



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

PLANNING DIVISION

ZONING BOARD OF APPEALS MEMBERS

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Case #: ZBA # 2010-66
Site: 14 McGrath Highway
Date of Decision: January 5, 2011
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: January 14, 2011

ZBA DECISION

Applicant Name:	McDonald's USA, LLC
Applicant Address:	690 Canton Street, Westwood, MA 02090
Property Owner Name:	Twin City Plaza, LLC
Property Owner Address:	P.O. Box 790830, San Antonio, TX 78279
Agent Name:	N/A

<u>Legal Notice:</u>	Applicant McDonald's USA, LLC and Owner Twin City Plaza LLC, seeks a special permit under the SZO §4.5.3 & §7.11.10.3 to expand the existing nonconforming fast order food establishment with a drive-up service by 324 sf as well as alter the façade and drive-thru layout that was approved by Special Permit with Site Plan Review.
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<u>Zoning District/Ward:</u>	BA zone/Ward 2
<u>Zoning Approval Sought:</u>	§4.5.3 & §7.11.10.3
<u>Date of Application:</u>	October 26, 2010
<u>Date(s) of Public Hearing:</u>	12/15/10 & 1/5/11
<u>Date of Decision:</u>	January 5, 2011
<u>Vote:</u>	5-0

Appeal #ZBA 2010-66 was opened before the Zoning Board of Appeals at Somerville City Hall on December 15, 2010. 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 two hearings of deliberation, the Zoning Board of Appeals took a vote.



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DESCRIPTION:

The proposal is to make improvements to the façade of the building, interior space and drive-thru layout. There will be a small addition of 292 nsf in the front of the building to accommodate the change to the interior. The changes to the façade are to update the appearance to match the new modern McDonald's design. The store will be upgraded to match the latest corporate building design including removal and covering of the mansard roof and replacing it with a new roof cap element, adding a metal awning to the front, and new storefront glazing. The traffic pattern would remain the same but circulation is expected to improve by installing an order station, a new cash booth/window and relocating the drive-thru window so that vehicles will stack more effectively. The existing operation will remain the same and the restaurant will continue to have the same number of seats, 45 employees, a 120-occupant capacity, and 24-hour operation.

FINDINGS FOR SPECIAL PERMIT WITH SITE PLAN REVIEW (SZO §4.5.3, §5.2 & §7.11.10.3):

In order to grant a special permit with site plan review, the SPGA must make certain findings and determinations as outlined in §5.2.5 of the SZO. This section of the report goes through §5.2.5 in detail.

This proposal for alteration to the façade and limited changes to the site plan with no change to the operation of the business does not affect the following findings:

6. Impact on Public Systems
7. Environmental Impacts
10. Relation of Buildings to Environment
11. Stormwater Drainage
12. Historic or Architectural Significance
13. Enhancement of Appearance
14. Lighting
15. Emergency Access
16. Location of Access
17. Utility Service
18. Prevention of Adverse Impacts
20. Screening of Service Facilities
21. Screening of Parking

1. Information Supplied: The Board finds that the information provided by the Applicant conforms to the requirements of §5.2.3 of the SZO and allows for a comprehensive analysis of the project.

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 with site plan review."

In considering a special permit under §4.5 of the SZO, the Board finds that the alterations proposed would not be substantially more detrimental to the neighborhood than the existing structure and 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 addition of a small area, 324 gsf, to the nonconforming use is not anticipated to be substantially more detrimental to the neighborhood as the operation of the restaurant is not expanding; the number of seats and employees will not change. The change to the drive-thru layout is proposed to more effectively stack cars, and while the Board does not generally support fast-food drive-thru uses, the Board understands that this proposal will improve the preexisting condition. The changes to the exterior façade will give the building an updated appearance.

The specific standards for the BA zone include locating off-street parking at the rear of the lot and providing landscaping along the primary street edge. Parking is located around the site. There is not a clear



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front and rear to the property given its high visibility from McGrath Highway and the driveway into the Plaza on the other side of the building. The parking space locations are not proposed to change. The landscaping is located around the perimeter and there are larger planting beds by the main pedestrian entrance of the restaurant, along McGrath Highway and at the driveway entrance. The landscaped areas are not proposed to change except that a small portion of the landscaping will be consumed by the expansion of the building.

3. Purpose of District: The Applicant has to ensure that the project "is consistent with the intent of the specific zoning district as specified in Article 6".

The purpose of the BA district is to, "[e]stablish and preserve business areas bordering main thoroughfares that are attractive to a wide range of uses, including retail business and services, housing, government, professional and medical offices, and places of amusement. While it is anticipated that most users will arrive by motor vehicle, it is intended that the area should be safe for and conducive to pedestrian traffic." The special permit would allow for the expansion and improvement to the façade and layout for a business that is consistent with the purpose of the BA district.

4. Site and Area Compatibility: The Applicant has to ensure that the project "(i)s designed in a manner that is compatible with the existing natural features of the site and is compatible with the characteristics of the surrounding area, and that the scale, massing and detailing of the buildings are compatible with those prevalent in the surrounding area".

