



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA # 2013-32
Site: 247 Pearl Street
Date of Decision: May 15, 2013
Decision: Petition Approved with Conditions
Date Filed with City Clerk: May 21, 2013

ZBA DECISION

Applicant Name:	Merry, Inc.
Applicant Address:	134 Hampshire Street, Cambridge, MA 02139
Property Owner Name:	247 Pearl Street Realty, LLC
Property Owner Address:	P.O. Box 281, Somerville, MA 02143
Agent Name:	Richard G. DiGirolamo, Esq.
Agent Address:	424 Broadway, Somerville, MA 02145

Legal Notice: Applicant, Merry, Inc., and Owner, 247 Pearl Realty, LLC., seek a Special Permit under SZO §4.4.1 to alter a nonconforming structure to add and alter windows and doors for a restaurant.

<u>Zoning District/Ward:</u>	BA zone/Ward 4
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	April 8, 2013
<u>Date(s) of Public Hearing:</u>	May 15, 2013
<u>Date of Decision:</u>	May 15, 2013
<u>Vote:</u>	5-0

Appeal #ZBA 2013-32 was opened before the Zoning Board of Appeals at Somerville City Hall on May 15, 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 (1) hearing(s) of deliberation, the Zoning Board of Appeals took a vote.



CITY HALL • 93 HIGHLAND AVENUE • SOMERVILLE, MASSACHUSETTS 02143
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DESCRIPTION:

The proposal is to alter the first floor façade of the building to improve its appearance and function for a new restaurant. The poorly designed infill windows and walls on the ground floor will be removed and the Paddock awning has already been removed. New storefront systems will be installed with inswing windows. The new doors for the restaurant will be solid wood. Signage will be above the door on Pearl Street. There will be a wood panel to the right of the door along Pearl Street and a surface light mounted to it.

FINDINGS FOR SPECIAL PERMIT (SZO §):

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 §4.4 of the SZO, the Board finds that the alterations proposed would not be substantially more detrimental to the neighborhood than the existing structure. The façade work would be an improvement to the building. The prior restaurant had an outdated awning spanning the length of it. This awning along with the small windows with shutters and brick infill wall made the restaurant appear dark and not compatible with the rest of the building that has kept its historic form. The proposal for large storefront systems will replace the inappropriate first floor infill.

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 providing adequate light and air and conserving the value of land and buildings.

The proposal to improve the façade for a restaurant is consistent with the purpose of the district, which is, "[t]o 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 large windows which are typical in older buildings with ground floor commercial uses will be compatible in appearance with the rest of the brick building above. The transparency of the first floor will also improve the pedestrian experience along this block as people will be able to see into the space and the light from the restaurant will light the sidewalk and create more activity along it.

DECISION:

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Danielle Evans and Elaine Severino, Josh Safdie and Brandy Brooks. Upon making the above findings, Orsola 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 the alteration of the façade to add windows and doors. 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>April 8, 2013</td> <td>Initial application submitted to the City Clerk’s Office</td> </tr> <tr> <td>March 26, 2013</td> <td>Plans submitted to OSPCD (Exterior Elevation-South & West)</td> </tr> <tr> <td>May 1, 2013</td> <td>Plans submitted to OSPCD (Existing photos, Existing floor plan, Proposed 1st and lower level floor plans)</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	April 8, 2013	Initial application submitted to the City Clerk’s Office	March 26, 2013	Plans submitted to OSPCD (Exterior Elevation-South & West)	May 1, 2013	Plans submitted to OSPCD (Existing photos, Existing floor plan, Proposed 1 st and lower level floor plans)
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Any changes to the approved elevations that are not <i>de minimis</i> must receive SPGA approval.												
Construction Impacts												
2	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									
3	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									
Design												



4	The commercial windows shall not be blocked by interior storage, non-artistic displays or greater than 30% internally mounted signage.	Perpetual	Plng.	
5	Applicant will work with planning staff to address negative issues such as the dumpster, dumpster screening, and fencing.	CO	Plng.	
Public Safety				
6	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
7	To the extent possible, all exterior lighting must be confined to the subject property, cast light downward and must not intrude, interfere or spill onto neighboring properties.	CO	Plng.	
Final Sign-Off				
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
Josh Safdie (Alt.)
Brandy Brooks (Alt.)

Attest, by the Senior Planner:

Senior Planner

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 _____

