



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

PLANNING DIVISION

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JAMES KIRYLO
DANA LEWINTER, ALT.

Case #: ZBA 2009-39
Date: September 3, 2009
Recommendation: Conditional Approval

PLANNING BOARD REPORT

Site: 864 Broadway

Applicant Name: Emiliano Bou

Applicant Address: 56 College Ave, 2L, Somerville MA 02144

Property Owner Name: Charles P. Kostopoulos

Property Owner Address: 4055 Losillias Dr, Sarasota, FL 34238

Agent Name: none

Alderman: Rebekah Gewirtz

Legal Notice: Applicant, Emiliano Bov, & Owner, Charles P. Kostopoulos seek a Special Permit under SZO §4.5.1 to change the use from a 500± s.f. real estate office to a store selling books (§7.11.9.5).

Zoning District/Ward: Residence B / 6

Zoning Approval Sought: Special Permit under SZO §4.5.1 and §5.1

Date of Application: August 11, 2009

Date(s) of Public Meeting • Hearing: Planning Board 9/3/09 • Zoning Board of Appeals 9/16/09

Date of Decision: N/A

Vote: N/A

Dear ZBA members:

At its regular meeting on September 3, 3009 the Planning Board heard the above-referenced application. Based on materials submitted by the Applicant and the Staff recommendation, the Board voted (4-0) with James Kirylo and Michael Capuano absent, to recommend **conditional approval** of the requested **Special Permit**.



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In conducting its analysis, the Planning Board found:

I. PROJECT DESCRIPTION

1. Subject Property: The property is a one-story commercial structure on a 12,000 square foot lot that runs along the corner of Broadway and College Avenue at the Powderhouse Rotary. The building has several storefronts and the subject space is 500 s.f. This site was previously used as a real estate office. Other uses within the building include restaurants, a frozen yogurt shop, an office, a convenience store, and a laundrymat.

2. Proposal: The proposal is to change the use to a store selling comic books. The anticipated hours of operation are 11 a.m. to 7 p.m. daily, except on Wednesdays when the store would be open until 8 p.m. The Applicant and Owner are not proposing any changes to the façade except for adding the name of the business above the door. The awning from the previous business was removed and the façade will more in-line with the Owner's signage design plan for the building that was part of the Storefront Improvement Program in the past.



864 Broadway



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 real estate office to store selling books (§7.11.9.5).

No parking spaces are available on the lot. The past and proposed uses require the same number of parking spaces. Under §9.4.1, nonconformity with respect to parking requirements, no additional parking spaces are required for the change of use.

4. Surrounding Neighborhood: The property is located in Powder House Circle and is comprised of a variety of retail shops. There is a funeral parlor and two- and three-family houses in the immediate area and Tufts University nearby.

5. Impacts of Proposal: There are no anticipated negative impacts from the change in use. The customers are expected to be college students and residents in the area. There are a lot of pedestrians in the area and this business should contribute to its vibrancy.

6. Green Building Practices: None.

7. Comments:

Fire Prevention: Has been contacted but has not provided comments.

Ward Alderman: Alderman Gewirtz believes this is an appropriate use for the space.

II. FINDINGS FOR SPECIAL PERMIT (SZO §4.5.1 & §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 bookstore 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. Patrons of the store will likely travel by foot. The change in signage back to the originally intended design will improve the look of the storefront and comply with the standards for signs in residence districts. 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."

The use of a book store 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 book store 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."

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. 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.

III. RECOMMENDATION

Special Permit under §4.5 & 5.1

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

#	Condition	Timeframe for Compliance	Verified (initial)	Notes						
1	Approval is for the use of a 500± s.f. book store (SZO §7.11.9.5). 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>(Aug 11, 2009)</td><td>Initial application submitted to the City Clerk’s Office</td></tr><tr><td>(Aug 27, 2009)</td><td>Plans submitted to OSPCD (floor plan, elevation, plot plan (7/16/86))</td></tr></table>				Date (Stamp Date)	Submission	(Aug 11, 2009)	Initial application submitted to the City Clerk’s Office	(Aug 27, 2009)	Plans submitted to OSPCD (floor plan, elevation, plot plan (7/16/86))
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Any changes to the approved use that are not <i>de minimis</i> must receive ZBA approval.										
2	The Applicant or Owner shall meet the Fire Prevention Bureau’s requirements.	CO	FP							
3	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.							

Sincerely,

Kevin Prior
Chairman

Cc: Applicant: Emiliano Bou
Owner: Charles P. Kostopoulos

