



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2014-108
Site: 49 & 53 Day Street
Date of Decision: November 5, 2014
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: November 13, 2014

ZBA DECISION

Applicant Name:	Dennis Serrano
Applicant Address:	100 Dover Street, Somerville, MA 02144
Property Owner Name:	New Day Properties, LLC
Property Owner Address:	100 Dover Street, Somerville, MA 02144
Agent Name:	N/A

Legal Notice: Applicant, Dennis Serrano, and Owner, New Day Properties, LLC, seek a Special Permit with Design Review under SZO §7.11.7.1.b to establish a non-medical office use, a Special Permit under §4.4.1 to alter a nonconforming structure to add windows and doors and §9.13.b for the number of compact parking spaces.

<u>Zoning District/Ward:</u>	CBD zone/Ward 6
<u>Zoning Approval Sought:</u>	§7.11.7.1.b, §4.4.1 & §9.13.b
<u>Date of Application:</u>	October 3, 2014
<u>Date(s) of Public Hearing:</u>	November 5, 2014
<u>Date of Decision:</u>	November 5, 2014
<u>Vote:</u>	5-0

Appeal #ZBA 2014-108 was opened before the Zoning Board of Appeals at Somerville City Hall on November 5, 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.



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DESCRIPTION:

The proposal is to establish a non-medical office use in the building that will be 5,882 square feet. Two doors will be added to the parking lot side of the building with a canopy above to mark the main entrance as well as another door towards the back of the site. There will be new windows on the parking lot side of the building and the front garage door will be in-filled with a fixed glass window. The parking lot will contain 11 parking spaces and six will be compact spaces. There will be 2 bicycle racks in front of the building. There will be increased landscaping and an enclosed trash and recycling area onsite.

FINDINGS FOR SPECIAL PERMIT (SZO §4.4.1, 7.11.7.1.b & 9.13.b):

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."*

Special Permits are required for three aspects of the proposal. A Special Permit with Design Review (SPD) is required under SZO §7.11.7.1.b to establish a non-medical office use between 5,000 and 9,999 square feet. A Special Permit is required under §4.4.1 to alter the nonconforming structure to add windows and doors. Finally, a Special Permit is required to alter the dimensions of parking spaces to have 6 of the 11 spaces be compact under §9.13.b.

The proposal to establish a non-medical office by SPD meets the design guidelines for business zones in §5.1.5. The building maintains a strong building presence along the primary street edge and a new planter will define the edge of the parking lot along this sidewalk. The new entrances are differentiated with a canopy above that will mark the main entrance to the building. The front of the building is not changing substantially and therefore will not meet the standard for a new building to create modulations in the façade. The front will improve with a garage door becoming a window, which will improve the interior and exterior of the building. The roof is flat, which is a typical type for commercial buildings in the area. The building is a standard and solid material - masonry block. The existing parking lot will be utilized which is along the sidewalk. A raised planter is proposed to define the sidewalk. The trash and recycling area will be screened and a condition is the screening material will be a high quality material such as wood. There are no other utilities proposed to be located in the parking lot.

In considering a special permit under §4.4 of the SZO, the Board finds that the alterations proposed would not be substantially more detrimental to the neighborhood than the existing structure. The changes will keep the form of the original use of the structure as an automobile service shop and make it more visually appealing and functional for a change in use with the addition of windows, doors and landscaping.

The total number of parking spaces required for the use is 10 and 11 will be provided. Parking design dimensions and back out area are in §9.11 and §9.13 states that the parking space and lot dimensions may be modified by special permit. The current proposal has 5 standard parking spaces and 6 compact parking spaces. The 6 compact spaces have a back out area that is 18 feet instead of the 20 feet that is required. In considering a special permit under §9.13 of the SZO the Applicant must be able to demonstrate that granting the requested special permit would not cause detriment to the surrounding neighborhood through any of the criteria as set forth under SZO §9.13, which are as follows:

- 1) increase in traffic volumes;



- 2) increased traffic congestion or queuing of vehicles;
- 3) change in the type(s) of traffic;
- 4) change in traffic patterns and access to the site;
- 5) reduction in on-street parking;
- 6) unsafe conflict of motor vehicle and pedestrian traffic.

