



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

PLANNING DIVISION

**ZONING BOARD OF APPEALS MEMBERS**

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ELAINE SEVERINO  
JOSH SAFDIE (ALT.)  
BRANDY BROOKS (ALT.)

**Case #: ZBA 2014-75**  
**Site: 364 Medford Street**  
**Date of Decision: October 1, 2014**  
**Decision: Petition Approved with Conditions**  
**Date Filed with City Clerk: October 7, 2014**

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**ZBA DECISION**

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**Applicant Name:** Sadhan Mazumdar  
**Applicant Address:** 364 Medford Street, Somerville, MA 02145  
**Property Owner Name:** Chong Chen  
**Property Owner Address:** 368 Medford Street, Somerville, MA 02145

Legal Notice: Applicant, Sadhan Mazumdar, and Owner, Chen Chong, seek a Special Permit under SZO §9.4. for parking relief.

Zoning District/Ward: BA zone/Ward 4  
Zoning Approval Sought: §9.4  
Date of Application: July 22, 2014  
Date(s) of Public Hearing: 9/3, 9/17 & 10/1/14  
Date of Decision: October 1, 2014  
Vote: 5-0

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Appeal #ZBA 2014-75 was opened before the Zoning Board of Appeals at Somerville City Hall on September 3, 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 reconfigure the fast food use into a restaurant with seating for 8 people. The establishment of any seating requires parking relief.

**FINDINGS FOR SPECIAL PERMIT (SZO §9.4 & §9.13):**

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."*

Per SZO §9.13 a modification of parking requirement for nonconforming structures and lots can be granted by Special Permit when the relief is equal to or less than 6 spaces. Per SZO §9.4, when there is a change in use with no change in floor area a reduction can be applied. The formula allows for the following:

$$\text{New Use} - \text{Old Use} / 2.$$

The proposed use requires 1 space per every 110 gsf or 8 spaces. The previous use, take-out food service, required 2 spaces. Using the formula above:

$$(8-2)/2 = 3 \text{ spaces of relief are needed.}$$

In considering a special permit under §9.4 & 9.13 of the SZO, the Board finds that the use proposed would not be substantially more detrimental to the neighborhood than the existing use.

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 submitted parking memo justifies that there are ample on street spaces to accommodate three spaces of parking relief. This is the minimum relief necessary to have a restaurant at this location. Note: The parking memo states relief of 4 spaces is needed, this was accurate to a prior seating plan that is not being reviewed by the ZBA.

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 promoting the health, safety, and welfare of the inhabitants of the City of Somerville; to lessen congestion in the streets; to encourage the most appropriate use of land throughout the City; 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 business areas bordering main thoroughfares that are attractive to a wide range of uses, including retail business and services, housing, government, professional and medical offices, and places of amusement. While it is anticipated that most users will arrive by motor vehicle, it is intended that the area should be safe for and conducive to pedestrian traffic.

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 surrounding neighborhood is a mix of uses in an area anticipating many changes with the forthcoming green line extension. This building is part of the transition from Gilman Square to the residential district on Medford Street.

There are little to no impacts of the proposal. The parking memo indicates that there is ample parking in the area. Most patrons will come to the business from the neighborhood and will not drive. This relief is the least necessary to establish any sort of seating in this location.

6. Vehicular and pedestrian circulation: *The circulation patterns for motor vehicles and pedestrians which would result from the use or structure will not result in conditions that create traffic congestion or the potential for traffic accidents on the site or in the surrounding area.*

The vehicular access to the site will not change. Cars will park in metered spaces in the surrounding area and walk to the site. No additional conflicts will be created.

6. Housing Impact: *Will not create adverse impacts on the stock of existing affordable housing.*  
This project will have no effect on existing affordable 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.*

By allowing seating, this project will enhance the character of Gilman Square.



**DECISION:**

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Danielle Evans and Elaine Severino with Josh Safdie and Brandy Brooks absent. 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	Approval is for parking relief of 3 spaces. 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>July 22, 2014</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>September 15, 2014</td> <td>Modified plans submitted to OSPCD (A1 Floor Plan)</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	July 22, 2014	Initial application submitted to the City Clerk's Office	September 15, 2014	Modified plans submitted to OSPCD (A1 Floor Plan)
	Date (Stamp Date)				Submission					
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September 15, 2014	Modified plans submitted to OSPCD (A1 Floor Plan)									
Any changes to the approved plan that are not <i>de minimis</i> must receive SPGA approval.										
<b>Pre-Construction</b>										
2	The Applicant must contact the Engineering Department to obtain a street address prior to a building permit being issued.	BP	Engineering							
<b>Construction Impacts</b>										
3	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							
4	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							
<b>Miscellaneous</b>										
5	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							
6	The storefront windows should not be blocked by more than 30% by interior storage, signage or window coverings.	CO	Plng.							
<b>Public Safety</b>										



7	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
<b>Final Sign-Off</b>				
8	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 \_\_\_\_\_

