



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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PLANNING DIVISION

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ANNE BROCKELMAN, (ALT.)

Case #: ZBA 2015-71
Site: 503B Medford Street
Date of Decision: October 7, 2015
Decision: Petition Approved with Conditions
Date Filed with City Clerk: October 20, 2015

ZBA DECISION

Applicant Name:	Sophiya Thakali
Applicant Address:	12 Horton Street, #3, Somerville, MA 02145
Property Owner Name:	Broadway Investments, Inc.
Property Owner Address:	96 Central Street, Somerville, MA 02145
Agent Name:	N/A

Legal Notice: Applicant, Sophiya Thakali, and Owner, Broadway Investments Inc., seek a Special Permit for adding seating to a fast food use and for parking relief.

<u>Zoning District/Ward:</u>	NB zone/Ward 5
<u>Date of Application:</u>	September 2, 2015
<u>Date(s) of Public Hearing:</u>	October 7, 2015
<u>Date of Decision:</u>	October 7, 2015
<u>Vote:</u>	5-0

Appeal #ZBA 2015-71 was opened before the Zoning Board of Appeals at Somerville City Hall on October 7, 2015. 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:

One of the current tenants, Tasty Mo Mo, operates a fast-order food establishment out of a 578 gross square foot storefront and seeks a special permit for adding 10 seats (four chairs at one table, and six stools at a counter) in the existing waiting area.

FINDINGS FOR SPECIAL PERMIT (SZO §7.11 & §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 9.4. the establishment is currently non-conforming with respect to parking. By adding seating, the total required parking increases from 4.75 to 7.5 spaces per SZO 9.5.9. Per SZO 9.4.1. *changes in use with no change in floor area: 50% of the 2.75 additional spaces must be provided; as such the proposal requires a special permit for parking relief of 1 space.*

In considering a special permit under §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.

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 promoting the health, safety, and welfare of the inhabitants of the City of Somerville; to provide for and maintain the uniquely integrated structure of uses in 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 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."

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 proposal meets the intent of ordinance. Relief from providing one parking space is consistent with other established businesses in the square. Parking relief in the area 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 Magoun 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."*

The property is located in Magoun Square. There is a mix of restaurants, retail stores, and offices in the Square and a residential neighborhood directly behind the property. Some of the businesses include CVS Pharmacy, Olde Magoun's Saloon, and Daddy Jones. There are little to no impacts to the proposal. Magoun Square has seen renewed interest in the last few years; additional seating in Tasty Mo Mo will provide an amenity to frequenters of Magoun Square.

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

This proposal will have no impact on existing housing.

6. 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.*

This project complies with the SomerVision plan by allowing a small business owner add seating within an existing use to help sustain 3 local jobs.



DECISION:

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans , Elaine Severino and Anne Brockelman with Josh Safdie absent. Upon making the above findings, Richard Rossetti 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 adding seating to a fast food use and parking relief. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	ISD/ Png.							
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>September 02, 2015</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>September 22, 2015</td> <td>Modified plans submitted to OSPCD (Cover, SCH-1 Existing Floor Plan, A2.0 Proposed Floor Plan)</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	September 02, 2015	Initial application submitted to the City Clerk's Office	September 22, 2015	Modified plans submitted to OSPCD (Cover, SCH-1 Existing Floor Plan, A2.0 Proposed Floor Plan)
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Any changes to the approved plans and use that are not <i>de minimis</i> must receive SPGA approval.										
Construction Impacts										
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							
Public Safety										
7	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP							
Final Sign-Off										
11	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	Png.							



Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Chairman*
Richard Rossetti, *Clerk*
Danielle Evans
Elaine Severino
Anne Brockelman, (Alt.)

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 _____

