



CITY OF SOMERVILLE, MASSACHUSETTS  
STRATEGIC PLANNING AND COMMUNITY DEVELOPMENT  
JOSEPH A. CURTATONE, MAYOR

**STAFF**

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LORI MASSA, *PLANNER/ZONING ADMINISTRATOR*  
DAWN PEREIRA, *ADMINISTRATIVE ASSISTANT*  
FREDERICK J. LUND, *SENIOR DRAFTSMAN*

**Case #:** ZBA 2009-14  
**Date:** June 2, 2009  
**Recommendation:** Conditional Approval

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**PLANNING STAFF REPORT**

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**Site:** 860 Broadway

**Applicant Name:** Jon Staff

**Applicant Address:** 64 Linnaean St, Somerville, MA

**Property Owner Name:** Charles Kostopoulos

**Alderman:** Gewirtz

Legal Notice: The Applicant seeks a special permit under §4.5.1 to change a non-conforming use in order to open a frozen yogurt parlor (§7.11.10.1.1.a). The applicant also seeks a special permit under §9.13.a for a modification in parking in order to not provide three (3) required spaces.

Zoning District/Ward: Residence B / 6

Zoning Approval Sought: Special Permit under SZO §4.5.1 and §9.13.a

Date of Application: April 14, 2009

Date(s) of Meetings/Public Hearing: PB: May 7, 2009 / ZBA: May 20, 2009

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**I. PROJECT DESCRIPTION**

1. Subject Property: The subject property is an approximately 12,000sf lot with a commercial building located at the corner of Broadway and College Place. The building has several storefronts and the subject space is 500sf. This site was previously used as a bicycle sales and repair shop. Other uses within the building include a few restaurants and a convenience store.
2. Proposal: The applicant is proposing to operate an independently owned frozen yogurt parlor on the site. There will be seating for 12 individuals and the owners would work the majority of operating hours with one or two other employees.
3. Nature of Application: This is a commercial property within an RB district. The applicant is seeking a special permit under §4.5.1 of the Somerville Zoning Ordinance (SZO) for a change of non-conforming use from a bike sales and repair shop to a frozen yogurt parlor. In addition, this change in use

would require three parking spaces be provided. Since there are no available parking spaces on site the applicant is seeking a special permit under §9.13.a so that the three parking spaces would not be required for approval of their business.

4. Surrounding Neighborhood: This property is located in a Residence B district directly abutting Powder House Circle. This is a high volume pedestrian area located between Tufts University and Davis Square. There is residential development to the west of the site with a mix of two and three family homes.

5. Green Building Practices: None

6. Comments:

Alderman: Alderman Gewirtz has been contacted and has not yet provided comments.

Fire Prevention: Deputy Chief Keenan stated "The proposal for 860 Broadway appears to continue the use of this location as a business use from a bicycle repair shop to a yogurt shop. They will be required to meet the requirements for fire protection for a business. They most likely are already in compliance because it is an existing use. If they are not in compliance, they will have to come into compliance with fire protection requirements for a business use."

Traffic and Parking: Traffic Engineer Terry Smith stated " The applicant seeks a special permit in order to open a frozen yogurt parlor. The applicant also seeks relief from the required three of street parking spaces specified by the Somerville Zoning Ordinance (SZO).

On May 28, 2009 the applicant submitted a self prepared Traffic Memorandum. The supplied memorandum is acceptable.

This memorandum stated that patrons of the establishment when traveling by vehicles would mostly be by pass-by trips, diverted trips and internal trips. Traffic and Parking does not object to this premise. The memorandum further states that the majority of patrons to the establishment would also be pedestrians. Given the close proximity of Tufts University this is a reasonable assumption.

However, since the proposed pedestrian corridor to the business is in the vicinity of several high volume roadways and a complex, complicated rotary. Traffic mitigation for the three required off street parking spaces to ensure and enhance pedestrian safety is necessary. Traffic and parking recommends that the applicant furnish to the City three Pedestrian Impact Recovery Systems for installation along the pedestrian corridor from Tufts to the yogurt parlor i.e. Powderhouse Boulevard and/or Broadway.

Provided the proposed mitigation is provided, Traffic and Parking does not object to this application."

## **II. FINDINGS FOR SPECIAL PERMIT (SZO §4.4.1):**

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 Staff 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 Permit.

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 §4.5.1 of the SZO, Staff find that the use proposed 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 Staff finds it appropriate to continuing to support commercial uses here. Changes to the exterior will be minimal and final proposed signage will need Planning Staff approval.

Under §9.13.a Staff, after consultation with the Traffic and Parking Department, support the reduction in parking requirements. As stated earlier this area has high volumes of pedestrian traffic. The applicant has submitted a parking analysis that describes their customer demographic as predominantly Tufts students and residents from the immediate area that would arrive by foot. It is not foreseen that much additional vehicle traffic will be generated by this use. It is also typical of this type of use to have a high turnover in customers and any parking would be limited to short durations. However, conditions will be placed on this approval as per the Traffic and Parking Department's request.

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."

Staff finds this use to be consistent with the purposes of the ordinance and that continuing commercial, service and retail uses on this property to be an appropriate use of the land.

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."

