



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA # 2013-62
Site: 44 Park Street
Date of Decision: September 18, 2013
Decision: Petition Approved with Conditions
Date Filed with City Clerk: September 19, 2013

ZBA DECISION

| | |
|--------------------------------|--|
| Applicant Name: | Ellen Waylonis |
| Applicant Address: | 152 Central Street, #2, Somerville, MA 02145 |
| Property Owner Name: | Belham, II, LLC |
| Property Owner Address: | 15 Ward Street, Somerville, MA 02143 |
| Agent Name: | N/A |

Legal Notice: Applicant, Ellen Waylonis, and owner, Belam, LLC, seek a Special Permit under SZO §4.4.1 to alter a nonconforming structure, SZO §7.11.8.9.a to establish a for-profit school for instruction in arts, skills, or vocational training less than 5,000 square feet with ancillary alterations to existing site plan and parking.

| | |
|-----------------------------------|--------------------|
| <u>Zoning District/Ward:</u> | RC zone/Ward 2 |
| <u>Zoning Approval Sought:</u> | §7.11.8.9.a |
| <u>Date of Application:</u> | September 3, 2013 |
| <u>Date(s) of Public Hearing:</u> | September 18, 2013 |
| <u>Date of Decision:</u> | September 18, 2013 |
| <u>Vote:</u> | 5-0 |

Appeal #ZBA 2013-62 was opened before the Zoning Board of Appeals at Somerville City Hall on September 18, 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 one hearing of deliberation, the Zoning Board of Appeals took a vote.



CITY HALL • 93 HIGHLAND AVENUE • SOMERVILLE, MASSACHUSETTS 02143
(617) 625-6600 EXT. 2500 • TTY: (617) 666-0001 • FAX: (617) 625-0722
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DESCRIPTION:

The proposal is to build out a 4,060 net square foot area to teach and study circus arts. Circus arts aren't clowning around, they combine aerobics, strength, flexibility on apparatuses like aerial fabric and aerial hoop. Classes prepare students for the strength, flexibility, and choreography needed for performances. The school will be open from 5:30-10 Monday through Friday, 10-4 on Saturday, and 12-8 on Sunday with private classes and instruction times possible during the midday. The only alteration to the exterior of the building is a second emergency egress at the north side of the property and a 4' x 7' sign above the main entrance with no lighting. The parking lot will be extended to include another ten spaces on a crushed rock surface with a railroad tie curb. A handicap parking space will be accommodated on existing paving at the front of the lot for a total of 11 additional spaces. Four bicycle parking spaces that accommodate 2 bikes each will be at the front of the building.

FINDINGS FOR SPECIAL PERMIT (SZO §4.4.1, §7.11.8.9.a, & §5.3):

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."

In considering a special permit under §7.11.8.9.a of the SZO, the Board finds that the use proposed would not be substantially more detrimental to the neighborhood than the existing use. The use is a fairly quiet use and the required number of parking spaces will be met onsite.

In considering a special permit under §4.4 of the SZO, Staff find that the alterations proposed would not be substantially more detrimental to the neighborhood than the existing structure. The alterations to the structure by adding an egress door do not increase the nonconforming side yard.

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 industrial feel of the building is compatible with the school use.



DECISION:

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Danielle Evans and Elaine Severino. 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 | <p>Approval is for a Special Permit under SZO §4.4.1 to alter a nonconforming structure, SZO §7.11.8.9.a to establish a for-profit school for instruction in arts, skills, or vocational training less than 5,000 square feet with ancillary alterations to existing site plan and parking. 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>August 19, 2013</td> <td>Initial application submitted to the City Clerk’s Office</td> </tr> <tr> <td>(September 12, 2013)</td> <td>Modified plans submitted to OSPCD (C4.0 Grading Drainage & Utilities Plan, A-01 Floor Plan, Restroom Plan, Signage sketch)</td> </tr> </tbody> </table> <p>Any changes to the approved plan and elevations that are not <i>de minimis</i> must receive SPGA approval.</p> | Date (Stamp Date) | Submission | August 19, 2013 | Initial application submitted to the City Clerk’s Office | (September 12, 2013) | Modified plans submitted to OSPCD (C4.0 Grading Drainage & Utilities Plan, A-01 Floor Plan, Restroom Plan, Signage sketch) | BP/CO | ISD/Png. | |
| Date (Stamp Date) | Submission | | | | | | | | | |
| August 19, 2013 | Initial application submitted to the City Clerk’s Office | | | | | | | | | |
| (September 12, 2013) | Modified plans submitted to OSPCD (C4.0 Grading Drainage & Utilities Plan, A-01 Floor Plan, Restroom Plan, Signage sketch) | | | | | | | | | |
| 2 | The crushed-stone parking area shall be fully enclosed with a railroad tie curb to contain the crushed-stones. | CO | Png. | | | | | | | |
| 3 | Landscaping should be installed and maintained in compliance with the American Nurserymen’s Association Standards. If necessary, front lawn shall be reseeded. | CO | Png/ISD | | | | | | | |
| 4 | The Applicant or Owner shall meet the Fire Prevention Bureau’s requirements. | CO | FP | | | | | | | |
| 5 | Signage design to be submitted Planning Staff for review and approval. | CO | Png. | | | | | | | |
| 6 | Signage will be limited in size and location to that shown in the elevation diagrams. | CO/Cont. | Png. | | | | | | | |
| 7 | 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 | | | | | | | |



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 _____

