



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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BRANDY BROOKS (ALT.)

Case #: ZBA # 2013-30
Site: 76 Cross Street
Date of Decision: June 5, 2013
Decision: Petition Approved with Conditions
Date Filed with City Clerk: June 6, 2012

ZBA DECISION

Applicant Name:	Winford Realty Trust
Applicant Address:	P.O. Box 207, Somerville, MA 02143
Property Owner Name:	Winford Realty Trust
Property Owner Address:	P.O. Box 207, Somerville, MA 02143
Agent Name:	N/A

Legal Notice: Applicant and Owner, Winford Realty Trust, seek a Special Permit under SZO §4.5.3 to expand a nonconforming use beauty salon/barber shop in an existing storefront.

<u>Zoning District/Ward:</u>	RB zone/Ward 1
<u>Zoning Approval Sought:</u>	§4.5.3
<u>Date of Application:</u>	April 12, 2013
<u>Date(s) of Public Hearing:</u>	6/5
<u>Date of Decision:</u>	June 5, 2013
<u>Vote:</u>	5-0

Appeal #ZBA 2013-30 was opened before the Zoning Board of Appeals at Somerville City Hall on May 15, 2013. 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 (1) hearing(s) of deliberation, the Zoning Board of Appeals took a vote.

DESCRIPTION:



CITY HALL • 93 HIGHLAND AVENUE • SOMERVILLE, MASSACHUSETTS 02143
(617) 625-6600 EXT. 2500 • TTY: (617) 666-0001 • FAX: (617) 625-0722
www.somervillema.gov

The proposal is to expand a nonconforming use, a salon/barber shop, into a 992 square foot vacant space located next to the existing beauty shop. The vacant space has a purple storefront shown in the photo below. There are no interior or exterior modifications as part of this proposal.

FINDINGS FOR SPECIAL PERMIT (SZO §4.5.3):

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."

In considering a special permit under §4.5 of the SZO, the Board does not find that the use proposed would not be substantially more detrimental to the neighborhood than the existing use. The previous use, the church, a by right use, was more disruptive because of the music to the residential tenants above than a beauty salon/barber shop.

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 the purposes of the Ordinance are to promote the health, safety, and welfare of the inhabitants of the City of Somerville and to preserve and increase the amenities of the municipality.

The proposal is consistent with the purpose of the district, 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.

Planning Staff believe that a beauty salon/barber shop is a convenient amenity for the residents of the district.

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."

The exterior of the building will not change except for signage for the salon/barber shop. The conditions of approval will limit the location to the sign band on the building and the Zoning Ordinance limits the size to an appropriately sized sign of 12 square feet. Despite the residential zoning the building was designed to have a commercial first floor and the proposal is compatible with its design.

DECISION:

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Danielle Evans, Elaine Severino, and Josh Safdie. Upon making the above findings, Orsola Susan Fontano 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 a Special Permit under SZO §4.5.3 to expand a nonconforming use beauty salon/barber shop in an existing storefront. 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>April 12, 2013</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>(May 28, 2013)</td> <td>Modified plans submitted to OSPCD (Plot Plan)</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	April 12, 2013	Initial application submitted to the City Clerk's Office	(May 28, 2013)	Modified plans submitted to OSPCD (Plot Plan)
	Date (Stamp Date)				Submission					
April 12, 2013	Initial application submitted to the City Clerk's Office									
(May 28, 2013)	Modified plans submitted to OSPCD (Plot Plan)									
Any changes to the approved use that are not <i>de minimis</i> must receive SPGA approval.										
Public Safety										
2	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP							
Signage										
3	Signage location will be limited to the sign band existing on the building and cannot be more than 12 square feet per SZO §12.3. Sign lighting after 10p.m. facing residential property will be turned down or off.	CO/Cont.	Plng.							
4	Temporary signs pertaining to special sales or event may be affixed to windows provided that their total area does not exceed 30%.	CO/Cont.	Plng.							
Final Sign-Off										
5	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.							



Attest, by the Zoning Board of Appeals:

Herbert Foster, *Chairman*
Orsola Susan Fontano, *Clerk*
Danielle Evans
Elaine Severino
Josh Safdie (Alt.)

Attest, by the Senior Planner:

Lori Massa

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 _____

