



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

MEMBERS

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

Case #: ZBA 2008-25
Site: 422-424 Highland Avenue
Date of Decision: June 18, 2008
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: July 1, 2008

ZBA DECISION

Applicant Name: Robert Chen (Blue Shirt Café)
Applicant Address: 980 Main Street Apt #1, Woburn, MA 01801
Property Owner Name: Dreyfus Realty, Inc.
Property Owner Address: 1259 Broadway, Somerville, MA 02144
Agent Name: E. Theodore Johnson

Legal Notice: Applicant: Robert Chen and Owner: Dreyfus Realty Inc. seek Special Permit approval under SZO§9.13 to reduce the number of required parking spaces in order to expand an existing café. CBD zone. Ward 6.

Zoning District/Ward: CBD zone/Ward 6
Zoning Approval Sought: §9.13
Date of Application: May 12, 2008
Date(s) of Public Hearing: June 18, 2008
Date of Decision: June 18, 2008
Vote: 5-0

Appeal #ZBA 2008-25 was opened before the Zoning Board of Appeals at Somerville City Hall on June 18, 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 and owner of the Blue Shirt Café is proposing to expand the business into the adjoining vacant store at 422 Highland Avenue. This action would increase the total square footage of the cafe to 1,152 square feet in order to accommodate seating for an additional 40 patrons.

The applicant is not proposing any alterations to the storefront or additional fulltime employees due to the expansion. This expansion requires four (4) additional off-street parking spaces under Article 9 of the SZO.

FINDINGS FOR SPECIAL PERMIT (SZO §9.13):

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 §9.13 of the SZO. Under §9.13, the SPGA may grant a special permit modifying certain parking standards of Article 9 only when consistent with the purposes set forth in §9.1 and that the zoning relief does not cause detriment to the surrounding neighborhood through: increase in traffic volumes, increased traffic congestion or queuing of vehicles, change in the type of traffic, change in traffic patterns and access to the site, reduction in on-street parking, and unsafe conflict of motor vehicle and pedestrian traffic.

The Planning Board finds that the parking relief would not cause detriment to the neighborhood. The Davis Square neighborhood is a commercial area with high pedestrian traffic, excellent access to public transportation and municipal parking. The nature of the business will generate a high turnover rate of customers that will often arrive by foot, which makes the parking reduction acceptable.

Of those purposes set forth under §9.1 of the SZO, the availability and safe use of parking areas will not be negatively affected by a granted reduction in required spaces. Bicycle parking will be increased through conditions based on approval of this Special Permit.

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 project is located in a Central Business (CBD) zoning district. The CBD district seeks 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.

Allowing the proposed reduction in parking would be consistent with the goals of the CBD by promoting an increase in the amount of pedestrian traffic in the Davis Square area. The Board finds the proposed expansion of the café would be beneficial to the health of the square and to enhance the character of the area as a central business district. The project would also be beneficial to the neighbors of the property as this will increase dining options that are available in the area.

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 project as proposed would increase the site's compatibility with its surroundings by eliminating a vacant store from the neighborhood. The Board recommends that the applicant follow through with plans to redesign and replace the awnings along the length of the new storefront.

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. Richard Rossetti 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 | <p>Approval is for a reduction of the required parking spaces from four (4) to zero (0) under §9.13 to allow for the expansion of a restaurant and forty (40) new seats. This approval is based upon the following application materials and the plans submitted by the Applicant and/or Agent:</p> <table><tr><th>Date</th><th>Submission</th></tr><tr><td>May 12, 2008</td><td>Initial application submitted to the City Clerk's Office</td></tr><tr><td>June 3, 2008</td><td>Plans submitted to OSPCD (A-3, SP-1, A/FP-1, EX-1)</td></tr></table> <p>Any changes to the approved renderings or plans must receive ZBA approval.</p> | Date | Submission | May 12, 2008 | Initial application submitted to the City Clerk's Office | June 3, 2008 | Plans submitted to OSPCD (A-3, SP-1, A/FP-1, EX-1) | Building Permit | PIng. | |
| Date | Submission | | | | | | | | | |
| May 12, 2008 | Initial application submitted to the City Clerk's Office | | | | | | | | | |
| June 3, 2008 | Plans submitted to OSPCD (A-3, SP-1, A/FP-1, EX-1) | | | | | | | | | |
| 2 | <p>A visual strobe unit shall be installed in the handicapped unisex toilet room.</p> <p>A fire alarm pull station shall be installed at the existing door to the handicapped ramp that is accessible for use by people in wheelchairs, etc.</p> | CO | Fire | | | | | | | |
| 3 | The applicant will supply the Somerville Traffic and | CO | T&P | | | | | | | |

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|---|--|-------------------------------|----------------|--|
| | Parking Department with five (5) parking meters to the specifications defined by the Traffic and Parking Director | | | |
| 4 | Four (4) bicycle parking spaces shall be provided which can be met with two (2) "U" type bicycle racks. | CO | Plng. | |
| 5 | The Applicant must contact the 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 Building Permit Signoff | Plng. / ISD | |

Attest, by the Zoning Board of Appeals:

Herbert Foster, *Chairman*
Orsola Susan Fontano, *Clerk*
Richard Rossetti
T.F. Scott Darling, III, Esq.
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 _____