



**CITY OF SOMERVILLE, MASSACHUSETTS**  
**MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT**  
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MICHAEL F. GLAVIN  
EXECUTIVE DIRECTOR

PLANNING DIVISION

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ANNE BROCKELMAN, (ALT.)

**Case #: ZBA 2016-85**  
**Site: 1155 Broadway**  
**Date of Decision: August 17, 2016**  
**Decision: Petition Approved with Conditions**  
**Date Filed with City Clerk: August 25, 2016**

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**ZBA DECISION**

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<b>Applicant Name:</b>	True Bistro, LLC
<b>Applicant Address:</b>	15 Squire Road, Winchester, MA 01890
<b>Property Owner Name:</b>	C&T Olympus Realty Trust
<b>Property Owner Address:</b>	P.O. Box 490064, Everett, MA 02149
<b>Agent Name:</b>	Bill Proia, New England Commonwealth
<b>Agent Address:</b>	42 Rockland Street, Natick, MA 01760

<u>Legal Notice:</u>	Applicant True Bistro LLC is expanding into an adjacent space and is adding 23 seats and 2 peak time employees. Relief for three parking spaces is sought under 9.13.
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<u>Zoning District/Ward:</u>	NB zone/Ward 7
<u>Date of Application:</u>	July 1, 2016
<u>Date(s) of Public Hearing:</u>	August 17, 2016
<u>Date of Decision:</u>	August 17, 2016
<u>Vote:</u>	5-0

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Appeal #ZBA 2016-85 was opened before the Zoning Board of Appeals at Somerville City Hall on August 17, 2016. 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  
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**DESCRIPTION:**

The proposal is to expand the restaurant use into the existing adjacent space, formally H&R Block, adding 23 seats and two additional peak employees. Parking relief is needed for 3 spaces.

**FINDINGS FOR SPECIAL PERMIT (SZO §9.13):**

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."*

SZO §9.13 allows for sites with nonconforming parking to apply for a Special Permit to modify parking requirements if the total number of spaces is less than six. In considering a special permit under §9.13 of the SZO the Applicant must be able to demonstrate that granting the requested special permit would not cause detriment to the surrounding neighborhood through any of the criteria as set forth under SZO §9.13, which are as follows:

- 1) increase in traffic volumes;
- 2) increased traffic congestion or queuing of vehicles;
- 3) change in the type(s) of traffic;
- 4) change in traffic patterns and access to the site;
- 5) reduction in on-street parking;
- 6) unsafe conflict of motor vehicle and pedestrian traffic.

Parking Calculation is as follows

Existing use requires two spaces and the proposed requires eight. To determine if more spaces are required, subtract the requirement from the proposed (**8-2**). If the new use is required two (2) more spaces than the previous use 50% of the new requirement shall be provided but not less than one space. **6/2=3** spaces.

3. **Consistency with Purposes:**

In considering a special permit under §9.13 of the SZO the SPGA may grant such a special permit only when consistent with the purposes set forth in Section 9.1. The proposal is to increase seating capacity by 23 seats triggering the need for relief of 3 spaces.

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."*

***Surrounding Neighborhood:*** *The surrounding neighborhood is mixed use low rise commercial and residential at the heart of Teele Square. The businesses serve the abutting Tufts neighborhood.*

5. **Adverse environmental impacts:** *None*

6. Vehicular and pedestrian circulation: *The Project will have increased pedestrian and vehicular traffic as capacity is being increased by 23 seats. A parking study should be conducted prior to CO being issued.*

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

7. 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.*

<u>SomerVision Summary</u>	<i>Existing</i>	<i>Proposed</i>
<i>Dwelling Units:</i>	0	0
<i>Affordable Units:</i>	0	0
<i>Commercial Sq. Ft.:</i>	2026	2026
<i>Estimated Employment:</i>	5	7
<i>Parking Spaces:</i>	0	0
<i>Publicly Accessible Open Space:</i>	0	0

8. Impact on Affordable Housing: *N/A+*



**DECISION:**

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Elaine Severino, Josh Safdie and Anne Brockelman voting with Danielle Evans absent. Upon making the above findings, Richard Rossetti made a motion to approve the request for a Special Permit. Elaine Severino 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								
	Approval is for the Parking relief. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	ISD/Plng.									
	<table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td></td><td>Initial application submitted to the City Clerk's Office</td></tr><tr><td></td><td>Modified plans submitted to OSPCD</td></tr><tr><td></td><td>Modified plans submitted to OSPCD</td></tr></table>				Date (Stamp Date)	Submission		Initial application submitted to the City Clerk's Office		Modified plans submitted to OSPCD		Modified plans submitted to OSPCD
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					Modified plans submitted to OSPCD							
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Any changes to the approved Use that are not <i>de minimis</i> must receive SPGA approval.												
Misc												
1	Windows shall not be covered more than 30% by any material.	CO/CONT	PLND/ISD									
Final Sign Off	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									
2	Architectural plans shall be required for the expansion	BP	ISD/PLNG									

Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Chairman*  
Richard Rossetti, *Clerk*  
Elaine Severino  
Josh Safdie  
Anne Brockelman (Alt.)

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.
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**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 \_\_\_\_\_

