



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

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Case #: ZBA 2016-146
Site: 352 Washington Street
Date of Decision: January 4, 2017
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: January 6, 2017

ZBA DECISION

Applicant Name:	Sasha Craine
Applicant Address:	54 Linden Place, Brookline, MA 02445
Property Owner Name:	Mai Luo
Property Owner Address:	P.O. Box 608, Weston, MA 02493
Agent Name:	N/A

<u>Legal Notice:</u>	Applicant, Sasha Craine, and Owner, Mai Luo, seek a Special Permit under SZO §4.5.1 to change a nonconforming use, an auto supply store, to another nonconforming use, a for-profit school for instruction in arts, skills, or vocation training.
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<u>Zoning District/Ward:</u>	RB zone/Ward 6
<u>Zoning Approval Sought:</u>	§4.5.1
<u>Date of Application:</u>	December 1, 2016
<u>Date(s) of Public Hearing:</u>	January 4, 2017
<u>Date of Decision:</u>	January 4, 2017
<u>Vote:</u>	5-0

Appeal #ZBA 2016-146 was opened before the Zoning Board of Appeals at Somerville City Hall on January 4, 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
(617) 625-6600 EXT. 2500 • TTY: (617) 666-0001 • FAX: (617) 625-0722
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DESCRIPTION:

The proposal is to establish a for-profit school for instruction in arts, skills, or vocation training that will teach Standard Martial Arts; called Oom Yung Doe. It is proposed to occupy approximately 2,050 square feet of the space in the western half of the building. The expected hours of operation are weekly Monday through Friday 7 a.m. to 9 p.m., Saturday 8 a.m. to 3 p.m., and closed on Sunday. There are expected to be three employees.

FINDINGS FOR SPECIAL PERMIT (SZO §4.5):

In order to grant a special permit, the SPGA must make certain findings and determinations as outlined in §5.1.4 of the Somerville Zoning Ordinance (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 vacant; however, the last occupant within the past two years was an auto supply store, which is not permitted in a RB zone. That particular use has existed in that location for over thirty years as a preexisting nonconforming use. The proposal to establish a for-profit school for instruction in arts, skills, or vocation training that will teach Standard Martial Arts is a use that is also not permitted in an RB zone.

Section 4.5 of the SZO states that *"a nonconforming use may be changed to another nonconforming use only by special permit authorized by the SPGA in accordance with the procedures of Article 5, provided that the SPGA finds that such change is not substantially more detrimental to the neighborhood than the existing nonconforming use. In judging detriment, the SPGA may consider, without limitation, impacts upon the following: traffic volumes, traffic congestion, type of traffic, change in traffic patterns and access to the site, adequacy of municipal water supply and sewer capacity, noise, odor, glare, scale, on-street parking, shading, visual effects and neighborhood character."*

The proposal to change a nonconforming use, an auto supply store, to another nonconforming use, a for-profit school for instruction in arts, skills, or vocation training requires a Special Permit from the Zoning Board of Appeals. In considering a special permit under §4.5 of the SZO, the Board finds that the use proposed would not be substantially more detrimental to the neighborhood than the existing use. The Board finds that the proposed use would allow for an educational business that will be an amenity for the neighborhood.

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 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 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 district, which is, "to establish and preserve medium density neighborhoods of one-, two- and three-family homes, free from other uses except those which are both compatible with and convenient to the residents of such districts." The Board finds that the proposed for-profit school is compatible with and convenient to the residents of the neighborhood and the municipality as a whole.



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 locus is surrounded by residential land uses with the exception of a factory use on the opposite corner of Parkdale Street. To the west along Washington Street at the intersection with Dane Street there are other storefronts including a laundromat, an instructional kitchen, and a fitness studio. There are two parks nearby: Perry Park to the west and the Argenziano School and Lincoln Park to the southeast.

Impacts of Proposal (Design and Compatibility): There is no exterior construction proposed by the Applicant other than replacing the existing tenant's light box signs and replacing two cracked storefront window panes. The Board finds that the proposed use and signage is compatible with the characteristics of the building and unbuilt surrounding area.

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): The Board finds that 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): Oom Yung Doe has five other locations in Greater Boston (West Cambridge, North Cambridge, Medford, Newton, and Natick) and their student base is comprised of adults, teens, and family living in the neighborhood of each particular location. Oom Yung Does has found that the order in the way students commute to each respective school is by foot, public transit, bicycle, and motor vehicle. The Board finds that the circulation patterns for motor vehicles and pedestrians as a result of the change in use will not result in conditions that create traffic congestions or reduce on-street parking availability.

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

There will be no adverse impact 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 and make Somerville a regional employment center with a mix of diverse and high-quality jobs. A goal of SomerVision is to support a business-friendly environment to attract and retain a diverse mix of businesses that can start here, grow here, and stay here.*

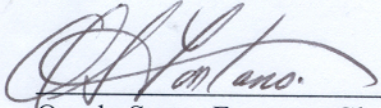


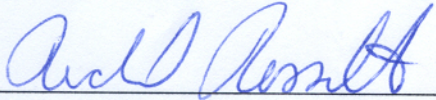
DECISION:


Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans, Elaine Severino and Josh Safdie with Anne Brockelman absent. 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:

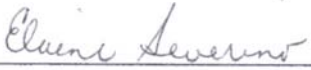
#	Condition	Timeframe for Compliance	Verified (initial)	Notes						
1	Approval is for the establishment of Oom Yung Doe, a for-profit school for instruction in arts, skills, or vocation training specializing in Standard Martial Arts. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	ISD/Plng.							
	<table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>December 1, 2016</td><td>Initial application submitted to the City Clerk’s Office</td></tr><tr><td>November 6, 2016</td><td>Ground floor plan submitted to OSPCD</td></tr></table>				Date (Stamp Date)	Submission	December 1, 2016	Initial application submitted to the City Clerk’s Office	November 6, 2016	Ground floor plan submitted to OSPCD
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November 6, 2016	Ground floor plan submitted to OSPCD									
Any changes to the approved use that are not <i>de minimis</i> must receive SPGA approval.										
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.	During Construction	Plng.							
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							
4	The Applicant or Owner shall meet the Fire Prevention Bureau’s requirements.	CO	FP							
5	Signage will be limited in size and location to that shown in the elevation diagrams and lighting after 10p.m. facing residential property will be turned down or off.	CO/Cont.	Plng.							
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.							

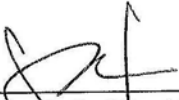
Attest, by the Zoning Board of Appeals:



Orsola Susan Fontano, Clerk

Richard Rossetti

Danielle Evans

Elaine Severino, (Alt.)

Josh Safdie (Alt.)

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 _____

