



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

**MEMBERS**

HERBERT F. FOSTER, JR., *CHAIRMAN*  
ORSOLA SUSAN FONTANO, *CLERK*  
RICHARD ROSSETTI  
T. F. SCOTT DARLING, III, ESQ.  
DANIELLE FILLIS  
ELAINE SEVERINO (ALT.)

**Case #: ZBA 2008-22**

**Site: 862 Broadway**

**Date of Decision: May 21, 2008**

**Decision: *Petition Approved with Conditions***

**Date Filed with City Clerk: June 4, 2008**

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**ZBA DECISION**

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<b>Applicant Name:</b>	Le Tien
<b>Applicant Address:</b>	6 Fellswood, Medford, MA 02155
<b>Property Owner Name:</b>	Charles Kostopoulos
<b>Property Owner Address:</b>	4055 Losillias Drive, Sarasota, FL 34238
<b>Agent Name:</b>	N/A

<b><u>Legal Notice:</u></b>	Applicant: Le Tien & Owner: Charles Kostopoulos seek a Special Permit under SZO §4.5.1 to change the use to a dry cleaning station with processing done elsewhere. RB zone. Ward 6.
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<b><u>Zoning District/Ward:</u></b>	RB zone/Ward 6
<b><u>Zoning Approval Sought:</u></b>	§4.5.1
<b><u>Date of Application:</u></b>	April 29, 2008
<b><u>Date(s) of Public Hearing:</u></b>	May 21, 2008
<b><u>Date of Decision:</u></b>	May 21, 2008
<b><u>Vote:</u></b>	4-0

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Appeal #ZBA 2008-22 was opened before the Zoning Board of Appeals at Somerville City Hall on May 21, 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 proposal is to change the use to a dry cleaner with processing done elsewhere. The Applicant and Owner are not proposing any changes to the façade except for a change in signage back to the Owner's signage design plan as part of the Storefront Improvement Program. The awning would be removed and lettering would be placed above the door. This type of signage can be seen on other storefronts on this building.

## **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."

The Applicant requires a special permit under §4.5.1 of the SZO. Under §4.5.1, the SPGA may authorize the special permit 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 Board finds that the change in use from a real estate office to a dry cleaning station with processing done elsewhere would not be substantially more detrimental to the neighborhood. Patrons of the dry cleaners would likely travel by foot. The change in signage back to the originally intended design would improve the look of the storefront and comply with the standards for signs in residence districts.

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 use of a dry cleaners 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". A dry cleaning drop-off with no chemicals on site is a convenient use for the residents in the area.

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."

There will be no change to the exterior of the building except for the change in signage that will be more compatible with the design of the other signage on the building and the style of the building.

**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. Elaine Severino 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	<p>Approval is for the change of use to a dry cleaning station with processing done elsewhere (SZO §7.11.8.2.a). This approval is based upon the following application materials and the plans submitted by the Applicant and/or its contractor:</p> <table><tr><th>Date</th><th>Submission</th></tr><tr><td>April 29, 2008</td><td>Initial application submitted to the City Clerk’s Office</td></tr></table> <p>Any changes to the approved use must receive ZBA approval.</p>	Date	Submission	April 29, 2008	Initial application submitted to the City Clerk’s Office	BP/CO	ISD / Plng.	
Date	Submission							
April 29, 2008	Initial application submitted to the City Clerk’s Office							
2	The Applicant or Owner shall remove the awning and create a sign that is in compliance with the signage design plan as part of the Storefront Improvement Program and SZO §12.3, Signs in Residence Districts.	CO	ISD / Plng.					
3	The fire alarm system shall be code compliant for a dry cleaning drop-off use. The Applicant shall supply the Fire Department with additional information to determine what other fire safety devices are needed.	CO	FP					
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.	Final sign off	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 \_\_\_\_\_