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Case #: ZBA 2014-54
Site: 273 Broadway
Date of Decision: September 3, 2014
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: September 5, 2014

ZBA DECISION

Applicant Name:	271 Broadway, Inc.
Applicant Address:	659 Haverhill Street, Reading, MA 01867
Property Owner Name:	Macarthur Realty Trust, Anthony C. Simboli, Trustee
Property Owner Address:	397 Main Street, Woburn, MA 01801
Agent Name:	Richard G. DiGirolamo, Esq.
Agent Address:	424 Broadway, Somerville, MA 02145

Legal Notice: Applicant, 271 Broadway Inc., and Owner, Macarthur Realty Trust, seek a Special Permit with Design Review per SZO §7.11.10.2 to establish a fast food use and a Special Permit per SZO §9.13 for parking relief.

<u>Zoning District/Ward:</u>	RC zone/Ward 4
<u>Zoning Approval Sought:</u>	§7.11.10.2 & §9.13
<u>Date of Application:</u>	May 19, 2014
<u>Date(s) of Public Hearing:</u>	8/6, 8/20 & 9/3/14
<u>Date of Decision:</u>	September 3, 2014
<u>Vote:</u>	5-0

Appeal #ZBA 2014-54 was opened before the Zoning Board of Appeals at Somerville City Hall on August 6, 2014. 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 proposal is to establish a fast food use, a Subway restaurant, in the laundromat storefront. The restaurant will be 741 square feet. To establish any food service use requires parking relief. This use requires 3 spaces of parking relief.

FINDINGS FOR SPECIAL PERMIT (SZO §7.11.10.2 & §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."*

Section 7.11.10.2 requires a Special Permit with Design Review to establish a fast order food establishment with no drive-up service. Parking relief is also required to establish this use. There is no parking associated with the building. Per SZO §9.4 when there is a change in use without a change in floor area, the old parking requirement is subtracted from the new parking requirement and then divided by two. This makes the new parking requirement.

<i>Use</i>	<i>Parking Calculation</i>	<i>Required Spaces</i>
Laundromat	1 per every 450 sf	2
Food Service	1 per every 110 gsf	741/110 = 6.7
§9.4 Modification	(Old Req. – New Req)/2	7-2 = 5/2 = 2.5 or 3 spaces

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 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 RC 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."

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.



Relief of 3 parking spaces will not cause detriment to the purposes of the article. There is a metered city lot in front of the building that is shared by business owners, employees, and visitors of the district. The parking memo supplied found that there is sufficient parking in the area to accommodate the relief.

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 surrounding neighborhood is a mix of uses. The majority of the Broadway corridor has first floor service uses, some with residential above. This area of Broadway is exceptionally wide and has parking lots and parallel parking. The subject property is in next to Foss Park.

There are no impacts to the proposal. The fast food use is of minimal impact since it is occupying a vacant storefront and will not have a drive through. The signage is in context with the Broadway corridor. Parking at metered spaces is typical for storefront uses along the Broadway corridor.

5. 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.*

Parking relief of 3 spaces will not affect the vehicular and pedestrian connections that exist at the site. Vehicles for the storefronts at 271-273 Broadway will most likely park in the metered lot in front of the building. A condition of this report is that the Applicant install a bike rack in the vicinity of the project.

6. Fast food establishments: *In special permit applications for fast-order, take-out or automobile oriented food service establishments, there shall be establishment of a need for such a facility in the neighborhood or in the City, and impacts on traffic circulation, parking and visual, physical, or historical characteristics of the particular location shall not be detrimental.*

The Subway restaurant is occupying an existing storefront. Their signage fits in the context of the neighborhood. Subway will provide a different food option within the corridor.

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>	74	741
<i>Estimated Employment:</i>	Unknown	2
<i>Parking Spaces:</i>	0	0



Publicly Accessible Open Space:	0	0

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	Approval is for the a Special Permit with Design Review per SZO §7.11.10.2 to establish a fast food use and a Special Permit per SZO §9.13 for 3 spaces of 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>May 19, 2014</td><td>Initial application submitted to the City Clerk’s Office</td></tr><tr><td>(August 27, 2014)</td><td>Modified plans submitted to OSPCD (Plot Plan, Plans 1 of 2, Plans 2 of 2, Signage)</td></tr></table>				Date (Stamp Date)	Submission	May 19, 2014	Initial application submitted to the City Clerk’s Office	(August 27, 2014)	Modified plans submitted to OSPCD (Plot Plan, Plans 1 of 2, Plans 2 of 2, Signage)
	Date (Stamp Date)				Submission					
	May 19, 2014				Initial application submitted to the City Clerk’s Office					
(August 27, 2014)	Modified plans submitted to OSPCD (Plot Plan, Plans 1 of 2, Plans 2 of 2, Signage)									
Any changes to the approved plans or 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							
Site										
4	The Applicant shall purchase and install one U-Shaped bike rack to be installed in the vicinity of the projects.	CO	Plng.							
Miscellaneous										



5	Approval is for the fast food use for the Applicant, 271 Broadway Inc, Inc. A future tenant of this space for the fast order food use would have to come back to the ZBA for special permit approval in order to operate in this location.	Cont.	Plng	
6	The Owner, 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	
Public Safety				
7	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
Signage				
8	Signage will be limited in size and location to that shown in the signage plan. Lighting after 10p.m. facing residential property will be turned down or off.	CO/Cont.	Plng.	
Final Sign-Off				
9	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

Attest, by the Administrative Assistant:

Dawn M. PereiraCopies 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 _____

