



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

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Case #: ZBA 2016-44
Site: 3 Washington Street
Date of Decision: May 4, 2016
Decision: Petition Approved with Conditions
Date Filed with City Clerk: May 16, 2016

ZBA DECISION

Applicant Name:	Union Kitchen, LLC/DBA Foundation Kitchen
Applicant Address:	328 Dartmouth Street, Boston, MA 02116
Property Owner Name:	Chung Lee, C&S Realty Trust
Property Owner Address:	33 Third Street, Medford, MA 02155
Agent Name:	N/A

<u>Legal Notice:</u>	Applicant Union Kitchen LLC, DBA Foundation Kitchen Ciaran Nagle, and Owner Chung Lee, C+S Realty Trust, seek a Special Permit with Design Review to expand uses from a restaurant to include catering.
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<u>Zoning District/Ward:</u>	RC zone/Ward 1
<u>Date of Application:</u>	March 21, 2016
<u>Date(s) of Public Hearing:</u>	4/20 & 5/4/16
<u>Date of Decision:</u>	May 4, 2016
<u>Vote:</u>	5-0

Appeal #ZBA 2016-44 was opened before the Zoning Board of Appeals at Somerville City Hall on April 20, 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 proposal is to continue the use of the existing restaurant space on the ground floor, but to also include catering as part of this use. Despite not needing any parking relief, the applicant has entered a lease agreement with the owner of the 13-space parking lot located at 17 Washington Street, just 45' away. The Applicant has also agreed to construct a privacy fence along the eastern property line to separate the rear yard of 3 Washington street from the abutting property at 1 Washington Street. The Applicant has also agreed to keep the door on the east side of the property locked to people from the outside, and used only as an emergency exit. The Applicant is also proposing to clean up the façade of the structure, remove the existing awning, add a new sign, and repaint the façade.

FINDINGS FOR SPECIAL PERMIT (SZO §7.11):

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."

The structure is currently nonconforming with respect to the following dimensional requirements: all setbacks. The proposal will not impact any of the nonconforming dimensions; it is only a change of use. Per SZO section 7.11.10.4, catering uses in RC zones require Special Permits with Design Review. In considering a special permit under §7.11 of the SZO, the Board finds that the use proposed would not be substantially more detrimental to the neighborhood than the existing use.

The certificate of occupancy from 2008 states that the maximum seats allowed in the existing restaurant is 48. The Board assumes that the existing restaurant would have needed 5 employees for operation. The applicant is proposing to have 12-15 employees working at a time. To offset the parking needs for the employees (.75 per employee) the applicant has agreed to have no more than 24 seats in the restaurant, as such, the parking requirement does not change as compared with the existing use. Section 9.4 of the SZO states that changes in use with no change in floor area, that do not increase parking requirements, do not need to seek parking relief.

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 The purposes of the Ordinance are 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 lessen congestion in the streets; to protect health; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements; to conserve the value of land and buildings; to preserve the historical and architectural resources of the City; to adequately protect the natural environment; to encourage the most appropriate use of land throughout the City; to protect and promote a



housing stock that can accommodate the diverse household sizes and life stages of Somerville residents at all income levels, paying particular attention to providing housing affordable to individuals and families with low and moderate incomes; and to preserve and increase the amenities of the municipality.

The proposal is consistent with the purposes of the 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.

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 contains a mix of building types and uses. One side of Washington Street is primarily 2-3 family residential structures of various styles, but many of them on Washington Street include small businesses such as the restaurant in the subject property. On the South side of Washington Street there are larger structures such as the Holiday Inn, the Cobble Hill Apartment complex and a number of light industrial uses.

Impacts of Proposal (Design and Compatibility): This food-related use will likely have a positive impact on the neighborhood. The physical changes to the interior of the structure will likely have little to no impact on the neighborhood.

Special Permits with Design Review and Special Permit with Site Plan Review applications must meet the design guidelines under SZO §5.1.5/5.2.4. The design guidelines for Residence Zones are as follows:

Design Guidelines for Residence Zones.

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.

NA, Building is not changing.

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

NA, Building is not changing.

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

NA, Building is not changing.

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).

NA, Building is not changing.



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.

NA, Building is not changing.

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.

NA, Building is not changing.

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.

NA, Building is not changing.

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.

NA, Building is not changing.

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): No adverse impacts on the surrounding area anticipated as a result of excessive noise, illumination, glare, dust smoke or vibration, or from emissions of noxious materials, or pollution of water ways or ground water, or interference with radio or television signals.

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): No traffic congestion or potential for accidents are anticipated as a result of this structure.

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

8. 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.

9. Impact on Affordable Housing: In conjunction with its decision to grant or deny a special permit for a structure of four or more units of housing, the SPGA shall make a finding and determination as to how implementation of the project would increase, decrease, or leave unchanged the number of units of rental and home



ownership housing that are affordable to households with low or moderate incomes, as defined by HUD, for different sized households and units.

No impact on affordable housing.

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. 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 Special Permit with Design Review to expand uses to restaurant with catering. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	ISD/PIng.							
	<table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>March 21, 2016</td><td>Initial application submitted to the City Clerk's Office</td></tr><tr><td>April 28, 2016</td><td>Updated Plans submitted to OSPCD (1-8)</td></tr></table>				Date (Stamp Date)	Submission	March 21, 2016	Initial application submitted to the City Clerk's Office	April 28, 2016	Updated Plans submitted to OSPCD (1-8)
	Date (Stamp Date)				Submission					
	March 21, 2016				Initial application submitted to the City Clerk's Office					
	April 28, 2016				Updated Plans submitted to OSPCD (1-8)					
Any changes to the approved (site plan or elevations/use that are not <i>de minimis</i> must receive SPGA approval.										
Construction Impacts										
2	The applicant shall post the name and phone number of the general contractor at the site entrance where it is visible to people passing by.									
3	Approval is subject to the Applicant's and/or successor's right, title and interest in the property.	Cont.	PIng.	Deed submitted & application formed signed						
4	The Applicant shall at their 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							

5	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	
Design				
4	The Applicant or Owner shall work with the planning staff on final color selection and signage design, and submit material and color samples prior to installation. The applicant will also ensure that the door on the east side of the structure remain locked from the outside and used only as an emergency fire exit, and the Applicant will also construct a fence along the eastern property line to separate the rear yard of 1 Washington Street from 3 Washington Street.	C/O	Plng.	
Public Safety				
5	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
Final Sign-Off				
6	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. 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 _____

