



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

MICHAEL F. GLAVIN  
EXECUTIVE DIRECTOR

PLANNING DIVISION

**ZONING BOARD OF APPEALS MEMBERS**

HERBERT F. FOSTER, JR., *CHAIRMAN*  
ORSOLA SUSAN FONTANO, *CLERK*  
RICHARD ROSSETTI  
DANIELLE EVANS  
ELAINE SEVERINO  
JOSH SAFDIE (ALT.)  
BRANDY BROOKS (ALT.)

**Case #: ZBA 2014-38**  
**Site: 525 Medford Street**  
**Date of Decision: June 4, 2014**  
**Decision: Petition Approved with Conditions**  
**Date Filed with City Clerk: June 10, 2014**

---

**ZBA DECISION**

---

<b>Applicant Name:</b>	Dimitra Tsourianis
<b>Applicant Address:</b>	102 Pearl Street, Somerville, MA 02145
<b>Property Owner Name:</b>	Dimitra Tsourianis
<b>Property Owner Address:</b>	102 Pearl Street, Somerville, MA 02145
<b>Agent Name:</b>	N/A

<u>Legal Notice:</u>	Applicant, Dimitra Tsourianis, and Owner, 525 Medford Street, LLC, seek a Special Permit with Design Review to establish a restaurant with outdoor seating (SZO §7.11.10.1.2.b) and a Variance from the parking requirements (§9.5). Zone NB. Ward 5.
----------------------	---

<u>Zoning District/Ward:</u>	NB zone/Ward 5
<u>Zoning Approval Sought:</u>	§7.11.10.1.2.b & §9.5
<u>Date of Application:</u>	April 29, 2014
<u>Date(s) of Public Hearing:</u>	June 4, 2014
<u>Date of Decision:</u>	June 4, 2014
<u>Vote:</u>	5-0

---

Appeal #ZBA 2014-38 was opened before the Zoning Board of Appeals at the Visiting Nurse Association on June 4, 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.



CITY HALL • 93 HIGHLAND AVENUE • SOMERVILLE, MASSACHUSETTS 02143  
(617) 625-6600 EXT. 2500 • TTY: (617) 666-0001 • FAX: (617) 625-0722  
[www.somervillema.gov](http://www.somervillema.gov)

**DESCRIPTION:**

The application is for outdoor seating for the restaurant in the paved area behind the restaurant that will accommodate 32 chairs. The pavement will be redone and a "green wall" will be installed around the pavement to enclose it. There will be a gate or opening in the wall to allow for access from Broadway. There will be a 18 by 8 foot trash enclosure. To access the patio from the restaurant, a new internal stair is proposed. The number of employees at peak times, 4, will not change with the proposal.

**FINDINGS FOR SPECIAL PERMIT WITH DESIGN REVIEW (SZO §5.1 & §7.11):**

In order to grant a special permit with design review, 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."*

Special Permit with Design Review to establish a restaurant with outdoor seating (SZO §7.11.10.1.2.b).

Under Section 6.1.4 all developments within the Neighborhood Business (NB) district that require a special permit with design review should comply with the following guidelines to the highest degree practicable.

1. When a fourth floor is included, provide a minimum five (5) foot deep setback from the front lot line building wall, such as a balcony or deck, for the purpose of promoting a scale appropriate to surrounding neighborhoods.

This standard is not applicable for a one-story building.

2. Give preference to locating on-site, off-street parking at the rear of the lot, behind the building or below street level, providing vehicular access from either a side street or alley where possible.

The patio area will accomplish what this guideline is intending to achieve by removing a paved area from being visible from a street. The lot is an eyesore and creates a break in the streetwall along Broadway. With the proposed green wall, trash enclosure, and activity in this space, the streetscape and life of Magoun Square will improve.

