



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

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Case #: ZBA 2016-53
Site: 364-366 Medford Street
Date of Decision: June 29, 2016
Decision: Petition Approved with Conditions
Date Filed with City Clerk: July 5, 2016

ZBA DECISION

Applicant Name:	Gita Majumdar
Applicant Address:	364-366 Medford Street, Somerville, MA 02143
Property Owner Name:	Chen Chong
Property Owner Address:	368 Medford Street, Somerville, MA 02143
Agent Name:	N/A

<u>Legal Notice:</u>	Applicant, Gita Majumdar, and Owner, Chen Chong, seek a Special Permit under SZO §4.4.1 to expand existing restaurant space to add seating and handicap accessibility in addition to parking relief under SZO §9.5.10. BA zone. Ward 4.
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<u>Zoning District/Ward:</u>	BA zone / Ward 4
<u>Date of Application:</u>	April 25, 2016
<u>Date(s) of Public Hearing:</u>	6/29/16
<u>Date of Decision:</u>	June 29, 2016
<u>Vote:</u>	5-0

Appeal #ZBA 2016-53 was opened before the Zoning Board of Appeals at Somerville City Hall on June 29, 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.



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DESCRIPTION:

The subject property is a single-story, brick commercial building resting on a 3,049 square foot lot.

II. FINDINGS FOR SPECIAL PERMIT

In order to grant a special permit the SPGA must make certain findings and determinations as outlined in §4.4.1 and §9.5 of the SZO. This section of the report goes through §4.4.1 and §9.5 in detail.

1. Information Supplied:

The Staff finds that the information provided by the Applicant conforms to the requirements of SZO §4.4.1 as well as §9.5 and allows for a comprehensive analysis of the project.

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..."***Under SZO §4.4.1**

The increase in net floor area requires the Applicant to request a Special Permit. Currently, the restaurant space occupies 744 square feet of space. With the proposed changes, the net floor area will increase to 1,524 square feet. The current FAR is .27 and the proposed FAR is .54. The BA zone, in which this property is located, allows for a maximum FAR of 2.0. The proposed increase in net floor area leaves the FAR well under the 2.0 allowed for this zone.

Under SZO §9.5

Given the nature of the property, there is no on-site parking available. There is one employee of the restaurant. Under the current conditions, 2.75 spaces should be provided by the restaurant. Given the site conditions, none of these can be provided. Under the proposed conditions, 5.75 parking spaces should be provided. Under each scenario, .75 spaces should be provided for the single employee and 1 space provided for every set of four seats.

Existing: 1 employee = .75 spaces
8 seats = 2 spaces
Minimum required parking: 2.75 spaces

Proposed: 1 employee = .75 spaces
20 seats = 5 spaces
Minimum required parking: 5.75 spaces

To determine the amount of parking for which relief is needed, the following equation is used:

$$(\text{new parking requirement} - \text{old parking requirement}) \times .5 = \text{new spaces required}$$

In this instance, the parking equation is $(5.75 - 2.75) \times .5 = 1.5$ spaces of relief

The hours of operation of the restaurant will remain the same as current.

3. Purpose of District: *The Applicant has to ensure that the project "is consistent with the intent of the specific zoning district as specified in Article 6".*

The purpose of the BA district is to "...establish and preserve business areas bordering main thoroughfares that are attractive to a wide range of uses, including retail business and services, housing, government, professional and



medical offices, and places of amusement. While it is anticipated that most users will arrive by motor vehicle, it is intended that the area should be safe for and conducive to pedestrian traffic.”

This is an existing business that meets the criteria of the BA 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 existing natural features of the site and is compatible with the characteristics of the surrounding area, and that the scale, massing and detailing of the buildings are compatible with those prevalent in the surrounding area”.*

Under SZO §4.4.1

The area is a mix of two-, three-, and multi-family structures along with small businesses of varying sorts, a school, gas station, and government offices. All of the changes to the property are interior in nature. Staff finds that such changes are consistent with both the site and the surrounding area; there are numerous other small businesses on this busy thoroughfare along with residential structures which this business is able to serve. This Indian restaurant has been in operation in this same location for some time. Expansion of the net floor area will allow for the owner to expand his business operations and provide the type of services encouraged in the BA district.

