



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

PLANNING DIVISION

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**Case #: ZBA # 2011-69**  
**Site: 149-151 Washington Street**  
**Date of Decision: October 5, 2011**  
**Decision: *Petition Approved with Conditions***  
**Date Filed with City Clerk: October 6, 2011**

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**ZBA DECISION**

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<b>Applicant Name:</b>	Stephen Krol
<b>Applicant Address:</b>	175 School Street, #1, Somerville, MA 02145
<b>Property Owner Name:</b>	Central San Diego, LLC
<b>Property Owner Address:</b>	P.O. Box 8286, Foster City, CA 94404
<b>Agent Name:</b>	N/A

Legal Notice: Applicant Stephen Krol and Owner Central San Diego LLC, seek a Special Permit with Design Review under SZO §7.11.8.13.a to establish a tattoo parlor.

<u>Zoning District/Ward:</u>	BB zone/Ward 1
<u>Zoning Approval Sought:</u>	§7.11.8.13.a
<u>Date of Application:</u>	August 23, 2011
<u>Date(s) of Public Hearing:</u>	9/21 & 10/5/11
<u>Date of Decision:</u>	October 5, 2011
<u>Vote:</u>	5-0

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Appeal #ZBA 2011-69 was opened before the Zoning Board of Appeals at Somerville High School Auditorium on October 5, 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 planning to exercise this same special permit from 2003 which permitted the establishment of a tattoo parlor at the 149 Washington Street space and would like expand that use into the currently vacant space at 151 Washington Street. Currently the Applicant is working through the necessary approvals to re-open a tattoo establishment at 149 Washington Street and should be able to do so in the near future. The expansion into 151 Washington Street would allow the Applicant more space to operate their business and help to ensure a higher quality establishment. The Applicant is proposing to make the main door of the business the entrance to 151 Washington Street. The parlor would include a waiting/reception area and two tattoo/piercing rooms in the 151 Washington Street space. A seven foot opening would then be created in the wall to provide internal access into the space at 149 Washington Street. The space at 149 Washington Street would contain four tattoo/piercing rooms and the bathroom for the business. The Applicant has submitted photos of the interior of some of their other business locations as examples of what the interior space will look like when completed. The existing door at 149 Washington Street would be permanently locked so that customers could only enter through the doorway to 151 Washington Street to enter the parlor. To help enhance the appearance of the two spaces, the Applicant would like to remove the existing solid doors and replace them with glass doors that would allow for additional visibility into each of the units.

The Applicant is also proposing to install new signage above the existing doorways and would be installing Option 1 on the Signage Plan. Per the requirements of SZO §12.4.4.d the Applicant is permitted to have 63 square feet of signage at this location. The signs above the doors would be 10 feet long by 2.5 high and would have a 3/16" aluminum dibond backing with a vinyl front for the lettering. The signs will be illuminated by the existing bulbs that are attached to the façade and will be made by Creative Signs of Somerville located at 497 Broadway. In the windows of the business the Applicant is proposing to have two neon letter signs that are 4.2 square feet each, with the words "EMPIRE" and "PIERCING" in green and the word "TATTOO" and the phone number of the business, "781-764-3085", in purple. This can be seen on the Window and Door Signage/Lighting Plan submitted by the Applicant. There would also be a small, 2 square foot, LED, "OPEN" sign and a vinyl image on the front door that would indicate the hours of operation for the business. The business would be open from 12 noon to 9 PM, Monday through Saturday, and from 12 noon to 7 PM on Sundays. There is currently an electrical set up that would allow for neon lighting to be installed around the exterior of the windows at 149 Washington Street and the Applicant would like to use this to install red neon lighting around the border of the two windows for the space, as well as the two windows at 151 Washington Street. Other than the new signage, neon lighting, and the new doors, the Applicant is not proposing to make any exterior changes to the structure at this time. Once the business is up and running, the Applicant, in working with the other tenant of the building 90 East, would like explore other potential façade improvements through the City of Somerville Storefront Improvement Program.

## **FINDINGS FOR SPECIAL PERMIT WITH DESIGN REVIEW (SZO §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 §7.11.8.13.a of the SZO, the Board finds that the proposed use would not be substantially more detrimental to the neighborhood than the existing (or previous) uses at the site. The previous use at 149 Washington Street was a tattoo parlor (Mongo's Tattoo Madness) but that storefront space is currently vacant. The storefront at 151 Washington Street is also currently vacant but the most recent use in the space was a commercial photography studio with sets for photo shoots. Since the last previous use at 149



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Washington Street was also a tattoo parlor, the expansion of this use into the space at 151 Washington Street would not negatively impact the surrounding neighborhood.

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 for and maintaining "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 also consistent with the purpose of the BB district (6.1.7. BB - Commercial Residential Districts), which is, "To establish and preserve general commercial and high density residential areas consisting of multi-family developments, shopping centers, commercial strips and automobile related establishments where customers reach individual businesses primarily by automobile."

The proposal is consistent with the purpose of the BB district as the proposal increases commercial investment by taking two vacant commercial spaces along Washington Street and establishes a small scale retail and service space of less than 2,500 square feet. There are only four zoning districts in the city where a tattoo parlor can locate and in all of these districts this use requires a special permit (sometimes a Special Permit with Design Review and sometimes a Special Permit with Site Plan Review depending upon the size of the establishment and the location of the proposed use). This location in the BB district is one of the four zoning districts where a tattoo parlor use can be established by special permit.

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 Board finds that the proposed use would not be substantially more detrimental to the neighborhood than the existing (or previous) uses at the site. The previous use at 149 Washington Street was a tattoo parlor (Mongo's Tattoo Madness) but that storefront space is currently vacant. The storefront at 151 Washington Street is also currently vacant but the most recent use in the space was a commercial photography studio with sets for photo shoots. Since the last previous use at 149 Washington Street was also a tattoo parlor, the expansion of this use into the space at 151 Washington Street would not negatively impact the surrounding neighborhood.