Compliance with accessibility standards were raised due to the grade change from the existing restaurant to the outdoor patio area. Under MAAB 3.3.1, if the applicant spends more than \$100,000 over a three-year period, then all the work they have performed is required to comply with 521 CMR. In addition, the applicant would be required to provide an accessible entrance and accessible toilet rooms. The Applicant is gathering data to determine the expense that was put into the recent restaurant renovations and the cost of the proposed work. Once this is determined, the applicable regulations will apply and there is a condition of approval to ensure that the regulations are met.

Parking relief is required as noted in Section 3 below. One bicycle rack is required, which can be provided by purchasing a bike rack for the sidewalk.

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 conserving the value of land and buildings and encouraging the most appropriate use of land throughout the City and preserving and increasing the amenities of the municipality.

The proposal is consistent with the purpose of the NB district, which is, “[t]o establish and preserve areas for small-scale retail stores, services and offices which are located in close proximity to residential areas and which do not have undesirable impacts on the surrounding neighborhoods.”

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 land uses are offices and retail stores that will likely not be negatively impacted by the noise and activity that outdoor seating would bring to the Square.

*In addition to the standard findings and determinations for special permit review (Section 5.1.4.), the SPGA shall also review and make a positive determination that an SPD application is in substantial conformance with the following guidelines. The guidelines are intended to serve as a general basis for the SPGA and Applicant alike to discuss the design merits of a project, but are not intended to inhibit design creativity when the special permit application otherwise conforms to all other substantive review criteria.*

1. Maintain a strong building presence along the primary street edge, continuing the established streetwall across the front of the site so as to retain the streetscape continuity; however, yards and setbacks as required by Article 8 shall be maintained.

The low planter boxes along the sidewalk will help to rebuild the streetwall along Broadway and give the patio a sense of enclosure.

2. Differentiate building entrances from the rest of the primary street elevation, preferably by recessing the entry from the plane of the streetwall or by some other articulation of the elevation at the entrance.

Not applicable.

3. Make use of the typical bay widths, rhythms and dimensions prevalent in buildings adjacent to the site, especially in new construction or substantial redevelopment.

Not applicable.

4. Clearly define these bay widths, rhythms and dimensions, making them understandable through material patterns, articulations and modulations of the facades, mullion design and treatment, etc.



Not applicable.

5. Provide roof types and slopes similar to those of existing buildings in the area.

Not applicable.

6. Use materials and colors consistent with those dominant in the area or, in the case of a rehabilitation or addition, consistent with the architectural style and period of the existing building. Use of brick masonry is encouraged, but not considered mandatory.

Not applicable.

7. When parking lots are provided between buildings, abutting the primary street and breaking the streetwall, provide a strong design element to continue the streetwall definition across the site, such as a low brick wall, iron works or railing, trees, etc.

This guideline will be achieved with a low planter box along the sidewalk on Broadway to give streetwall definition across the site.

8. Locate transformers, heating and cooling systems, antennae, and the like, so they are not visible from the street; this may be accomplished, for example, by placing them behind the building, within enclosures, behind screening, etc.

The trash enclosure will be screened by movable enclosure walls.

9. 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.

Not applicable.

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

The proposal does not impact housing.

6. 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 establishment of an outdoor patio space in Magoun Square will add vitality to the Square and provide a new outdoor space for people to enjoy over providing loading space for the restaurant, which can occur on the street. The idea of outdoor seating for this restaurant was discussed in a positive light at neighborhood planning meetings



for the Lowell Street Station Area. The proposal also complies with the actions of SomerVision in improving this area that is in an "Enhancement" area of the City.

**FINDINGS FOR VARIANCE FOR PARKING (SZO §5.5 & §9.5):**

The parking requirement for a restaurant is based on either square footage or number of employees and seats, depending on which is greater. Based on number of new seats outside and no new staff the requirement is 8 spaces. Based on gross floor area of 1306 square feet with table/chairs and wait staff area outside the requirement is 12 spaces. Therefore the requirement is for 12 spaces. In order to grant a variance the Board must make certain findings and determinations as outlined in §5.5.3 of the SZO.

