



CITY OF SOMERVILLE, MASSACHUSETTS
OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2010-25

Date: June 3, 2010

Recommendation: Unable to recommend approval

PLANNING BOARD RECOMMENDATION

Site: 187 Elm Street

Applicant Name: Alpine Restaurant Group, Inc.

Applicant Address: 39 Alpine St, Somerville MA 02144

Property Owner Name: 187 Elm St, LLC

Property Owner Address: 74 Prospect St, Cambridge, MA 02139

Agent Name: Adam Dash, Esq

Agent Address: 48 Grove St, Suite 304, Somerville, MA 02144

Alderman: Rebekah Gewirtz

Legal Notice: Applicant, Alpine Restaurant Group, Inc., & Owner, 187 Elm St, LLC, seek a Variance from parking requirements (SZO §9.5) in order to increase seating capacity of the restaurant from 50 to 98 interior seats.

Zoning District/Ward: NB / 6

Zoning Approval Sought: Variance (SZO §5.5)

Date of Application: May 11, 2010

Dates of Public Meeting • Hearing: Planning Board 6/3/10 • Zoning Board of Appeals 6/16/10

Dear ZBA members:

At its regular meeting on June 3, 2010 the Planning Board heard the above-referenced application. Based on materials submitted by the Applicant and the Staff recommendation, the Board voted 5-0 to be unable to recommend approval of the requested Special Permit.

In conducting its analysis, the Planning Board found:

I. PROJECT DESCRIPTION



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1. Subject Property: The subject parcel contains two contiguous parcels which constitute 6,569 square feet. There is a one-story structure and nine parking spaces on the lot. The ZBA granted a special permit with design review for the site in 1996 (1996-06) for a fast order food establishment with no drive-up service conducted in part or in whole outside of an enclosed building (7.11.10.2.2) and a variance for thirteen parking spaces. The Applicant stated that there have been at least five restaurants at the property in the last thirteen years. Some of the businesses included Carberry's Bakery, Boloco, and Green Tomato II. The original special permit was for 50 seats inside and 20 outside. In November of 2009 the Zoning Board of Appeals granted a special permit with design review to establish a restaurant with outdoor seating with 50 seats inside and 20 seats outside. The restaurant received their final inspection on April 6, 2010 and opened on April 8, 2010.

2. Proposal: The Applicant is seeking a variance from parking requirements to increase the number of seats in the restaurant from 50 to 98. The outdoor seating would remain at 20 seats. The applicant has indicated that the number of employees (8-9) on site at any given time and the closing time of 11pm would not change from the 2009 special permit approval, although it would be valuable to investigate how this would work operationally with the addition of more seating. The Applicant stated that the business is doing well. Patrons are standing in line to wait to eat at the restaurant and there is sufficient space inside of the restaurant to add seating.

3. Nature of Application: A variance for parking is required to increase the seating in the restaurant. Parking for the restaurant use is based on either gross square feet or number of seats and employees; whichever is larger. For this establishment, the parking requirement for the number of seats and employees is greater than the parking per square foot requirement. 48 new seats requires 12 parking spaces ($48/4=12$). No new employees would be added. The SZO allows for a 10 percent reduction in the required parking for uses within 650 feet of a municipal parking lot. The site is located approximately 330 feet from a municipal lot. With this reduction, 11 parking spaces are required.

4. Surrounding Neighborhood: The property is located in a neighborhood business district on the edge of Davis Square's central business district. There are commercial uses along Elm Street and a residential neighborhood to the north and east. Metered parking is located along both sides of Elm Street. Residential parking is located on Windom Street except for the section of the street near the restaurant which has metered parking. A municipal lot is located 330 feet (110 yards) from the site and the MBTA red line station located 1500 feet (0.28 miles) away. Buses also service the area.

5. Impacts of Proposal: The Applicant's traffic consultant submitted data on the parking availability within the 77 parking spaces that are available approximately three blocks of around the. The parking study was limited to the times with peak restaurant demand. The details of the study can be found in the report attached. A summary of the results are as follows:

Thursday – A minimum of 18 spaces were available at any time.

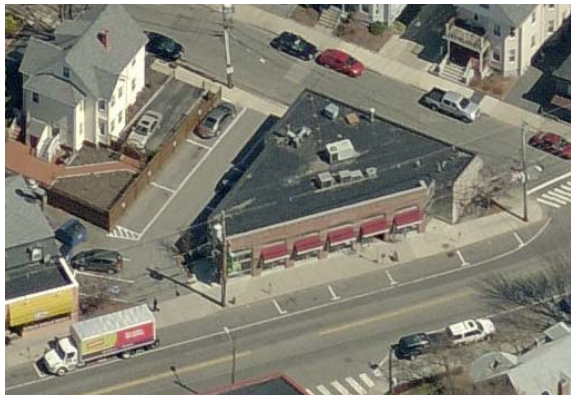
- Occupancy for the 42 non-metered spaces on Elm St ranged from 60-76%
- Occupancy for the 26 metered spaces on Elm/Windom St/municipal lot ranged from 46-88%
- Occupancy for the 9 spaces in site parking lot ranged from 11-44%

Saturday – While there was increased occupancy during the late evening, the data showed a minimum of 18 spaces were available between 7:30 and 8pm. There was more availability at the site, at the meters along Windom St and the non-metered spaces to the southeast along Elm St, which are further away from Davis Square.

