



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

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Case #: ZBA 2015-87
Site: 44 Park Street
Date of Decision: November 4, 2015
Decision: Petition Approved with Conditions
Date Filed with City Clerk: November 13, 2015

ZBA DECISION

Applicant Name:	Esh Circus Arts, Ellen Waylonis
Applicant Address:	44 Park Street, Somerville, MA 02143
Property Owner Name:	Belam, LLC, Frank Galasso & Jonah Jacob
Property Owner Address:	15 Ward Street, Somerville, MA 02143
Agent Name:	N/A

Legal Notice: Applicant, Esh Circus Arts - Ellen Waylonis, and Owner, Belam LLC - Frank Galasso & Jonah Jacobs, seek an increase in floor area of the for-profit school for instruction in arts, skills or vocational training to 4,933 sf (SZO §7.11.8.9) and alteration to the site plan, which was originally permitted under case ZBA 2013-62.

<u>Zoning District/Ward:</u>	RC zone/Ward 2
<u>Zoning Approval Sought:</u>	§7.11.8.9
<u>Date of Application:</u>	September 30, 2015
<u>Date(s) of Public Hearing:</u>	November 4, 2015
<u>Date of Decision:</u>	November 4, 2015
<u>Vote:</u>	5-0

Appeal #ZBA September 30, 2015 was opened before the Zoning Board of Appeals at Somerville City Hall on November 4, 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:

The proposal is to expand the school for instruction in arts and skills into a portion of the 816 square foot vacant space at the front of the building. The space would be used as a 492 square foot lobby and reception area. The remaining portion of the space would be a 140 square foot office for a separate tenant and 184 square feet of common space. The proposal also includes adding a ramp and new stairs to the front door of the building, which will be replaced. A new 2 by 5 foot acrylic sign would be installed to the right of the entrance and two silhouettes would be painted on the garage doors.

FINDINGS FOR SPECIAL PERMIT (SZO §7.11.8.9):

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."*

The previous special permit at this site allowed for the establishment of a for-profit school for instruction in arts and skills at this location. The use is proposed to be expanded and therefore it is back before the Zoning Board of Appeals to seek a special permit. The total square footage of the school would be 4,946 square feet. SZO §7.11.8.9 allows this use to be less than 5,000 square feet in the RC district by special permit.

The other use proposed as part of this proposal is a 140 square foot office, which is allowed by-right in a RC district.

The site plan will be altered from that originally permitted under case ZBA 2013-62 to create an accessible front entrance. There are no alterations proposed to the building except for signage. The total signage on the front of the building will be 88 square feet. The building frontage is approximately 100 feet long and therefore this amount of signage is allowed per SZO §12.3.

No parking relief is required for the proposed use expansion. Business services require 1 parking space per 450 square feet making the parking requirement for the for-profit school 11. The child care facility requires 1 parking space per employee or 17 parking spaces. The office use requires either 0.28 or 0.35 depending on if it is a non-medical or medical office. The site contains 30 parking spaces, which meets the requirement for all of the uses.

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 "promote the health, safety, and welfare of the inhabitants of the City of Somerville; 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 Residence C district, which is, "To establish and preserve a district for multi-family residential and other compatible uses which are of particular use and convenience to the residents of the district."



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 has been designed in a manner that is compatible with the characteristics of the built surrounding area including land uses. Allowing an existing business to grow into vacant space in the building along with a small office is a benefit to the property and to the city. The daycare and for-profit school for instruction in arts and skills have been able to coexist in the building. Adding a small office is another type of tenant that is compatible with these uses in providing an adaptive reuse of this former industrial warehouse building. The exterior change to the site will make the main entrance to the building accessible and improve the poor condition of the path to this entrance. The proposed signage appears appropriately scaled and will add interest to the façade. This building has been greatly enhanced over the last five years and filling the remaining vacant space will improve the last portion of the building.

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

The proposal does not involve 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.*

The proposal will enhance the subject site and put to use existing vacant commercial space, which complies with the goals of SomerVision.

<u>SomerVision Summary</u>	<i>Existing</i>	<i>Proposed</i>
<i>Commercial Sq. Ft.:</i>	(vacant)	+140 sf office +492 sf for-profit school for instruction in arts
<i>Estimated Employment:</i>		+1
<i>Parking Spaces:</i>	30	30



DECISION:

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans , Elaine Severino and Josh Safdie. Upon making the above findings, Richard Rossetti made a motion to approve the request for a Special Permit. Josh Safdie 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 for the increase in the for-profit school for instruction in arts, skills, or vocational training to less than 5,000 square feet with ancillary alterations to existing site plan. 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>Sept 30, 2015</td> <td>Initial application submitted to the City Clerk’s Office</td> </tr> <tr> <td>Oct 13, 2015</td> <td>Modified plans submitted to OSPCD (A1 existing key plan, A2 proposed site plan, A3 existing plan, A4 proposed plan, A5 proposed signage)</td> </tr> <tr> <td>May 3, 2013</td> <td>Plans submitted to OSPCD (Utility plan to show parking)</td> </tr> </tbody> </table> <p>Any changes to the approved plans that are not <i>de minimis</i> must receive SPGA approval.</p>	Date (Stamp Date)	Submission	Sept 30, 2015	Initial application submitted to the City Clerk’s Office	Oct 13, 2015	Modified plans submitted to OSPCD (A1 existing key plan, A2 proposed site plan, A3 existing plan, A4 proposed plan, A5 proposed signage)	May 3, 2013	Plans submitted to OSPCD (Utility plan to show parking)	BP/CO	ISD/PIng.	
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2	Landscaping should be installed and maintained in compliance with the American Nurserymen’s Association Standards. If necessary, front lawn shall be reseeded.	CO	PIng/ISD									
3	The Applicant or Owner shall meet the Fire Prevention Bureau’s requirements.	CO	FP									
4	Signage will be limited in size and location to that shown in the elevation diagrams.	CO/Cont.	PIng.									
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 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									
Final Sign-Off												



7	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.	
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Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Chairman*
 Richard Rossetti, *Clerk*
 Danielle Evans
 Elaine Severino
 Josh Safdie

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 _____

