



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 #2009-54
Site: 212 Elm Street
Date of Decision: December 16, 2009
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: December 22, 2009

ZBA DECISION

Applicant Name:	Davis Square Real Estate, LLC
Applicant Address:	745 Boylston Street, Suite 203, Boston, MA 02116
Property Owner Name:	Davis Square Real Estate, LLC
Property Owner Address:	745 Boylston Street, Suite 203, Boston, MA 02116
Agent Name:	Adam Dash, Esq.
Agent Address:	48 Grove Street, Suite 304, Somerville, MA 02144

Legal Notice: Applicant & Owner, Davis Square Real Estate LLC, seeks a Special Permit under SZO §4.4.1 to alter the exterior of the ground floor office space in order to create two by-right retail storefronts of a combined approximately 4,350 square feet. CBD zone. Ward 6.

<u>Zoning District/Ward:</u>	CBD zone/Ward 6
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	November 3, 2009
<u>Date(s) of Public Hearing:</u>	December 16, 2009
<u>Date of Decision:</u>	December 16, 2009
<u>Vote:</u>	5-0

Appeal #ZBA 2009-54 was opened before the Zoning Board of Appeals at Somerville City Hall on December 16, 2009. 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 applicant is proposing to alter two existing window openings to create two new entry doors and to construct new metal canopies over said new entries with associated lighting. The purpose of the alterations is to convert the vacant, approximately 4,348 sf of first floor non-medical office space into two retail spaces of approximately 3,469 sf and 879 sf, respectively. Some landscaping will be relocated to accommodate one of the new entries and to create three new surface parking spaces, for a net gain of approximately 105 sf of landscaping. Retail is a by-right use within the CBD district.

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 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 §4.4 of the SZO, the Board finds that the alterations proposed would not be substantially more detrimental to the neighborhood than the existing layout of the structure. The Board finds that the proposal would improve the pedestrian experience and safety of the neighborhood by allowing a retail presence on the street level that is currently a vacant office with a wall of windows at street level. The design of the entrances would incorporate the design elements of the windows to seamlessly integrate and improve the appearance of the existing building. Beyond the two entrances and associated details the building would be unaffected.

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 proposal is consistent with the purpose of Central Business District, as defined in SZO §6.1.5, which is to "To preserve and enhance central business areas for retail, business services, housing, and office uses and to promote a strong pedestrian character and scale in those areas. A primary goal for the districts is to provide environments that are safe for and conducive to a high volume of pedestrian traffic, with a strong connection to retail and pedestrian accessible street level uses." The Board finds that the proposal would create storefronts and retail options that would be beneficial to the pedestrian experience due to the size of the stores and their location near transit and other retail uses.

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 that the additional storefronts would be compatible with the existing street level uses in the area. The pedestrian experience would be improved with the addition of these storefronts reducing the dead zone created by the lack of pedestrian access to the building and the wall of windows. The increase in off-street parking spaces and landscaping would be beneficial to the site and the area.



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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 construction of two storefront entryways, metal canopies, lighting and associated entryway components. 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>(11/3/2009)</td><td>Initial application submitted to the City Clerk's Office</td></tr><tr><td>10/22/09 (11/24/09)</td><td>Plans and elevations submitted to OSPCD (renderings, A1-A3, S1-S2)</td></tr></table>				Date (Stamp Date)	Submission	(11/3/2009)	Initial application submitted to the City Clerk's Office	10/22/09 (11/24/09)	Plans and elevations submitted to OSPCD (renderings, A1-A3, S1-S2)
	Date (Stamp Date)				Submission					
	(11/3/2009)				Initial application submitted to the City Clerk's Office					
10/22/09 (11/24/09)	Plans and elevations submitted to OSPCD (renderings, A1-A3, S1-S2)									
Any changes to the approved plans and elevations that are not <i>de minimis</i> must receive ZBA approval.										
2	The applicant shall install a bike rack on the property or shall contribute \$350.00 to the City towards the installation of a bicycle ring in front of the property or in an appropriate location nearby, to be installed by the Traffic and Parking Department.	CO	Plng.							
3	Signage for tenants of the two spaces shall be lit by gooseneck lanterns, not by internal fluorescent lamps, and constructed preferably of wood or metal materials.	CO	Plng.							
4	The window openings shall provide views into the building and should not be blocked by interior storage, non-artistic displays, or greater than 30% internally mounted signage.	CO	Plng /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.							
6	Emergency egress shall only be from the rear of the structure and not directly onto Bowers Avenue if acceptable to Fire Prevention.	Continued	ISD /Fire							
7	All truck deliveries shall be made at the existing loading dock	Continued	ISD							
8	The size of the awnings shall be approved by Planning Staff	CO	Plng.							
9	Decorative lighting shall be installed at the entrances as shown on the renderings.	CO	Plng.							



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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