Under SZO §9.5

Despite the increase in the number of people that this unit will be able to serve at one single time, Staff finds that providing **1.5** spaces of parking relief will not be a detriment to the site or area. Regarding each of the items below, Staff finds the following:

a. Increase in traffic volumes

It could be argued that, given the number of anticipated seats filled (20) at one time, that there is the potential for an uptick in vehicular traffic in the area. This is, however, a busy street that already accommodates a goodly volume of daily traffic. The BA district is also designed to encourage pedestrian traffic. Given the large number of residential dwellings in the area, Staff finds that the increased seating will allow for nearby residents to walk to the restaurant for pick-up food or to eat in-house. Ultimately, the walkability of the area should help mitigate the need for a significant uptick in vehicular traffic.

b. Increased traffic congestion or queueing of vehicles

The BA district anticipates vehicular traffic but is zoned to encourage pedestrian traffic. Given the small number of overall seats (20) and the location/walkability of the area, it would be unlikely that the increase from 8 to 20 seats would create a significant uptick in vehicular traffic. The site in question is at the intersection of Medford and School Streets which experience continual queueing throughout the day at the signal.

c. Change in the type(s) of traffic

The change in use will not create a change in the type of vehicular or non-vehicular traffic in the area.

d. Change in traffic patterns and access to the site

The change in use will not cause a change in the traffic patterns from that which exists today. The restaurant has been in existence for some time and access to the business will continue in the same way as it has: via vehicular, bicycle and pedestrian traffic.

e. Reduction in on-street parking

The proposal will not create a reduction in on-street parking. Providing parking relief for the restaurant is consistent with the parking relief that was provided under its current conditions and is a reasonable accommodation to make for a small business in the BA district.

6. Impact on Public Systems: *The project will “not create adverse impacts on the public services and facilities serving the development, such as the sanitary sewer system, the storm drainage system, the public water*



supply, the recreational system, the street system for vehicular traffic, and the sidewalks and footpaths for pedestrian traffic.”

The proposal will not create adverse impacts on the public services and facilities serving the development.

7. **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.”*

The proposed parking relief will not create and adverse impact on the surrounding area.

8. **Consistency with Purposes:**

Under SZO §4.4.1

“Is consistent with the purposes of this Ordinance, §4.1 which states that its purpose is, in part that, “non-conforming uses and structures are to be strictly regulated, and that the provisions of this Ordinance will be construed and interpreted in the light most favorable to limiting the continuation and/or expansion of non-conforming uses and structures.”

The proposal is consistent with the general purposes of the Ordinance as set forth in §4.1 in that the alterations being made to the structure are interior-only and will be seen in a limited fashion from the street. Yet, allowing for these changes is a reasonable accommodation to make in order for the restaurant owner to expand his business.

Under SZO §9.5

“Is consistent with: 1) the purposes of this Ordinance, §9.1 which states that its purpose is, in part: “...establish standards ensuring the availability and safe use of parking areas within the City of Somerville...”

The proposal is consistent with the general purposes of the Ordinance as set forth under §9.1, in that it will not significantly impact the orderly access and egress to and from the public street, will not significantly increase the amount of traffic on the street, will not contribute to surface water run-off, nor create an increase in expenses of paving.

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

Not applicable.

10. **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.*

Not applicable.



DECISION:

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Anne Brockelman, Elaine Severino, Danielle Evans, and Josh Safdie. Upon making the above findings, Richard Rossetti made a motion to approve the request for a Special Permit with the addition of one condition. 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 to increase the net floor area from 744 square feet to 1,524 square feet and to provide relief for 1.5 parking spaces.	BP/CO	ISD/ Plng.							
	<table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>April 25, 2016</td><td>Initial application submitted to City Clerk's office</td></tr><tr><td>June 15, 2016</td><td>Updated plans submitted to Planning Office</td></tr></table>				Date (Stamp Date)	Submission	April 25, 2016	Initial application submitted to City Clerk's office	June 15, 2016	Updated plans submitted to Planning Office
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Any changes to the approved plan that are not <i>de minimis</i> must receive SPGA approval.										
2	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP							
3	The Applicant or Owner shall ensure that all build-outs are performed exactly according to plans.	CO	ISD/Plng							

Attest, by the Zoning Board of Appeals:

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

Attest, by the Staff:

Sarah White

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 _____

