



**CITY OF SOMERVILLE, MASSACHUSETTS**  
**MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT**  
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MICHAEL F. GLAVIN  
EXECUTIVE DIRECTOR

PLANNING DIVISION

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RICHARD ROSSETTI  
DANIELLE EVANS  
ELAINE SEVERINO  
JOSH SAFDIE (ALT.)

**Case #: ZBA 2014-116**  
**Site: 862 Broadway**  
**Date of Decision: December 10, 2014**  
**Decision: *Petition Approved with Conditions***  
**Date Filed with City Clerk: December 18, 2014**

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**ZBA DECISION**

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<b>Applicant Name:</b>	Mary McPartland
<b>Applicant Address:</b>	534 High Street, Medford, MA 02155
<b>Property Owner Name:</b>	Charles Kostopoulos
<b>Property Owner Address:</b>	51 Fairfield Street, Cambridge, MA 02140
<b>Agent Name:</b>	N/A

Legal Notice: Applicant, Mary McPartland, and Owner, Charles Kostopoulos, seek a Special Permit under SZO §4.5.1 to change the nonconforming use from a personal training studio to a specialty food store §7.11.9.3.a.

<u>Zoning District/Ward:</u>	RB zone/Ward 6
<u>Zoning Approval Sought:</u>	§4.5.1 & §7.11.9.3.a
<u>Date of Application:</u>	November 19, 2014
<u>Date(s) of Public Hearing:</u>	December 10, 2014
<u>Date of Decision:</u>	December 10, 2014
<u>Vote:</u>	5-0

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Appeal #ZBA 2014-116 was opened before the Zoning Board of Appeals at Somerville City Hall on December 10, 2014. Notice of the Public Hearing was given to persons affected and was published and posted, all as required by M.G.L. c. 40A, sec. 11 and the Somerville Zoning Ordinance. After one hearing of deliberation, the Zoning Board of Appeals took a vote.



**DESCRIPTION:**

The proposal is to change the use of the space from a personal training studio to a candy store. There will be an internal connection between the candy store and the frozen hoagie shop that recently opened in the retail space next door. The signage for the store will consist of letters applied to the façade above the door. Trash for the business will be stored behind the building.

**FINDINGS FOR SPECIAL PERMIT (SZO §4.5.1):**

In order to grant a special permit, the SPGA must make certain findings and determinations as outlined in §5.1.4 of the SZO. This section of the report goes through §5.1.4 in detail.

1. Information Supplied:

The Board finds that the information provided by the Applicant conforms to the requirements of §5.1.2 of the SZO and allows for a comprehensive analysis of the project with respect to the required Special Permits.

2. Compliance with Standards: *The Applicant must comply "with such criteria or standards as may be set forth in this Ordinance which refer to the granting of the requested special permit."*

The most recent use of the space was a personal training studio, which is a nonconforming use. A nonconforming use can change to another nonconforming use by special permit, which in this case is a specialty food store, §7.11.9.3.a, or more specifically for this tenant, a candy shop. In considering a special permit under § 4.5 of the SZO, the Board finds that the use proposed would not be substantially more detrimental to the neighborhood than the existing use. A candy store is a neighborhood serving store that will not draw a lot of customers that will be driving to the site. The use will fill a vacant storefront at this highly visible location in Powderhouse Circle.

No parking relief is required. The gym required 1 space (1 space per 500 sf) and the new use requires 1.17 spaces (1 space per 425 sf), which rounds down to 1. Since the new use had the same requirement as the previous use, no parking is required (SZO §9.4).

3. Consistency with Purposes: *The Applicant has to ensure that the project "is consistent with (1) the general purposes of this Ordinance as set forth in Article 1, and (2) the purposes, provisions, and specific objectives applicable to the requested special permit which may be set forth elsewhere in this Ordinance, such as, but not limited to, those purposes at the beginning of the various Articles."*

The proposal is consistent with the general purposes of the Ordinance as set forth under §1.2, which includes, but is not limited to "providing for and maintaining the uniquely integrated structure of uses in the City and conserving the value of land and buildings."

The proposal is consistent with the purpose of the Residence B district, §6.1.2, which is, "To establish and preserve medium density neighborhoods of one-, two- and three-family homes, free from other uses except those which are both compatible with and convenient to the residents of such districts." Filling this small retail space will provide an amenity to the surrounding residential neighborhood.

4. Site and Area Compatibility: *The Applicant has to ensure that the project "(i)s designed in a manner that is compatible with the characteristics of the built and unbuilt surrounding area, including land uses."*

There are no exterior changes proposed to the building other than the addition of signage. A candy shop is an appropriate use for the area with college students and residences. Powder House Circle functions as a commercial area even though it is zoned residential. The store is relatively small so it would not be out of scale with the retail in the area. The store would fill a vacant storefront and provide a few jobs. There is metered parking along the street for people to park. This area has heavy



pedestrian traffic. The existing structure has a strong commercial presence in the area and Staff find it appropriate to continue to support commercial uses here

5. Housing Impact: Will not create adverse impacts on the stock of existing affordable housing.

The proposal does not involve housing nor have an adverse impact on it.