The detailing of the building will be typical of recently updated stand-alone McDonalds. Despite the generic appearance of the building it will be an improvement to the existing out-dated design.

5. Functional Design: The project must meet "accepted standards and criteria for the functional design of facilities, structures, and site construction."

The proposed changes to the drive-thru including a new cash booth/window and relocating the order station is intended to improve the functional design so that vehicles will stack more effectively.

8. Consistency with Purposes: "Is consistent with: 1) the purposes of this Ordinance, particularly those set forth in Article 1 and Article 5; and 2) the purposes, provisions, and specific objectives applicable to the requested special permit with site plan review which may be set forth elsewhere in this Ordinance, such as, but not limited to, those at the beginning of the various sections."

The proposal is consistent with the general purposes of the Ordinance as set forth under §1.2, which includes, but is not limited to providing for and maintaining the uniquely integrated structure of uses in the City and conserving the value of land and buildings.

9. Preservation of Landform and Open Space: The Applicant has to ensure that "the existing land form is preserved in its natural state, insofar as practicable, by minimizing grading and the erosion or stripping of steep slopes, and by maintaining man-made features that enhance the land form, such as stone walls, with minimal alteration or disruption. In addition, all open spaces should be designed and planted to enhance the attractiveness of the neighborhood. Whenever possible, the development parcel should be laid out so that some of the landscaped areas are visible to the neighborhood."

One percent of the landscaping by the main entrance of the restaurant would be eliminated due to the expansion of the building. The Board recommends that the Applicants submit a landscape plan, that includes additional landscaping on the remainder of the site, to ensure that the quality of the open space on the site is maintained. The open space requirement will remain conforming with 10% more landscaping than is required.

19. Signage: The Applicant must ensure that "the size, location, design, color, texture, lighting and materials of all permanent signs and outdoor advertising structures or features shall reflect the scale and character of the proposed buildings."



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The character of the structure will be that of a typical McDonalds and the signage will be consistent with this appearance. The signage will be formed acrylic faces with fluorescent illumination. The size and illumination of the signage will not be substantially different from the current signage at the site.

DECISION:

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Danielle Evans 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										
Application and Plans														
1	Approval is to expand the existing nonconforming fast order food establishments with a drive-up service by 324 sf as well as alter the façade and drive-thru layout that was approved by Special Permit with Site Plan Review. This approval is based upon the following application materials and the plans submitted by the Applicant:	CO / BP	Plng.											
	<table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>Oct 26, 2010</td><td>Initial application submitted to the City Clerk's Office</td></tr><tr><td>Jul 2, 2004 / Oct 14, 2005</td><td>Plans submitted to OSPCD (signage)</td></tr><tr><td>Jun 11, 2010</td><td>Plans submitted to OSPCD (A2.0, A2.1 Exterior Elevations; conceptual floor plan)</td></tr><tr><td>Oct 20, 2010</td><td>Plans submitted to OSPCD (C-1, D-1 Site Plans)</td></tr></table>				Date (Stamp Date)	Submission	Oct 26, 2010	Initial application submitted to the City Clerk's Office	Jul 2, 2004 / Oct 14, 2005	Plans submitted to OSPCD (signage)	Jun 11, 2010	Plans submitted to OSPCD (A2.0, A2.1 Exterior Elevations; conceptual floor plan)	Oct 20, 2010	Plans submitted to OSPCD (C-1, D-1 Site Plans)
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Any changes to the approved site plan, elevations and use that are not <i>de minimis</i> must receive SPGA approval.														
2	Applicant shall provide additional on-site landscaping and shall supply a landscape plan to Planning Staff for review and approval.	BP	Plng.											
Construction Impacts														
3	All construction materials and equipment must be stored onsite. If occupancy of the street layout is required, such occupancy must be in conformance with the requirements of the Manual on Uniform Traffic Control Devices and the prior approval of the Traffic and Parking Department must be obtained.	During Construction	T&P											



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Impacts of Completed Project				
4	The Applicant shall at his expense replace any existing equipment (including, but not limited to street sign poles, signs, traffic signal poles, traffic signal equipment, wheel chair ramps, granite curbing, etc) and the entire sidewalk immediately abutting the subject property if damaged as a result of construction activity. All new sidewalks and driveways must be constructed to DPW standard.	CO	DPW	
5	The Applicant, its successors and/or assigns, shall be responsible for maintenance of both the building and all on-site amenities, including landscaping, fencing, lighting, parking areas and storm water systems, ensuring they are clean, well kept and in good and safe working order.	Perpetual	ISD	
6	Landscaping should be installed and maintained in compliance with the American Nurserymen's Association Standards.	Perpetual	Plng. / ISD	
7	Applicant will supply 4 bicycle parking spaces in a location that complies with the SZO regulations. Bicycle facilities shall be indicated on an updated plan that shall be submitted to Planning Staff for review and approval.	CO	Plng.	
Public Safety				
8	Applicant shall comply with Fire Prevention Bureau's requirements.	CO	FP	
Final Review				
9	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	Plng.	



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Attest, by the Zoning Board of Appeals:

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

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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