1. *There are "special circumstances relating to soil conditions, shape or topography of land or structures which especially affect such land or structures but not affecting generally the zoning district in which it is located, causing substantial hardship, financial or otherwise."*

The site is unique in that it is a through lot with frontage on Broadway and Medford Streets. It would be awkward to use the space as a parking lot and it has not been used as a parking lot for the restaurant because people would have to walk around the block to access the front door. The site is underutilized and a detriment to the streetscape causing a hardship for the neighborhood.

2. *"The variance requested is the minimum variance that will grant reasonable relief to the owner, and is necessary for a reasonable use of the building or land."*

Adding outdoor seating is a reasonable use that will grant reasonable relief to the viability of the business in the slower summer months. It is typical in the City's vibrant, walkable Squares that off-street parking is not provided. Many patrons walk and for those that drive the parking study submitted shows that sufficient on-street parking exists. An average of 92 parking spaces were available during the weekday evening period and an average of 44 parking spaces were available during Saturday evening which is more than adequate to accommodate the parking demand for 32 additional seats that the restaurant. Detailed parking findings can be found in the report.

3. *"The granting of the variance would be in harmony with the general purpose and intent of this Ordinance and would not be injurious to the neighborhood or otherwise detrimental to the public welfare."*

The proposal is in harmony with the intent of the Ordinance and it would not be injurious to the neighborhood. The Applicant submitted a parking assessment that states that not providing additional parking on the site will have a negligible impact due to the proximity to public transit, transportation modes and characteristics and on-street and municipal parking utilization. Turning a paved area into a vibrant outdoor space and adding landscaping to the site will improve the appearance of the lot and add an amenity to the Square.



**DECISION:**

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Danielle Evans and Elaine Severino with Josh Safdie absent. 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 establishment of outdoor seating and relief from providing 12 parking spaces. 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>April 29, 2014</td><td>Initial application submitted to the City Clerk’s Office</td></tr><tr><td>Mar 7, 2014</td><td>Plans submitted to OSPCD (Plot Plan)</td></tr><tr><td>(May 29, 2014)</td><td>Modified plans submitted to OSPCD (Site Plan)</td></tr></table>				Date (Stamp Date)	Submission	April 29, 2014	Initial application submitted to the City Clerk’s Office	Mar 7, 2014	Plans submitted to OSPCD (Plot Plan)	(May 29, 2014)	Modified plans submitted to OSPCD (Site Plan)
	Date (Stamp Date)				Submission							
	April 29, 2014				Initial application submitted to the City Clerk’s Office							
	Mar 7, 2014				Plans submitted to OSPCD (Plot Plan)							
(May 29, 2014)	Modified plans submitted to OSPCD (Site Plan)											
Any changes to the approved site plan or use that are not <i>de minimis</i> must receive SPGA approval.												
<b>Pre-Construction</b>												
2	Under MAAB 3.3.1, if the applicant has spent or will spend with this proposal more than \$100,000 in renovations over a three-year period, then all the work performed is required to comply with 521 CMR including:  1. The new seating area will have to be served by accessible toilet rooms (MAAB 3.3.1.b) reachable via an accessible route.  2. Both seating areas will be subject to 521 CMR, which includes but is not limited to a requirement that at least 5% of the tables, but not less than one, in each area be accessible (MAAB 17.2 and 17.2.1).	BP	ISD/ Plng.									
3	Applicant will supply 1 bicycle parking spaces. If this cannot be accommodated onsite, the Applicant may purchase a rack to be installed on the sidewalk per City standards.	CO	Plng.									
<b>Traffic &amp; Parking</b>												
4	Applicant shall purchasing and delivering to Traffic and Parking three single spaced parking meters with the capacity to accept both coins and credit cards and are consistent with the current parking meter fleet in Somerville.											
<b>Final Sign-Off</b>												



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:

Herbert Foster, *Chairman*  
Orsola Susan Fontano, *Clerk*  
Richard Rossetti  
Danielle Evans  
Elaine Severino

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 \_\_\_\_\_