The conclusion of the study was that the 18 available on-street parking is more than adequate to accommodate the 11 required parking spaces for the increased seating.

Additionally, patrons take non-auto modes of transportation to the site. Bus and subway service, walking from the residential and commercial neighborhoods, and bicycling are alternative modes. A condition of the 2009 special permit was to add a bike rack; which will be satisfied by installing a rack on the sidewalk on Elm Street near Windom Street. There are also other bicycle rings on meters along these streets.

The consultant provided the 2000 U.S. Census journey-to-work data for residents of Cambridge in the census tract on the south side of Elm Street to show that many people in the area use transit, bike or walk in their daily travels. Data for the entire City of Somerville showed similar behavior, 46% drive alone to work, 11% carpooled, 30% took public transportation, 3% bicycled, 10% walked and 1% took other means.



6. Green Building Practices: None.

7. Comments:

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

Ward Alderman: Has been contacted but has not yet provided comments.

Traffic & Parking:

The applicant seeks a variance from parking requirements in order to increase seating capacity from 50 to 98 interior seats at a restaurant at 187 Elm Street. This restaurant is in close proximity to the Central Business District of Davis Square. For this application the Somerville Zoning Ordinance (SZO) requires 11 off street parking spaces which are not being provided.

The applicant has provided a well prepared Parking and Transportation Demand Assessment by a competent Traffic/Transportation Firm, Design Consultants Inc. The submitted document indicates that a number of the customers of the restaurant will arrive at the establishment by travel mode other than automobile. Traffic and Parking does not disagree with this assumption.

There have been many previous Traffic Memorandums submitted to Traffic and Parking relative to proposed developments in Davis Square. These establishments, all now operational, include One Davis Square, Diesel Café, Blue Shirt Café, Marsta on Elm and Chipolte. All of these establishments lacked some or all of the required off street parking space requirements outlined in the SZO. However appropriate traffic mitigation was provided. This traffic mitigation limited any adverse effects involving

vehicle delays, vehicle queues and parking turnover issues associated with the development. Also previous Parking Studies in the Davis Square area have indicated that during the evening hours parking spaces availability is in constant flux with parking spaces being occupied and becoming vacant and then occupied again. While available spaces may not be in immediate proximity of demand, spaces are available in the surrounding area. This parking space turnover is important to the success of businesses in the Davis Square area. Traffic and Parking seeks to continue this parking space turnover process in and around Davis Square.

Increasing activity at 187 Elm Street without providing more parking will cause a minor increase in traffic congestion and delay. There will also be a slight decrease in pedestrian and bicycle safety as well as a reduction in the rate of parking space turnover. To alleviate this condition and promote a safe comprehensive transportation network for all modes of transportation in the Davis Square area, traffic mitigation is recommended.

Traffic and Parking recommended that the following traffic mitigation be provided by the applicant to the City:

- For pedestrian safety, the applicant shall purchase of 5 Pedestrian Impact Recovery Systems to be delivered to the City for installation in various and appropriate crosswalks along pedestrians corridors in the Davis Square area to the restaurant.
- For pedestrian and bicycle safety, the applicant shall provide \$2,500.00 for pavement markings to be installed in the area specified above.
- To encourage turnover rates at parking spaces in the vicinity of Davis Square, the applicant shall purchase twenty \$20.00 Somerville Parking Meter Cards from Traffic and Parking. These Parking Meter Cards would be for sale at the same price by the business owner to patrons of the establishment and any other individuals.

Provided the above traffic mitigation is incorporated, Traffic and Parking has no objections to this application.

II. FINDINGS FOR VARIANCE (SZO §5.5.3):

In order to grant a variance for parking (§9.5) requirements the SPGA must make certain findings and determinations as outlined in §5.5.3 of the SZO.

The Applicant's responses to the findings are attached and summarized below.

1. There are "special circumstances relating to soil conditions, shape or topography of land or structures which especially affect such land or structures but not affecting generally the zoning district in which it is located, causing substantial hardship, financial or otherwise."

The Applicant stated that there is ample space in the building to add additional seats and there is demand for more seating. Also, the lot has an unusual triangular shape and this prevents space for parking in order to fully utilize the interior space of the building. The low seating occupancy creates a hardship because the Applicant is paying rent and utilities on a building which is underutilized with its limited seating.

The Board finds that the existing lot is somewhat unique in its triangular shape. There is limited ability to expand the property to add parking. This unique circumstance means that any expansion of the building, or any new building on the lot, would be subject to a parking variance under the current zoning. The failure of several businesses at the site in the past suggest that this is a difficult location to run a restaurant

and the increased seating capacity should help to reduce financial hardships associated with running a business at the site.