The proposal is also designed to be compatible with the characteristics of the surrounding area and is consistent with the design guidelines in a business zone as laid out in SZO §5.1.5.A.

1. The Applicant is not proposing to alter the massing of the building or its presence along the streetscape in any way. The building will retain its strong presence along Washington Street, right up against the sidewalk.
2. The Applicant will not be altering the existing entrances to the building with regard to their location on the existing structure. The Applicant is, however, proposing to create an exit only door to 149 Washington Street to ensure that all patrons for the business enter through the doorway at 151 Washington Street. The Applicant will also be installing new glass doors for both the 149 and 151 Washington Street units to replace the existing solid doors that are there currently.
- 3./4. As part of the proposal the Applicant will be maintaining the typical bay width, rhythm, and dimensions of the storefronts in the existing building. The physical storefront setup for the building will not be altered in any way with the exception of the door for 149 Washington Street being locked to ensure that all patrons of the business enter through the doorway at 151 Washington Street. An internal, seven foot wide opening will be



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created to allow employees and patrons to pass between the two spaces without having to go outside. The location of the existing entrances to each of the storefronts will be maintained and only the existing doors themselves will be replaced with new glass ones.

5. The Applicant is not proposing to make any changes to the roof type or slope on the existing building as part of their proposal.
6. The Applicant is not proposing to make any alterations to the existing structure outside of new signage for the business and new glass doors to each of the unit entrances. The proposed signage conforms to §12 of the SZO and the new glass doors are consistent with the architectural style of the existing building.
7. There is currently no on-site parking for the existing building and the Applicant is not proposing to change the existing situation. The existing building, which takes up almost the entire lot, will be maintained as will the structure's strong presence along Washington Street.
8. The Applicant is not proposing to relocate or add any new transformers, heating and cooling systems, antennae, or the like to the existing structure.
9. There are no additional specific guidelines set forth in Article 6 of the SZO that apply to the BB district.

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 this proposed new use. No new noise, smoke, vibration, nor emissions of noxious materials nor pollution of water ways or ground water are anticipated as part of the proposal. The only new lighting being added to the façade, as conditioned, will be the neon lettering for the words "EMPIRE", "TATTOO", "PIERCING", and "781-764-3085" (or another phone number if it is changed) and the proposed neon "OPEN" sign. The Applicant is proposing to install red neon lighting around the perimeter of each of the window to the storefront, but the Board has added a condition that would prohibit this installation. This additional lighting, as conditioned, to the two commercial spaces will not greatly impact the surrounding neighborhood. There will also be no transmission of signals that may interfere with radio or television reception from the proposed use. The structure will remain a single story, office/commercial/retail building.

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.

The Applicant is not proposing to make any changes to the existing vehicular or pedestrian circulation at the site. Planning Staff has performed a parking calculation for the proposed use and no additional parking spaces are required under the SZO because the proposed use requires the same number of spaces as the previous uses at 149 and 151 Washington Street. There is currently no on-site parking and to accommodate for their customers the Applicant is planning to have customers park in temporary, on-street spaces in the surrounding neighborhood. The Applicant has stated they will inform their patrons of these locations and also provide a map of parking locations to customers on the business's website.



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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 with design review. 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	Approval is to establish a tattoo parlor under SZO §7.11.8.13.a. 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>(August 23, 2011)</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>(September 8, 2011)</td> <td>Floor Plans for Unit #149 and Unit #151</td> </tr> <tr> <td>August 16, 2011 (September 8, 2011)</td> <td>Engineering Drawings (Sheet 1-4)</td> </tr> <tr> <td>(September 28, 2011)</td> <td>Signage Plan</td> </tr> <tr> <td>(September 28, 2011)</td> <td>Window and Door Signage/Lighting Plan</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	(August 23, 2011)	Initial application submitted to the City Clerk's Office	(September 8, 2011)	Floor Plans for Unit #149 and Unit #151	August 16, 2011 (September 8, 2011)	Engineering Drawings (Sheet 1-4)	(September 28, 2011)	Signage Plan	(September 28, 2011)	Window and Door Signage/Lighting Plan
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Any changes to the approved signage or elevations that are not <i>de minimis</i> must receive SPGA approval. Sign replacement of the same size within the same sign footprint and using the same sign technology shall be permitted by right.																
2	Applicant shall comply with Fire Prevention Bureau's requirements.	CO	FP													
3	No additional internally lit signs shall be allowed unless specifically individually approved by the SPGA in a separate special permit application.	CO/Cont.	Plng.													
4	The Applicant shall install Option 1 on the Signage Plan for the signage above the doorways.	CO	Plng.													
5	The only neon lighting permitted for the business shall be the words "EMPIRE", "TATTOO", "PIERCING", "781-764-3085" (or other phone number if changed), and the proposed "OPEN" sign. No neon lighting shall be permitted at the perimeter of the windows or elsewhere in/on the storefront.	CO/Cont.	Plng.													



6	The color of the neon lighting for the words "EMPIRE", "TATTOO", "PIERCING", and "781-764-3085" (or other phone number if changed) shall match the colors of the proposed signage above the doorways.	CO	Plng.	
7	Applicant shall submit an updated Window and Door Signage/Lighting Plan for Planning Staff approval.	BP	Plng.	
8	All neon lighting shall be turned off when the business is closed.	Cont.	ISD/Plng.	
9	Hours of operation for the business shall be from 12 noon to 9 PM, Monday through Saturday and from 12 noon to 7 PM on Sunday.	Cont.	ISD	
10	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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