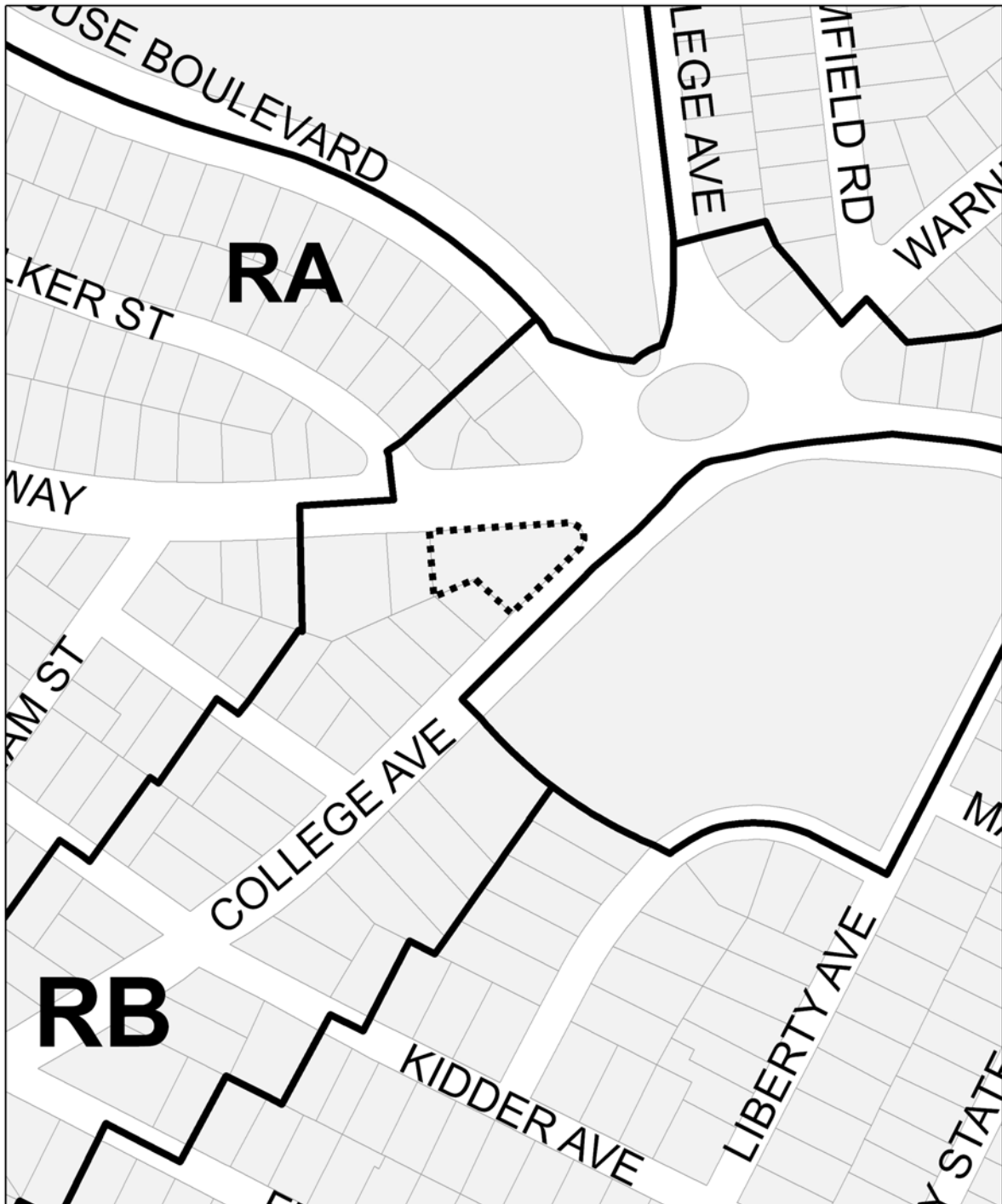
Staff finds this use to be consistent with the existing context of the area. Staff finds any negative impacts to the community from this proposal to be minimal and that the use would be a benefit to the community. Façade alterations will be minimal and subject to Planning Staff approval.

### **III. RECOMMENDATION**

#### **Special Permit under §4.5.1 and §9.13.a**

Based on the above findings and subject to the following conditions, the Planning Staff recommends **CONDITIONAL APPROVAL** of the requested **SPECIAL PERMIT**.

| #  | Condition  | Timeframe for Compliance | Verified (initial) | Notes |                   |            |           |  |
|--|--|--------------------------|--------------------|-------|-------------------|------------|-----------|--|
| 1  | Approval is for a change in non-conforming use to allow for the operation of a frozen yogurt parlor and to reduce the parking requirement by three spaces. 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>(4/14/09)</td><td>Initial application submitted to OSPCD</td></tr></table>  |                          |                    |       | Date (Stamp Date) | Submission | (4/14/09) | Initial application submitted to OSPCD |
|  | Date (Stamp Date)  |                          |                    |       | Submission        |            |           |  |
| (4/14/09)  | Initial application submitted to OSPCD   |                          |                    |       |                   |            |           |  |
| Any changes to the approved use or plans 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 Applicant shall furnish to the City three Pedestrian Impact Recovery Systems for installation along the pedestrian corridor from Tufts to Powderhouse Boulevard and/or Broadway.   | CO                       | T&P                |       |                   |            |           |  |
| 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 has been completed in accordance with the plans and information submitted and the conditions attached to this approval. | Final sign off           | Plng.              |       |                   |            |           |  |



## 860 BROADWAY