



CITY OF SOMERVILLE, MASSACHUSETTS
ZONING BOARD OF APPEALS
JOSEPH A. CURTATONE, MAYOR

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ELAINE SEVERINO (ALT.)

Case #: ZBA 2008-17

Site: 1147 Broadway

Date of Decision: May 21, 2008

Decision: *Petition Approved with Conditions*

Date Filed with City Clerk: June 4, 2008

ZBA DECISION

Applicant Name: Ali Sati
Applicant Address: 55 Langdon Street, #1, Cambridge, MA 02138
Property Owner Name: Shree Ganesh Realty Trust
Property Owner Address: 1274 Broadway, Somerville, MA 02144
Agent Name: N/A

Legal Notice: Applicant: Ali Sati, Owner: Shree Ganesh Realty Trust seek a special permit under SZO 9.13.a and 9.13.d to provide parking on a separate lot for a restaurant use. NB zone. Ward 7.

Zoning District/Ward: NB zone/Ward 7
Zoning Approval Sought: §9.13.a & §9.13.d
Date of Application: March 19, 2008
Date(s) of Public Hearing: 5/7 & 5/21/08
Date of Decision: May 21, 2008
Vote: 4-0

Appeal #ZBA 2008-17 was opened before the Zoning Board of Appeals at Somerville City Hall on May 7, 2008. 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 (1) hearing(s) of deliberation, the Zoning Board of Appeals took a vote.

DESCRIPTION:

The Applicant would like to open a restaurant at 1147 Broadway. The use is allowed under 2,500 s.f. in a NB district. The Applicant is seeking a special permit for the five required spaces for this use. The restaurant would have thirty-four seats and two employees. The Applicant is not certain of the hours of

operation; however, he stated that the restaurant would not be open after midnight. There are no proposed changes to the façade of the building.

FINDINGS FOR SPECIAL PERMIT (SZO §9.13.a & §9.13.d):

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 §9.13 of the SZO "the SPGA may grant such a special permit only when consistent with the purposes set forth in Section 9.1, and upon reaching the findings and determinations set forth in Section 5.1.4". The Applicant must be able to demonstrate that granting the requested special permit would not cause detriment to the surrounding neighborhood through any of the criteria as set forth under SZO §9.13, which are as follows:

- 1) increase in traffic volumes;
- 2) increased traffic congestion or queuing of vehicles;
- 3) change in the type(s) of traffic;
- 4) change in traffic patterns and access to the site;
- 5) reduction in on-street parking;
- 6) unsafe conflict of motor vehicle and pedestrian traffic.

The Board finds that providing parking on a separate lot would not cause detriment related to the above criteria. The parking lot is approximately fifty feet from the proposed restaurant lot and it is in the same ownership.

With respect to Section 9.1, the Board finds that granting the requested special permit would not create a situation that would be a nuisance or hazard to pedestrians and adjacent properties, nor would it decrease the traffic carrying capacity of the adjacent streets or significantly compromise the on-street parking available in Teele Square.

Shree Ganesh Realty Trust is the owner of both the proposed restaurant and proposed parking lot. Laxmi Pradhan, on behalf of the Trust, submitted a letter authorizing 5 of the 20 parking spaces at 8 Curtis Street to be used for the restaurant located at 1147 Broadway from 6am to 12am seven days per week. The landlord allows people to park in the lot but stated that the parking spaces are not required for another use.

The Applicant shall post signs at the parking lot entrance and in front of the five parking spaces stating that the spaces are for patrons of a specific restaurant only. For enforcement purposes, the signs shall list a tow truck company name and phone number so that if a car is parked for more than 2 hours, the car will be towed. There are similar models of similar off-site parking in the City such as at 154 Highland Avenue.

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 Board finds that the proposal is consistent with the purpose of Neighborhood Business District, as defined in SZO §6.1.4, which is to "[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."

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," to "provide for and maintain the uniquely integrated structure of uses in the City" and to "encourage the most appropriate use of land throughout 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 use of the restaurant would be a compatible use for Teele Square.

5. Vehicular and Pedestrian Circulation: The Applicant must ensure that "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."

The City's Department of Traffic and Parking has reviewed this proposal. The proposed parking would be located in an existing parking lot. Parking in this lot for the restaurant would not create significant traffic congestion or the potential for traffic accidents.

DECISION:

Present and sitting were Members Orsola Susan Fontano, Scott Darling, Danielle Fillis and Elaine Severino. Upon making the above findings, Scott Darling made a motion to approve the request for a special permit. Danielle Fillis seconded the motion. Wherefore the Zoning Board of Appeals voted (4-0) to **APPROVE** the request. In addition the following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes
1	Approval is for providing 5 required parking spaces on a separate lot. This approval is based upon the following application materials and the plans submitted by the Applicant and/or its contractor:	BP/CO	Plng.	
2	The Applicant shall post signs at the parking lot entrance and in front of the five parking spaces stating: the spaces are for patrons of the specific restaurant at 1147 Broadway, there is a 2-hour time limit, and violators will be towed by a tow truck company name and phone number.	CO/Cont.	Traffic & Parking	
3	The Applicant shall install protective barrier along the parking lot/alley way (8 Curtis St.) prior to the opening of the proposed restaurant.	CO/Cont.	Plng.	
4	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.	CO	Plng.	

Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Acting Chairperson*
T.F. Scott Darling, III, Esq., *Acting Clerk*
Danielle Fillis
Elaine Severino, (Alt.)

Attest, by the Zoning Board of Appeals 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 _____