2. “The variance requested is the minimum variance that will grant reasonable relief to the owner, and is necessary for a reasonable use of the building or land.”

The Applicant stated that the only relief necessary is for the number of parking spaces required to fully utilize the building. The site is within walking distance of the MBTA stops in Davis and Porter Square and is in close proximity to the parking lot on Cutter Avenue.

The Board finds that the business is currently operating successfully with the approved number of seats – 50 inside and 20 outside. The popularity of the restaurant thus far has established that it is a vibrant, exciting and successful addition to the neighborhood, and additional seats are likely to expand that vibrancy without significant neighborhood impact. Establishing a successful restaurant is difficult, and this business is succeeding in a location where many others have failed. The building has the additional space to accommodate the seats, and it would enhance there existing operation. However, granting relief to allow for the expansion of a business, based upon its success in the first few months of operation may not meet the standard of granting the minimum relief necessary for reasonable use of the building.

3. “The granting of the variance would be in harmony with the general purpose and intent of this Ordinance and would not be injurious to the neighborhood or otherwise detrimental to the public welfare.”

The Applicant stated that having a dedicated parking lot for a business in Davis Square is unique. Since the lot has not been frequently utilized, there are many metered parking spaces near the site, and the restaurant has a large pedestrian customer base, it is unlikely that the increased seating capacity will have a significant effect on the area. Having a successful business in this location where other businesses have failed is in the best interest of the neighborhood.

The restaurant is in harmony with the general purposes of the Ordinance as set forth under §1.2, including but not limited to conserving the value of land and buildings and encouraging the most appropriate use of land throughout the City. The restaurant is also consistent with the purpose of the neighborhood business district, which is to 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 Applicant’s parking memo demonstrates that there is availability of on-street parking spaces near the business during the restaurant’s hours of peak demand so the increased seating itself would not have undesirable impacts on the parking demand in the neighborhood. Parking availability and turnover are important to the vibrancy of the Square. The site is in close proximity to the Davis Square MBTA subway stop, bus routes, as well as the nearby municipal parking facilities.

While it remains to be seen if additional input from the immediate abutters generates particular concern, the Board and traffic and parking staff do not find significant impacts on the neighborhood and believe that the identified conditions would address this concern.

The Applicant submitted a petition with over 600 names of people that are in support of adding more seats to the restaurant (and serving alcohol on the outdoor patio). People that signed the petition are from different zip codes, although, many live in the same zip code as the restaurant.

The Board finds that granting the variance would not be detrimental to the neighborhood.

III. RECOMMENDATION**Variance from Parking Requirements under §5.5**

The Planning Board was not able to make a positive finding for the second finding above regarding the minimum reasonable relief to the owner. Therefore, the Planning Board is unable to recommend approval of the requested variance.

If the Board were to recommend approval, the following conditions should be attached.

#	Condition	Timeframe for Compliance	Verified (initial)	Notes								
1	Approval is to not provide 11 parking spaces in order to increase the restaurant’s (§7.11.10.1.2.b) capacity to 98 seats inside and 20 seats outside. 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>May 11, 2010</td><td>Initial application submitted to the City Clerk’s Office</td></tr><tr><td>(May 27, 2010)</td><td>Plans submitted to OSPCD (floor plans)</td></tr><tr><td>May 11, 2010</td><td>Traffic Memo</td></tr></table>				Date (Stamp Date)	Submission	May 11, 2010	Initial application submitted to the City Clerk’s Office	(May 27, 2010)	Plans submitted to OSPCD (floor plans)	May 11, 2010	Traffic Memo
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May 11, 2010	Traffic Memo											
Any changes to the approved plans that are not <i>de minimis</i> must receive SPGA approval.												
2	For pedestrian safety the Applicant shall purchase of 5 Pedestrian Impact Recovery Systems to be delivered to the City for installation in various and appropriate crosswalks along pedestrians corridors in the Davis Square area to the restaurant.	CO	Plng. / T&P									
3	For pedestrian and bicycle safety, the Applicant shall provide \$2,500.00 to the City for pavement markings to be installed in the area specified in condition 2.	CO	Plng. / T&P									
4	To encourage turnover rates at parking spaces in the vicinity of Davis Square, the Applicant shall purchase twenty \$20.00 Somerville Parking Meter Cards from Traffic and Parking. These Parking Meter Cards would be for sale at the same price by the business owner to patrons of the establishment and any other individuals.	CO	Plng. / T&P									
5	The Applicant shall post signage in the parking lot to inform patrons that the parking spaces are available for them to use.	CO	Plng.									

6	The Applicant shall contact Planning Staff at least five working days in advance of a request for a final inspection by Inspectional Services to ensure the proposal was constructed in accordance with the plans and information submitted and the conditions attached to this approval.	Final sign off	PIng.	
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Sincerely,



Kevin Prior
Chairman

Cc: Applicant: Alpine Restaurant Group, Inc.
Agent: Adam Dash, Esq.