The parking lot will contain a sufficient number of parking spaces and there is sufficient depth if a longer car needs to park in one of the compact parking spaces. The back out area is two feet less than that required. However, with a small 11 parking space lot that will not have a lot of cars entering and existing daily for an office use, having 2 feet less maneuvering space will not be a detriment to the site.

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 I, 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 to encouraging the most appropriate use of land throughout the City.

The proposal is consistent with the purpose of the district in replacing an automobile-oriented use with an office use that is encouraged in the district. The changes to the site will improve the pedestrian experience along the property.

In considering a special permit under §9.13 of the SZO the SPGA may grant such a special permit only when consistent with the purposes set forth in Section 9.1. The proposal will allow for sufficient parking on-site and better define the parking spaces than the current situation.

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 proposal will improve the appearance of the site as noted in finding 2 and meet the design guidelines for altering the structure in the CBD district. The side main entrance of the building will be marked with a canopy and there will be separate pedestrian path from the sidewalk to the door.

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

The existing and proposed uses do not include housing.

7. 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.*

The number of commercial square footage will not change; however, moving from an auto-oriented use to an office use with more employees is a proposal that conforms to the goals of SomerVision. Also, the proposal will make a small difference in increasing the percentage of pervious surface and landscaping which are also goals of the Comprehensive Plan.



DECISION:

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Danielle Evans and Elaine Severino. Upon making the above findings, Susan Fontano made a motion to approve the request for a Special Permit. Richard Rossetti 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	<p>Approval is to establish a non-medical office use under 7.11.7.1.b, alter a nonconforming structure to add windows and doors, have 6 of 11 parking spaces be compact and have an 18 foot back-out space. This approval is based upon the following application materials and the plans submitted by the Applicant:</p> <table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>October 3, 2014</td> <td>Initial application submitted to the City Clerk’s Office</td> </tr> <tr> <td>Oct 20, 2014</td> <td>Modified plans submitted to OSPCD (A1.1 floor plan / site plan, A2.1 elevations)</td> </tr> </tbody> </table> <p>Any changes to the approved (site plan or elevations/use) that are not <i>de minimis</i> must receive SPGA approval.</p>	Date (Stamp Date)	Submission	October 3, 2014	Initial application submitted to the City Clerk’s Office	Oct 20, 2014	Modified plans submitted to OSPCD (A1.1 floor plan / site plan, A2.1 elevations)	BP/CO	ISD/Png.	
Date (Stamp Date)	Submission									
October 3, 2014	Initial application submitted to the City Clerk’s Office									
Oct 20, 2014	Modified plans submitted to OSPCD (A1.1 floor plan / site plan, A2.1 elevations)									
2	The Applicant shall at his expense replace any existing equipment (including, but not limited to street sign poles, signs, traffic signal poles, traffic signal equipment, wheel chair ramps, granite curbing, etc) and the entire sidewalk immediately abutting the subject property if damaged as a result of construction activity. All new sidewalks and driveways must be constructed to DPW standard.	CO	DPW							
3	All construction materials and equipment must be stored onsite. If occupancy of the street layout is required, such occupancy must be in conformance with the requirements of the Manual on Uniform Traffic Control Devices and the prior approval of the Traffic and Parking Department must be obtained.	During Construction	T&P							
4	Landscaping should be installed and maintained in compliance with the American Nurserymen’s Association Standards;	Perpetual	Png. / ISD							
5	Applicant will screen the trash and recycling area with wood fencing or a composite material that looks like wood that blocks any view of the receptacles.	CO	Png.							
6	The Applicant, its successors and/or assigns, shall be responsible for maintenance of both the building and all on-site amenities, including landscaping, fencing, lighting, parking areas and storm water systems, ensuring they are clean, well kept and in good and safe working order.	Cont.	ISD							



7	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
8	Notification must be made, within the time period required under applicable regulations, to the Massachusetts Department of Environmental Protection (DEP) if there is any release of oil, hazardous materials, or regulated hazardous substances at the site. The City's OSE office, Fire Department and the Board of Health shall also be notified.	CO	OSE/FP/B OH	
9	Signage will be limited in size and location to that shown in the elevation diagrams. The signage design shall be submitted to Planning Staff for review and approval.	CO/Cont.	Plng.	
10	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*
Richard Rossetti
Danielle Evans
Elaine Severino

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 _____

