



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

PLANNING DIVISION

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JAMES KIRYLO
MICHAEL A. CAPUANO, ESQ.
DANA LEWINTER (ALT.)

Case #: PB 2010-08
Site: 75 Union Square
Date of Decision: May 20, 2010
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: May 24, 2010

PLANNING BOARD DECISION

Applicant Name:	Independent Realty Trust
Applicant Address:	75 Union Square, Somerville, MA 02143
Property Owner Name:	Independent Realty Trust
Property Owner Address:	75 Union Square, Somerville, MA 02143
Agent Name:	N/A
 <u>Legal Notice:</u>	 Applicant/Owner, Independent Realty Trust, seek a special permit under SZO §6.1.22.5 to alter doors and windows on the façade.
 <u>Zoning District/Ward:</u>	 CCD 55 zone/Ward 3
<u>Zoning Approval Sought:</u>	§6.1.22.5
<u>Date of Application:</u>	April 27, 2010
<u>Date(s) of Public Hearing:</u>	May 20, 2010
<u>Date of Decision:</u>	May 20, 2010
<u>Vote:</u>	4-0

Appeal #PB 2010-08 was opened before the Planning Board at Somerville City Hall on May 20, 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 one hearing of deliberation, the Planning Board took a vote.

DESCRIPTION:

The proposal is to convert the door on the right side of the building to a window that would be flush with the rest of the façade of the building, and convert the window on the Sanborn Court side of the building to an emergency exit



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door. The windows on the front façade would match the existing windows in the middle portion of the building. The main door to the restaurant is the door on the left side of the building and having two doors causes confusion. The change would add 26 sf to the interior and improve the interior configuration of the restaurant. A portion of the planter along Sanborn Court would be removed to allow for access to the emergency door. There would be two bollards at the emergency exit, which would not project further into the private way than the existing planter.

FINDINGS FOR SPECIAL PERMIT (SZO §5.1):

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 Staff 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 majority of the development standards not apply to this small change to the façade of the building; however, the following standard applies and is met.

Pedestrian Oriented Requirements - The main entrance to the restaurant will continue to have a presence on the street and removing the second entrance will not prohibit another use on the first floor in the future. New bi-fold windows will provide more pedestrian interaction between the building and the sidewalk.

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 conserving the value of land and buildings. The proposal is consistent with the purpose of the district, as the change would continue to provide an aesthetically pleasing structure that promotes pedestrian activity.

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 proposal is compatible with the built surrounding area. The change to the fenestration will not disrupt the bays or symmetry of the building. The full height, bi-folding windows will match the other windows on the front of the building and continue to provide views into the interior space to maintain an activated façade for pedestrians.

DECISION:

Present and sitting were Members Elizabeth Moroney, Joseph Favaloro, Michael Capuano and Dana LeWinter with Kevin Prior and James Kirylo absent. Upon making the above findings, Joseph Favaloro made a motion to approve the request for a special permit. Dana LeWinter seconded the motion. Wherefore the Planning Board voted **4-0** to **APPROVE** the request. In addition the following conditions were attached:



#	Condition	Timeframe for Compliance	Verified (initial)	Notes								
1	Approval is to replace an entrance door with windows and replace a window with an exit door for emergencies only. 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>Apr 27, 2010</td><td>Initial application submitted to the City Clerk’s Office</td></tr><tr><td>Sept 4, 2009</td><td>Plans submitted to OSPCD (ID-1.3: egress plan)</td></tr><tr><td>May 12, 2010</td><td>Modified plans submitted to OSPCD (ID-3.1: exterior elevations, ID-1.2: floor plan)</td></tr></table>				Date (Stamp Date)	Submission	Apr 27, 2010	Initial application submitted to the City Clerk’s Office	Sept 4, 2009	Plans submitted to OSPCD (ID-1.3: egress plan)	May 12, 2010	Modified plans submitted to OSPCD (ID-3.1: exterior elevations, ID-1.2: floor plan)
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Any changes to the approved plans that are not <i>de minimis</i> must receive SPGA approval.												
2	The new windows on the front façade shall match the existing bi-fold windows on the front façade.	CO	Plng.									
3	The Applicant or Owner shall meet the Fire Prevention Bureau’s requirements.	CO	FP									
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 door on Sanborn Court shall remain an emergency exit only.	Continual	Plng./IS D									
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	Plng.									



Attest, by the Planning Board:



Elizabeth Moroney



Joseph Favaloro



Michael Capuano, Esq.



Dana LeWinter

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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