as shown on the Site Plan with bulk and height of

structures, yard sizes, lot area, setbacks, open space and building coverage requirements of the By-Law, the Project is before the Planning Board for a determination of parking requirements for the Project, subject to the “reasonable regulation” limitation of the Dover Amendment.

2. TRAFFIC IMPACT ASSESSMENT

Pursuant to Section 20.3.3 of the Framingham Planning Board Rules & Regulations, Dover Amendment use applicants are not required to submit a Traffic Impact Assessment as referenced in Section VI.F.4.11 of the By-Law.

3. ENVIRONMENTAL IMPACT

Pursuant to Section 20.3.3 of the Framingham Planning Board Rules & Regulations, Dover Amendment use applicants are not required to submit an Environmental Impact Assessment as referenced in Section VI.F.4.12 of the By-Law.

4. COMMUNITY IMPACT STATEMENT

Pursuant to Section 20.3.3 of the Framingham Planning Board Rules & Regulations, Dover Amendment use applicants are not required to submit a Community Impact Assessment as referenced in Section VI.F.6.a of the By-Law.

5. PARKING IMPACT ASSESSMENT

Section IV.B.1.a of the By-Law sets forth a schedule of requirements with respect to off-street parking for principal uses of property. The By-Law does not provide a specific off-street parking requirement for establishments for nonprofit educational uses in Framingham. As shown on the Site Plan, the Property is presently served by eleven (11) off-street parking spaces. The Applicant plans to provide a total of eleven (11) off-street parking spaces, which number is more than adequate for the Applicant’s needs. Based upon Applicant’s experience operating similar programs in multiple communities, the Applicant is confident that the proposed number of parking spaces are more than sufficient to serve the Program, the Program employees and other Property guests. Notwithstanding the Applicant’s ability to provide such parking, there are fourteen (14) employees who work from the Property, but due to the nature of the Program, the majority of which work off site. It should also be noted that the Property is in close proximity to public transportation provided by the MetroWest Regional Transportation Authority, providing

connections to various locations throughout MetroWest. The Property is located within walking distance of the Applicant's headquarters at 848 Central Street.

Notwithstanding the parking requirements of the By-Law, the Borrower's Proposed Use does not require strict compliance with such parking requirements, as the Proposed Use is a subject to Dover Amendment protection, as discussed above. An interpretation of the By-Law which would require more parking than is necessary for the Proposed Use would impose an unreasonable zoning restriction of a non-profit educational use in violation of M.G.L. c. 40A, §3. In the case that Framingham seeks to apply more stringent parking regulations to the Property, the Applicant, as a non-profit educational corporation using the Property for an educational use, would be protected by the provisions of the Dover Amendment. See Spectrum Health Systems, Inc., v. Framingham Zoning Board of Appeals, 9LCR113 (2001).

Exhibit A

Building Commissioner's Determination



**TOWN OF FRAMINGHAM**  
**Inspectional Services Division**  
**Department of Building Inspection**

Memorial Building, Room 203  
150 Concord Street  
Framingham, Massachusetts 01702-8368

Michael A. Tusino, C.B.O.  
Director of Inspectional Services/Building Commissioner

Telephone: 508-532-5500  
Fax: 508-532-5501

March 8, 2016

To: Judith Vreeland  
President and Executive Director Learning Center for the Deaf  
848 Central Street  
Framingham, MA 01701

Re: 330 Prospect Street parking lot

Dear Judith:

I am in receipt of your documentation confirming your status as a non-profit educational corporation, and the use of 330 Prospect Street for this Corporation is protected by the "Dover Amendment", or Massachusetts General Law chapter 40A, section 3. Your use of the building at 330 Prospect Street may continue as a matter of right.

A parking lot has been created on the property at 330 Prospect Street, presumably for the use of employees/students/clients of The Learning Center for the Deaf. While the use of 330 Prospect Street is afforded protection by the Dover amendment, the creation of the parking lot is regulated by Framingham zoning by-law section IV, B. This Department has received complaints regarding the parking lot at 330 Prospect Street.

You are directed to approach the Framingham Planning Board for minor site plan review, in accordance with Framingham by-law section VI, F, items 3 and 5, for approval of the parking lot. Furthermore, the parking lot does not comply with by-law section IV, B, 2, 3, c residential front yard off-street parking, IV, B, 2, 4, a, items 4, 6, and 7 off street parking facility design standards, at a minimum. You are directed to obtain a special permit from the Framingham Planning Board in accordance with Framingham by-law section IV, A, 5. Failure to submit an application to the Framingham Planning Board within thirty (30) days from the receipt of this notice shall result in a complaint to a court of competent jurisdiction to compel the abatement of the violation.

The Framingham Zoning Board of Appeals shall hear and decide appeals by persons aggrieved by an order or decision of the Building Commissioner in violation of any provision of the Framingham by-law.

Sincerely,

Fred Bray  
Deputy Building Commissioner

CC: Amanda Loomis, Planning Board Administrator