



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

PLANNING DIVISION

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JOSH SAFDIE (ALT.)

**Case #: ZBA #2009-58**  
**Site: 62B Summer Street**  
**Date of Decision: January 6, 2010**  
**Decision: *Petition Approved with Conditions***  
**Date Filed with City Clerk: January 8, 2010**

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**ZBA DECISION**

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<b>Applicant Name:</b>	Paul J. Denis
<b>Applicant Address:</b>	156 Cherry Street, Cambridge, MA 02139
<b>Property Owner Name:</b>	Gurmail Banwait
<b>Property Owner Address:</b>	17 Farragut Avenue, Somerville, MA 02144
<b>Agent Name:</b>	N/A

<u>Legal Notice:</u>	Applicant, Paul Denis, & Owner, Gurmail Banwait seek a Special Permit under SZO §4.5.1 to change the use from a 390± s.f. real estate office to an Artist Studio Space (audio/video editing and recording service)(§7.11.6.8).
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<u>Zoning District/Ward:</u>	RB zone/Ward 2.
<u>Zoning Approval Sought:</u>	§4.5.1 & §7.11.6.8
<u>Date of Application:</u>	November 24, 2009
<u>Date(s) of Public Hearing:</u>	January 6, 2010
<u>Date of Decision:</u>	January 6, 2010
<u>Vote:</u>	5-0

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Appeal #ZBA 2009-58 was opened before the Zoning Board of Appeals at Somerville City Hall on January 6, 2010. 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 change the use from a 390 sf real estate office to an audio/video recording and editing service. This would not be a recording studio for live music, but a computer based facility to edit and mix audio and video. Most of the audio will be edited and mixed through headphones, but there will be extensive soundproofing measures undertaken by the applicant for when playback is necessary through speakers. The anticipated hours of operation are 9am to 9pm daily. The Applicant is not proposing any changes to the façade except for adding the name of the business to the facade.

## **FINDINGS FOR SPECIAL PERMIT (SZO §4.5.1):**

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."

In considering a special permit under § 4.5 of the SZO, the Board finds that the use proposed will not be substantially more detrimental to the neighborhood than the existing use. A small audio/video editing facility is appropriate for the area and will be a benefit to the neighborhood through the service it provides, by filling a vacant storefront and by providing jobs. The existing structure has a strong commercial presence in the area and the Board finds it appropriate to continuing to support commercial uses here.

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."

An audio/video editing facility is not an allowed use; however, it is consistent with the purpose of the Residence B district, which is, "[t]o 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 this facility will provide a service to the neighborhood that is currently unavailable and creates a more diverse commercial makeup in the area. The relatively small size of this facility and the obvious commercial heritage of this building make it compatible with the neighborhood.

The proposal is also consistent with the general purposes of the Ordinance as set forth under §1.2, which includes, but is not limited to "conserve the value of land and buildings," and to "provide for and maintain the uniquely integrated structure of uses in the City".

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 Board finds this use to be consistent with the existing context of the area. The Board does not anticipate negative impacts to the community from this use and finds that the use will be a benefit to the community. The Board finds that the extensive soundproofing that has been proposed by the applicant along with the conditions of approval to be adequate in addressing any noise concerns.

There will be no change to the exterior of the building except for the change in signage.



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The Applicant has not provided details of the signage to be used, though a space is available on the front façade for a wall sign attached parallel to the building. Any proposed signage would have to conform to the requirements of the Somerville Zoning Ordinance, or additional zoning relief would be required.

# **DECISION:**

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Danielle Fillis and Scott Darling. Upon making the above findings, Susan Fontano made a motion to approve the request for a special permit. Scott Darling 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 use of a 390± sf audio/video editing and recording service facility (SZO §7.11.6.8). This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	Plng.					
	<table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>(11/24/09)</td><td>Initial application submitted to the City Clerk's Office</td></tr></table>				Date (Stamp Date)	Submission	(11/24/09)	Initial application submitted to the City Clerk's Office
	Date (Stamp Date)				Submission			
(11/24/09)	Initial application submitted to the City Clerk's Office							
Any changes to the approved use that are not <i>de minimis</i> must receive ZBA approval.								
2	Final design of the façade and signage shall be approved by Planning Staff.	BP	Plng					
3	The Applicant shall meet all requirements for fire protection for a business use.	CO	FP					
4	The Owner/Applicant shall soundproof the structure to ensure that sound does not exceed generally accepted decibel levels as provided in the Somerville Noise Ordinance.	Perpetual	ISD					
5	The Applicant shall contact Planning Staff at least five working days in advance of a request for a final sign-off on the building permit 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.					



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Attest, by the Zoning Board of Appeals:

Herbert Foster, *Chairman*  
Orsola Susan Fontano, *Clerk*  
Richard Rossetti  
T.F. Scott Darling, III, Esq.  
Danielle Fillis

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 \_\_\_\_\_



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