6. SomerVision Plan: Complies with the applicable goals, policies and actions of the SomerVision plan, including the following, as appropriate: Preserve and enhance the character of Somerville’s neighborhoods, transform key opportunity areas, preserve and expand an integrated, balanced mix of safe, affordable and environmentally sound rental and homeownership units for households of all sizes and types from diverse social and economic groups; and, make Somerville a regional employment center with a mix of diverse and high-quality jobs. The areas in the SomerVision map that are designated as enhance and transform should most significantly contribute towards the SomerVision goals that are outlined in the table below. The areas marked as conserve are not expected to greatly increase the figures in the table since these areas are not intended for large scale change.

Powderhouse Circle is an area mapped to be enhanced in the SomerVision map. The current proposal will support the plan’s goals of providing small scale, pedestrian oriented, neighborhood serving retail and the goal of providing jobs in the City.

**DECISION:**

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans, Elaine Severino and Josh Safdie with Herbert Foster absent. Upon making the above findings, Richard Rossetti made a motion to approve the request for a Special Permit. Elaine Severino seconded the motion. Wherefore the Zoning Board of Appeals voted **5-0** to **APPROVE** the request. In addition the following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes						
1	Approval is for to establish an approx 500 sf specialty food §7.11.9.3.a. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	ISD/Plng.							
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>November 19, 2014</td> <td>Initial application submitted to the City Clerk’s Office</td> </tr> <tr> <td>(December 4, 2014)</td> <td>Modified plans submitted to OSPCD (floor plan)</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	November 19, 2014	Initial application submitted to the City Clerk’s Office	(December 4, 2014)	Modified plans submitted to OSPCD (floor plan)
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November 19, 2014	Initial application submitted to the City Clerk’s Office									
(December 4, 2014)	Modified plans submitted to OSPCD (floor plan)									
Any changes to the approved use that are not <i>de minimis</i> must receive SPGA approval.										
2	The final design of the sign shall be reviewed and approved by planning staff.	CO	Plng.							
3	The Applicant or Owner shall meet the Fire Prevention Bureau’s requirements.	CO	FP							



4	The Applicant shall contact Planning Staff at least five working days in advance of a request for a final inspection by Inspectional Services to ensure the proposal was constructed in accordance with the plans and information submitted and the conditions attached to this approval.	Final sign off	Plng.	
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Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano  
Richard Rossetti  
Danielle Evans  
Elaine Severino  
Josh Safdie (Alt.)

Attest, by the Administrative Assistant:

\_\_\_\_\_  
Dawn M. Pereira

Copies of this decision are filed in the Somerville City Clerk's office.  
Copies of all plans referred to in this decision and a detailed record of the  
SPGA proceedings are filed in the Somerville Planning Dept.

**CLERK'S CERTIFICATE**

Any appeal of this decision must be filed within twenty days after the date this notice is filed in the Office of the City Clerk, and must be filed in accordance with M.G.L. c. 40A, sec. 17 and SZO sec. 3.2.10.

In accordance with M.G.L. c. 40 A, sec. 11, no variance shall take effect until a copy of the decision bearing the certification of the City Clerk that twenty days have elapsed after the decision has been filed in the Office of the City Clerk and no appeal has been filed, or that if such appeal has been filed, that it has been dismissed or denied, is recorded in the Middlesex County Registry of Deeds and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title.

Also in accordance with M.G.L. c. 40 A, sec. 11, a special permit shall not take effect until a copy of the decision bearing the certification of the City Clerk that twenty days have elapsed after the decision has been filed in the Office of the City Clerk and either that no appeal has been filed or the appeal has been filed within such time, is recorded in the Middlesex County Registry of Deeds and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. 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.

The owner or applicant shall pay the fee for recording or registering. Furthermore, a permit from the Division of Inspectional Services shall be required in order to proceed with any project favorably decided upon by this decision, and upon request, the Applicant shall present evidence to the Building Official that this decision is properly recorded.

This is a true and correct copy of the decision filed on \_\_\_\_\_ in the Office of the City Clerk, and twenty days have elapsed, and

FOR VARIANCE(S) WITHIN

\_\_\_\_\_ there have been no appeals filed in the Office of the City Clerk, or  
\_\_\_\_\_ any appeals that were filed have been finally dismissed or denied.

FOR SPECIAL PERMIT(S) WITHIN

\_\_\_\_\_ there have been no appeals filed in the Office of the City Clerk, or  
\_\_\_\_\_ there has been an appeal filed.

Signed \_\_\_\_\_ City Clerk Date \_\_\_\_\_

