



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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PLANNING DIVISION

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Case #: ZBA 2016-154
Site: 278 Highland Avenue
Date of Decision: January 18, 2017
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: January 23, 2017

ZBA DECISION

Applicant Name:	Katie Rooney, 3 Little Figs
Applicant Address:	278B Highland Avenue, Somerville, MA 02143
Property Owner Name:	Joseph Bingel, 278 Highland Ave Realty
Property Owner Address:	20 Dennett Road, Winchester, MA 01890
Agent Name:	Al Weisz
Agent Address:	93 Hudson Street, Somerville, MA 02144

<u>Legal Notice:</u>	Applicant, Katie Rooney, 3 Little Figs, and Owner, Joseph Bingel, Trustee of 278 Highland Avenue Realty Trust, seek a Special Permit with Design Review under SZO §7.11.10.1.1.a to change the space from an office to expand the adjacent café.
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<u>Zoning District/Ward:</u>	RC zone/Ward 5
<u>Zoning Approval Sought:</u>	§7.11.10.1.1.a
<u>Date of Application:</u>	December 11, 2016
<u>Date(s) of Public Hearing:</u>	January 18, 2017
<u>Date of Decision:</u>	January 18, 2017
<u>Vote:</u>	5-0

Appeal #ZBA 2016-154 was opened before the Zoning Board of Appeals at Somerville City Hall on January 18, 2017. 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 existing café into the space used by the tax office. The space will be used as an expansion of the prep kitchen, storage, and an office in the basement.

FINDINGS FOR SPECIAL PERMIT WITH DESIGN REVIEW (SZO §7.11.10.1.a):

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."*

Pursuant to SZO §7.11.10.1.a a restaurant other than fast order food of less than 2,500 square feet of gross floor area, of which the existing café is categorized, in the RC zoning district requires a Special Permit with Design Review.

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 I, 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 promote 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 secure safety from fire, panic and other dangers; to prevent the overcrowding of land; 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 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." The locus contains a mixed-use structure and the expansion of the existing café is compatible with the structure and other nearby uses. Also, the expansion of the café would be convenient to the residents of the district.

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 comprised of numerous three-story dwellings with a variety of uses that include residential, mixed use, and commercial. Staff finds that the proposal to expand the café will fit in with the surrounding neighborhood.

Impacts of Proposal (Design and Compatibility):

Special Permits with Design Review applications in Residence Districts must meet the design guidelines under SZO §5.1.5.B. The design guidelines for residential districts are as follows:

1. *Buildings should be generally of the same size and proportions as those existing in the neighborhood. This shall apply in cases of multi-family development as well as one-, two-, and three-family units. For example,*



if relatively small two- and three-family structures are common in a neighborhood where multi-family development is proposed, the multi-family development should be physically broken into components that, from a design perspective, are housed in buildings of similar width, depth, and height as those typically found in the neighborhood.

This particular section of Highland Avenue includes many three-story structures and is proportionate with other structure in the neighborhood.

2. *Use of traditional and natural materials is strongly encouraged (e.g. wood clapboard, wood shingles, brick).*

The existing ground floor is stucco and the upper floors are clad with wood shingles.

3. *Additions to existing structures should be consistent with the architecture of the existing structure in terms of window dimensions, roof lines etc.*

Not applicable as there will be no alterations or additions made to the existing structure.

4. *Although additions should not clash with or be incompatible to the existing structure, it is acceptable and even desirable for the new construction to be distinguishable from the existing building, perhaps by maintenance of design elements of the original building that would otherwise be lost (e.g. false rakes, fasciae, and the like).*

Not applicable as there will be no alterations or additions made to the existing structure.

5. *Where practical, new or infill building construction should share the same orientation to the street as is common in the neighborhood. When not contrary to any other zoning law, front and side yards should be of similar dimensions as those typical in the area.*

The expansion of the café will share the same orientation to the street as the previous office space and the existing part of the café. There will be no alterations to any of the existing setback dimensions.

6. *Driveways should be kept to minimal width (perhaps a maximum of twelve (12) feet), and be designed so that no vehicle parked on the drive may straddle the public sidewalk in any way. Low barriers or plantings may be required to separate the parking area from the pedestrian space.*

The existing driveway is configured as a double driveway where there are two sets of tandem spaces. With the condition that no cars overhang into the sidewalk Staff finds that the existing parking configuration will not impact the pedestrian space.

7. *Transformers, heating and cooling systems, antennas, and the like, should be located so they are not visible from the street or should be screened.*

Transformers, heating and cooling systems, antennas, and the like are not visible from the street.

8. *Sites and buildings should comply with any guidelines set forth in Article 6 of this Ordinance for the specific base or overlay zoning district(s) the site is located within.*

The proposal is consistent with the purpose of the RC district and the locus is not located in an overlay 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.

Impacts of Proposal (Environmental): There will be no adverse environmental impacts as a result of the proposal.

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.*

Impacts of Proposal (Circulation): The proposed expansion of the café does not require additional off-street parking spaces nor is it expected to result in conditions that create traffic congestion or the potential for traffic accidents on the site or in the surrounding area.

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

There will be no 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.*

The expansion of the café will be preserve the character of the neighborhood and allow for the growth of a locally owned business.



DECISION:

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans, Elaine Severino and Josh Safdie. Upon making the above findings, Richard Rossetti made a motion to approve the request for a Special Permit with Design Review. 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						
1	Approval is for the expansion of a cafe. 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>December 11, 2016</td><td>Initial application submitted to the City Clerk's Office</td></tr><tr><td>December 1, 2016</td><td>Plans submitted to OSPCD (X1.0, X1.1, A1.0, A1.1)</td></tr></table>				Date (Stamp Date)	Submission	December 11, 2016	Initial application submitted to the City Clerk's Office	December 1, 2016	Plans submitted to OSPCD (X1.0, X1.1, A1.0, A1.1)
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	December 11, 2016				Initial application submitted to the City Clerk's Office					
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Any changes to the approved use that are not <i>de minimis</i> must receive SPGA approval.										
2	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.							
3	Signage shall be limited to the existing awnings. Any change in signage shall be reviewed by Planning Staff conformance with the SZO.	Perpetual	Plng.							
4	The Applicant and/or Owner shall ensure that vehicles parked on the locus do not overhang onto the public sidewalk.	Perpetual	ISD/Plng.							
Final Sign-Off										
5	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:

Orsola Susan Fontano, *Chairman*
Richard Rossetti, *Clerk*
Danielle Evans
Elaine Severino
Josh Safdie

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 _____

