



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

MEMBERS

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DANIELLE FILLIS
ELAINE SEVERINO (ALT.)
JOSH SAFDIE (ALT.)

Case #: ZBA 2009-09
Site: 691A Somerville Avenue
Date of Decision: May 6, 2009
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: May 14, 2009

ZBA DECISION

Applicant Name:	Heidi Brown
Applicant Address:	113 River Street, #1, Cambridge, MA 02139
Property Owner Name:	Garrie Reilly
Property Owner Address:	691 Somerville Avenue, Somerville, MA 02143
Agent Name:	N/A

Legal Notice: Applicant Heidi Brown & owner Garrie Reilly seek a special permit (SZO §5.1) to establish a private fitness studio (§7.11.6.3.a). RC zone. Ward 3.

<u>Zoning District/Ward:</u>	RC zone/Ward 3
<u>Zoning Approval Sought:</u>	§5.1 & §7.11.6.3.a
<u>Date of Application:</u>	March 24, 2009
<u>Date(s) of Public Hearing:</u>	May 6, 2009
<u>Date of Decision:</u>	May 6, 2009
<u>Vote:</u>	5-0

Appeal #ZBA 2009-09 was opened before the Zoning Board of Appeals at Somerville City Hall on May 6, 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.

DESCRIPTION:

The proposal is to establish a private fitness studio. The studio would be 2278 gross square feet with no more than six employees and an average of no more than twenty people during peak hours. There would be personal training, yoga, and cycling classes, all by appointment. Business hours would be between 6 a.m. to 8 p.m. The only exterior change would be replacement of the existing sign with a similarly sized sign that complies with the Somerville Zoning Ordinance requirements.

FINDINGS FOR SPECIAL PERMIT (SZO §5.1 & §7.11.6.3.a):

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 Board finds that the Applicant has complied with the standards for granting a 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 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 encouraging the most appropriate use of land throughout the City. The use would also be consistent with the purpose of the district because it is compatible with multi-family residential and could be used by the residents of the 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 characteristics of the built and unbuilt surrounding area, including land uses.”

The proposed use would be compatible with the built surrounding area and uses. There are no exterior changes to the structure except for replacement of the existing sign with a new similar sign. As conditioned the noise levels will be kept low in the early morning and evening and abide by Somerville’s Noise Control Ordinance. The studio programs are appointment based so the number of people at the facility at one time is controlled. The Applicants expect clients to walk to the site but if they drive, they would anticipate that they would not occupy a parking space for more than one hour. This would allow for turnover of on-street parking.

5. Vehicular and pedestrian circulation: The circulation patterns for motor vehicles and pedestrians which would result from the use or structure will not result in conditions that create traffic congestion or the potential for traffic accidents on the site or in the surrounding area.

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 use of a commercial health/ exercise facility under SZO §7.11.6.3.a. This approval is based upon the following application materials and the plans submitted by the Applicant:	CO	Plng.							
	<table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>(March 24, 2009)</td><td>Initial application submitted to the City Clerk’s Office</td></tr><tr><td>(April 13, 2009)</td><td>Plans submitted to OSPCD (existing floor plan, proposed floor plan, existing elevation)</td></tr></table>				Date (Stamp Date)	Submission	(March 24, 2009)	Initial application submitted to the City Clerk’s Office	(April 13, 2009)	Plans submitted to OSPCD (existing floor plan, proposed floor plan, existing elevation)
	Date (Stamp Date)				Submission					
	(March 24, 2009)				Initial application submitted to the City Clerk’s Office					
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Any changes to the approved use that are not <i>de minimis</i> must receive ZBA approval.										
2	The Applicant shall abide by Somerville’s Noise Control Ordinance.	Perpetual	ISD							
3	The Applicant or Owner shall meet the Fire Prevention Bureau’s requirements.	CO	FP							
4	The Applicant shall contact Planning Staff at least five working days in advance of a request for a certificate of occupancy to ensure the proposal was implemented in accordance with the plans and information submitted and the conditions attached to this approval.	Final sign off	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 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 _____