



CITY OF SOMERVILLE, MASSACHUSETTS
OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
JOSEPH A. CURTATONE
MAYOR

PLANNING DIVISION

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Case #: ZBA # 2011-41
Site: 68-70 Summer Street
Date of Decision: June 22, 2011
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: June 23, 2011

ZBA DECISION

Applicant Name:	Jeanne Flanagan
Applicant Address:	9 Summit Avenue, Somerville, MA 02143
Property Owner Name:	Albert Riskalis
Property Owner Address:	68-70 Summer Street, Somerville, MA 02143
Agent Name:	N/A

<u>Legal Notice:</u>	Applicant Jeanne Flanagan and Owner Albert Riskalis seek a special permit under SZO §4.5.1 to change a nonconforming use (an auto parts sales and warehouse) to two other nonconforming uses in order to open a studio for a personal trainer (§7.11.6.3.a) and an artist studio space (§7.11.6.8.a). RB zone. Ward 2.
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<u>Zoning District/Ward:</u>	RB zone/Ward 2
<u>Zoning Approval Sought:</u>	§4.5.1 & §7.11.6.3.a
<u>Date of Application:</u>	May 10, 2011
<u>Date(s) of Public Hearing:</u>	6/8 & 6/22/11
<u>Date of Decision:</u>	June 22, 2011
<u>Vote:</u>	5-0

Appeal #ZBA 2011-41 was opened before the Zoning Board of Appeals at the Visiting Nurses Association on June 8, 2011. 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.



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DESCRIPTION:

The Applicant is proposing to operate a by-appointment, personal training studio and a fiber arts studio in the existing space to replace the prior use which was an auto parts sales and warehouse. In the personal training studio the Applicant will be working one-on-one with an elderly population. The Applicant is proposing to hold appointments between the hours of 6:30 AM and 6:00 PM, Monday through Friday, with occasional appointments on Saturday morning. All of the clients for the personal training studio will access the space through the doorway at the corner of Summer Street and School Street. There will be a small office space component for the personal training studio, approximately 100 square feet, in the area indicated on the floor plan as proposed office space. The proposed fiber arts studio space will consist of approximately 400 square feet of the office space area on the proposed floor plan. The space will include a 4 foot by 8 foot table, a sewing machine, and shelves to store fabric and weaving materials. The Applicant will be using the fiber arts studio for making quilts and baskets, but will not be marketing or selling any products.

FINDINGS FOR SPECIAL PERMIT (SZO §4.5.1):

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 §4.5.1 of the SZO, the Board finds that the proposed uses would not be substantially more detrimental to the neighborhood than the existing (or previous) 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; to protect health; to conserve the value of land and buildings; 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 (6.1.2. RB - Residence Districts), which is, "To establish and preserve medium density neighborhoods of one-, two- and three-family homes, free from other uses except those which are both compatible with and convenient to the residents of such districts." While the district is generally designed for residential development, there are pre-existing commercial uses already at this intersection including small retail stores and shops, as well as a gas station. The proposed personal training studio use would not be inconsistent with these existing commercial uses or the residential fabric of the neighborhood. Additionally, the proposed fiber arts studio space would not be inconsistent with the district or the surrounding neighborhood.

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 Applicant is not proposing any exterior or interior structural changes as part of the proposed use change, with the



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exception of adding a sign for the personal training studio to the corner of the building. The signage will not be lit and will not negatively impact the surrounding area.

5. Adverse environmental impacts: The proposed use, structure or activity will not constitute an adverse impact on the surrounding area resulting from: 1) excessive noise, level of illumination, glare, dust, smoke, or vibration which are higher than levels now experienced from uses permitted in the surrounding area; 2) emission of noxious or hazardous materials or substances; 3) pollution of water ways or ground water; or 4) transmission of signals that interfere with radio or television reception.

No adverse environmental impacts are anticipated from the proposed new uses. No new noise, lighting, glare, smoke, vibration, nor emissions of noxious materials nor pollution of water ways or ground water are anticipated as part of the proposal. The structure will remain a 3 story, mixed-use building and will continue to operate with a commercial space and five residential units.

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.

Staff finds these uses to be consistent with the existing traffic and pedestrian patterns of the area. No additional parking is required for the proposed uses and the traffic that will be generated should be minimal as the personal training studio is for one-on-one, by-appointment training only and the fiber arts studio space will only be used by the operator of the personal training studio. Since all of the personal training will be one-on-one, not more than two clients will be headed to and/or leaving from the location at any given time. Sidewalks are located on both the Summer Street and School Street sides of the property, as well as in the surrounding area. No changes to the existing structure or adjacent sidewalk are being proposed. Therefore the proposed uses will not greatly impact the pedestrian or vehicular traffic patterns in the area.



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DECISION:

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Danielle Evans and Scott Darling. Upon making the above findings, Susan Fontano made a motion to approve the request for a special permit. Scott Darling 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 to change a nonconforming use (an auto parts sales and warehouse) to two other nonconforming uses in order to open a studio for a personal trainer (§7.11.6.3.a) and an artist studio space (§7.11.6.8.a). 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>(May 10, 2011)</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>December 1, 1966 (May 17, 2011)</td> <td>Plot Plan</td> </tr> <tr> <td>(May 17, 2011)</td> <td>Floor Plan</td> </tr> <tr> <td>(May 17, 2011)</td> <td>Signage for 68 Summer Street</td> </tr> </tbody> </table> <p>Any changes to the approved site plans or uses that are not <i>de minimis</i> must receive SPGA approval.</p>	Date (Stamp Date)	Submission	(May 10, 2011)	Initial application submitted to the City Clerk's Office	December 1, 1966 (May 17, 2011)	Plot Plan	(May 17, 2011)	Floor Plan	(May 17, 2011)	Signage for 68 Summer Street	BP/CO	Plng./ISD	
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(May 17, 2011)	Signage for 68 Summer Street													
2	The Applicant shall meet the Fire Prevention Bureau's requirements.	CO	FP											
3	The artist studio space component of this Special Permit shall not include customer visits, excessive noise, the emission of smoke, dust, or vibration, or the emission of noxious materials or hazardous substances at levels higher than now experienced from permitted uses in the surrounding area. Additionally, the artist studio space shall not occupy more than one half of the site space. Any variation from this type of artist studio space requires a revision to the Special Permit.	Cont.	ISD											
4	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
T.F. Scott Darling, III, Esq.
Danielle Evans

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 _____



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