



**CITY OF SOMERVILLE, MASSACHUSETTS**  
**OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT**  
**JOSEPH A. CURTATONE**  
**MAYOR**

PLANNING DIVISION

**ZONING BOARD OF APPEALS MEMBERS**

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DANIELLE EVANS  
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JOSH SAFDIE (ALT.)

**Case #: ZBA 2011-58**  
**Site: 237 Holland Street**  
**Date of Decision: August 3, 2011**  
**Decision: *Petition Approved with Conditions***  
**Date Filed with City Clerk: August 4, 2011**

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**ZBA DECISION**

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<b>Applicant Name:</b>	Huseyin Akgun
<b>Applicant Address:</b>	237 Holland Street, Somerville, MA 02144
<b>Property Owner Name:</b>	Kosta Ligris
<b>Property Owner Address:</b>	237 Holland Street, Somerville, MA 02144
<b>Agent Name:</b>	N/A

Legal Notice: Applicant, Huseyin Akgun, and Owner, Kosta Ligris, seek a special permit to increase the number of seats in the restaurant and waive the requirement for 2 parking spaces.

<u>Zoning District/Ward:</u>	NB zone/Ward 7
<u>Zoning Approval Sought:</u>	§9.4 & §9.13.a
<u>Date of Application:</u>	July 5, 2011
<u>Date(s) of Public Hearing:</u>	August 3, 2011
<u>Date of Decision:</u>	August 3, 2011
<u>Vote:</u>	5-0

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Appeal #ZBA 2011-58 was opened before the Zoning Board of Appeals at Somerville City Hall on August 3, 2011. 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 increase the number of seats from 14 to 28. The increased number of seats will help the restaurant to meet its current demand on the weekends. Also, the Restaurant owner has applied for a beer and wine license and 28 seats are required to receive this permit. The additional seats would be added by replacing two 2-person tables with two 4-person tables and by removing two food cases and replacing them with a booth and two 2-person tables. The applicant is not proposing any alterations to the storefront.

The restaurant is open from 11 am to 10 pm daily except that it is closed on Mondays. There are currently four employees.

**FINDINGS FOR SPECIAL PERMIT (SZO §9.5 & §9.13a):**

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.

Traffic and Parking Staff requested a Traffic Memorandum concerning the current parking supply in the area of 237 Holland St and the potential to absorb the additional parking demand associated with this restaurant. The Applicant did not supply this memorandum due to the cost, which he stated would be between 1,600 and 1,800 dollars. The Zoning Board of Appeal is a supportive of this application without this memorandum.

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 §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.

There will be minimal impact on the neighborhood regarding the above criteria. The Applicant has found that parking is not an issue for his patrons. They either walk to the restaurant or drive and find on-street parking. The Applicant has not received any complaints or questions from patrons about parking in this location as he has at other restaurants that he has operated in Beacon Hill, Brookline and Brighton. If his restaurant is not able to accommodate patrons, they often go to nearby restaurants and do not get in their car to drive to another restaurant, creating another vehicle trip in the Square.

Since there will be additional patrons walking and bicycling to the restaurant, mitigation for the two parking spaces shall be a condition of approval. In order to enhance pedestrian and bicycle safety in the area the Applicant should purchase and deliver to the City four Pedestrian Impact Recovery Systems (in crosswalk pedestrian signs) for installation in the vicinity of the restaurant.



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 encouraging the most appropriate use of land throughout the City. The increase in the number of seats to allow this small business to grow within its existing space is consistent with the purpose of the Neighborhood Business District, which is to establish and preserve areas for small-scale retail stores, services and offices which are located in close proximity to residential areas and which do not have undesirable impacts on the surrounding neighborhoods.

Also, the proposal meets the intent of §9.1, the purpose of the Off-street Parking and Loading Article. Relief from providing two parking spaces along with the installation of four pedestrian impact recovery systems will not create a situation that would be a nuisance or hazard to pedestrians and adjacent properties, nor would it decrease the traffic carrying capacity of the adjacent streets or significantly compromise the on-street parking available in Teele Square.

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 several food service uses in the surrounding area, including one on each side of the subject restaurant that do not have associated parking. These restaurants have proved to be successful in this pedestrian-friendly business district. Teele Square is within a fifteen-minute walk to Davis Square and is on three MBTA bus routes. The transit service and the density of the surrounding neighborhood promote pedestrian access.



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**DECISION:**

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Danielle Evans and Scott Darling. Upon making the above findings, Susan Fontano made a motion to approve the request for a special permit. Scott Darling 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 increase the seating allowed by zoning from 14 to 28 and waive parking requirements of §9.5 and §9.4 as permitted by special permit under §9.13.a.. 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>July 5, 2011</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>(July 25, 2011)</td> <td>Plans submitted to OSPCD (existing and proposed floor plans)</td> </tr> </tbody> </table> <p>Any changes to the approved number of seats that are not <i>de minimis</i> must receive SPGA approval.</p>	Date (Stamp Date)	Submission	July 5, 2011	Initial application submitted to the City Clerk's Office	(July 25, 2011)	Plans submitted to OSPCD (existing and proposed floor plans)	BP/CO	Plng.	
Date (Stamp Date)	Submission									
July 5, 2011	Initial application submitted to the City Clerk's Office									
(July 25, 2011)	Plans submitted to OSPCD (existing and proposed floor plans)									
2	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP							
3	The Applicant shall purchase and deliver to the City three Pedestrian Impact Recovery Systems (in crosswalk pedestrian signs) for installation in the vicinity of the restaurant.	CO	T&P							
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.							



Attest, by the Zoning Board of Appeals:

Herbert Foster, *Chairman*  
Orsola Susan Fontano, *Clerk*  
Richard Rossetti  
T.F. Scott Darling, III, Esq.  
Danielle Evans

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 \_\_\_\_\_



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