



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA # 2013-48
Site: 51 McGrath Highway
Date of Decision: August 7, 2013
Decision: Petition Approved with Conditions
Date Filed with City Clerk: August 8, 2013

ZBA DECISION

Applicant Name:	Paul Cook, Divine Designs
Applicant Address:	6 Norman Street, Everett, MA 02149
Property Owner Name:	Souran Acquisition Limited Part.
Property Owner Address:	5166 Main Street, Williamville, NY 14221
Agent Name:	N/A

Legal Notice: Applicant, Paul Cook Divine Signs, and Owner, Sovran Acquisition Limited Partnership, seek a Variance* (SZO §5.5) to install signs that do not meet the size and height requirements (§12.4) and Special Permit to revise case # ZBA 2007-48 in order to place additional signage on the building.

<u>Zoning District/Ward:</u>	IA zone/Ward 2
<u>Zoning Approval Sought:</u>	§5.5 & §12.4
<u>Date of Application:</u>	June 10, 2013
<u>Date(s) of Public Hearing:</u>	7/10, 8/7
<u>Date of Decision:</u>	August 7, 2013
<u>Vote:</u>	5-0

*A variance is no longer being sought.

Appeal #ZBA 2013-48 was opened before the Zoning Board of Appeals at Somerville City Hall on July 10, 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 two (2) hearings of deliberation, the Zoning Board of Appeals took a vote.



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DESCRIPTION:

The proposal is to replace the awnings at the main entrance to the building on the parking lot side of the building, at the entrance on the southwest side of the building at the ground floor and over the two loading doors that were approved as part of the case ZBA 2007-48 and case ZBA 2007-48-R0508. The awnings are proposed to be vinyl.

The proposal also includes replacing the flat panel signs that had gooseneck lights that were between the second and third story windows on the northwest and southeast elevations with flat aluminum rectangular signs that are 64 square feet.

The proposal included installing a new sign on the southwest (McGrath Highway) side of the building that was originally proposed to be between the second and third story windows; however, this sign was not approved.

FINDINGS FOR SPECIAL PERMIT WITH SITE PLAN REVIEW:

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.

To change the signage approved as part of the original Special Permit with Site Plan Review for the site that has been complete, technically a new Special Permit with Site Plan Review is required. The following conditions apply to a change to the previously approved signage.

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. **Signage:** The Applicant must ensure that “the size, location, design, color, texture, lighting and materials of all permanent signs and outdoor advertising structures or features shall reflect the scale and character of the proposed buildings.”

The Board does NOT find that the proposed sign on the front façade match the character of the building. The building is an old and well maintained factory building and the signs proposed for the sides of the building are more visible than the front sign would be.

Placing a sign on the McGrath Highway sign would be negatively impactful. This sign would add visual clutter to the side of the building that has retained its historic appearance. Also, this side of the building is very close to the highway and drivers would be distracted as they would need to turn their head to see the sign.

The Board finds that the proposed signs and awnings on the sides of the building that would essentially be replacing existing signs would be minimally impactful and would not change the nature of the original SPSR approval.



DECISION:

Present and sitting were Members Herbert Foster, Richard Rossetti, Danielle Evans, Elaine Severino, and Josh Safdie with Orsola Susan Fontano absent. Upon a request from the Applicant, Richard Rossetti made a motion to approve the request to withdraw the petition for a Variance without prejudice. Elaine Severino seconded the motion. Wherefore the Zoning Board of Appeals voted **(5-0)** to **APPROVE** the request to withdraw the petition for a Variance without prejudice.

Present and sitting were Members Herbert Foster, Richard Rossetti, Danielle Evans, Elaine Severino, and Brandy Brooks with Orsola Susan Fontano absent. Upon making the above findings, Richard Rossetti made a motion to approve the request for a Special Permit. Brandy Brooks 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 install signage on the building approved by Special Permit with Site Plan Review Special Permit case # ZBA 2007-48. 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>Jun 10, 2013</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>Aug 1, 2013</td> <td>Plans submitted to OSPCD (signage 1-10:10)</td> </tr> </tbody> </table> <p>Any changes to the approved site plan, elevations and use that are not <i>de minimis</i> must receive SPGA approval.</p>	Date (Stamp Date)	Submission	Jun 10, 2013	Initial application submitted to the City Clerk's Office	Aug 1, 2013	Plans submitted to OSPCD (signage 1-10:10)	CO / BP	Plng.	
Date (Stamp Date)	Submission									
Jun 10, 2013	Initial application submitted to the City Clerk's Office									
Aug 1, 2013	Plans submitted to OSPCD (signage 1-10:10)									
2	No signage shall be installed on the front of the building (along McGrath Highway).	Perpetual	Plng.							
3	The signs and lighting installed on the northwest and southeast facades shall not cover any portion of the windows on the building including the sills.	During Construction	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*
Richard Rossetti
Danielle Evans
Elaine Severino
Brandy Brooks (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 _____

