



**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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T. F. SCOTT DARLING, III, ESQ.  
DANIELLE EVANS  
ELAINE SEVERINO (ALT.)  
JOSH SAFDIE (ALT.)

**Case #: ZBA #2010-55**  
**Site: 334 Washington Street**  
**Date of Decision: November 3, 2010**  
**Decision: *Petition Approved with Conditions***  
**Date Filed with City Clerk: November 17, 2010**

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**ZBA DECISION**

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|                                |  |
|--------------------------------|--|
| <b>Applicant Name:</b>         | David de Sola                                |
| <b>Applicant Address:</b>      | 336 Windsor Street, Cambridge, MA 02141-1340 |
| <b>Property Owner Name:</b>    | Mary Annese                                  |
| <b>Property Owner Address:</b> | 334 Washington Street, Somerville, MA 02143  |
| <b>Agent Name:</b>             | N/A  |

|                      |   |
|----------------------|---|
| <u>Legal Notice:</u> | Applicant David deSola and owner Joseph Annese as agent for Mary Annese seek a special permit (SZO §4.5.1) to convert the use of a structure from one non-conforming use (a sign shop per §7.11.14) to another non-conforming use (office use §7.11.7.1.a and Artist Studio Space §7.11.6.8). |
|----------------------|---|

|                                   |   |
|-----------------------------------|---|
| <u>Zoning District/Ward:</u>      | RB zone. Ward 2                           |
| <u>Zoning Approval Sought:</u>    | §4.5.1, §7.11.14, §7.11.7.1.a & §7.11.6.8 |
| <u>Date of Application:</u>       | September 28, 2010                        |
| <u>Date(s) of Public Hearing:</u> | November 3, 2010                          |
| <u>Date of Decision:</u>          | November 3, 2010                          |
| <u>Vote:</u>                      | 5-0                                       |

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Appeal #ZBA 2010-55 was opened before the Zoning Board of Appeals at Somerville City Hall on November 3, 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 Zoning Board of Appeals took a vote.



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## **DESCRIPTION:**

The Applicant would like to change the former use of a 3000 square foot signage shop to an architecture firm and artist studio space. While the exterior of the building will remain the same, 3000 square feet will be renovated to accommodate the proposed user.

## **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 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."

In considering a special permit under §4.5 of the SZO, the Board finds that the use proposed would not be substantially more detrimental to the neighborhood than the existing use.

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.

The existing structure is a pre-existing non-conforming structure that somewhat varies from the purpose of the RB district. The district is designed to "establish and preserve medium density neighborhoods of one-, two- and three-family homes, free from other uses except those which are both compatible with and convenient to the residents of such districts". Nonetheless, it has operated as a commercial industrial building in this neighborhood for many years.

The proposed use, while not residential, will benefit the RB district by being less non-conforming than the previous use, and providing the community with a more compatible use of an office with artist studio space.

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."

There will be no exterior alterations done to the existing building.

5. Adverse environmental impacts: The proposed use, structure or activity will not constitute an adverse impact on the surrounding area resulting from: 1) excessive noise, level of illumination, glare, dust, smoke, or vibration which are higher than levels now experienced from uses permitted in the surrounding area; 2) emission of noxious or hazardous materials or substances; 3) pollution of water ways or ground water; or 4) transmission of signals that interfere with radio or television reception.



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The office and arts use will be less disruptive than many industrial uses that are currently permitted through extension of the existing use.

6. 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.

Approval is for change in use category for use under 7.11. The applicant will not create extensive traffic and will be able to use on-street and existing off-street parking for the business.

### **DECISION:**

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans, Scott Darling and Elaine Severino with Herbert Foster. Upon making the above findings, Richard Rossetti 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 change in use category to an office under 7.11.7.1a and artist studio space §7.11.6.8. 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>Sep. 28, 2010</td><td>Initial application submitted to the City Clerk's Office</td></tr><tr><td>Oct. 18, 2010</td><td>plans submitted to OSPCD</td></tr></table>  |                          |                    |       | Date (Stamp Date)  | Submission | Sep. 28, 2010 | Initial application submitted to the City Clerk's Office | Oct. 18, 2010 | plans submitted to OSPCD |
|  | Date (Stamp Date)  |                          |                    |       | Submission   |            |               |  |               |                          |
|  | Sep. 28, 2010  |                          |                    |       | Initial application submitted to the City Clerk's Office |            |               |  |               |                          |
| Oct. 18, 2010  | plans submitted to OSPCD   |                          |                    |       |  |            |               |  |               |                          |
| Any changes to the approved use that are not <i>de minimis</i> must receive SPGA approval. |  |                          |                    |       |  |            |               |  |               |                          |
|  |  |                          |                    |       |  |            |               |  |               |                          |
| 2  | The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.   | CO                       | FP                 |       |  |            |               |  |               |                          |
| 3  | The Applicant shall contact Planning Staff at least five working days in advance of a request for a final inspection by Inspectional 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:

Orsola Susan Fontano, *Acting Chairman*  
Richard Rossetti, *Acting Clerk*  
T.F. Scott Darling, III, Esq.  
Danielle Evans  
Elaine Severino (Alt.)

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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