



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

PLANNING DIVISION

STAFF

GEORGE PROAKIS, *DIRECTOR OF PLANNING*

LORI MASSA, *SENIOR PLANNER*

ADAM DUCHESNEAU, *PLANNER*

DAWN PEREIRA, *ADMINISTRATIVE ASSISTANT*

Case #: ZBA 2011-93

Date: December 29, 2011

Recommendation: Conditional Approval

PLANNING STAFF REPORT

Site: 234 Elm Street

Applicant Name: Bryan Poisson, iYO, Inc.

Applicant Address: 3 Cypress Street, Marblehead, MA 01945

Property Owner Name: Hancock Somerville, LLC c/o Anthony Addonizio Jr.

Property Owner Address: 1200 Salem Street, #119, Lynnfield, MA 01940

Alderman: Rebekah Gewirtz

Legal Notice: Applicant Bryan Poisson and Owner Hancock Somerville, LLC, seek a Variance under SZO §5.5 from the parking requirements of SZO §9.5 for relief from seven required off-street parking spaces and a Special Permit to alter a nonconforming structure under SZO §4.4.1 to make façade alterations including window and lighting changes. CBD Zone. Ward 6.

Zoning District/Ward: CBD Zone / Ward 6

Zoning Approval Sought: Variance under SZO §9.5 and Special Permit under SZO §4.4.1

Date of Application: December 6, 2011

Dates of Public Hearing: Zoning Board of Appeals – **January 4, 2012**

I. PROJECT DESCRIPTION

1. **Subject Property:** Located at the corner of Elm Street and Bowers Avenue in Davis Square, the subject property is an 8,543 square foot lot with 15,800 gross square foot, single-story masonry building on it. The structure has 7,796 net square feet split between two commercial storefronts, 234 and 236 Elm Street. The subject commercial space at 234 Elm Street is 2,448 gross square feet and currently contains the Farmers Bounty convenient store. 236 Elm Street is home to the Goodwill Industries store. To the right side of the property is the restaurant Namaskar and then Anna's Taqueria.

2. **Proposal:** The Applicant is proposing to open a 68-seat café called iYo Café serving frozen yogurt, coffee, tea, pastries, and other desserts with four employees. The interior space



CITY HALL • 93 HIGHLAND AVENUE • SOMERVILLE, MASSACHUSETTS 02143
(617) 625-6600 EXT. 2500 • TTY: (617) 666-0001 • FAX: (617) 625-0722

www.somervillema.gov



would be outfitted with a service area, self-serve frozen yogurt stations, a self-serve topping station, associated seating, a library/gathering room, two bathrooms, an office, a janitor's closet, and a small storage room. The proposed hours of the café would be 7:00 AM to midnight, seven days a week. The Applicant is also proposing to install one bicycle parking bollard just outside the storefront on the sidewalk. The overall façade changes proposed for the existing structure are minor in nature. The Applicant will be replacing a through-wall air conditioning unit and an infill wood panel above the main entrance with a glass panel as part of the implementation of a central air system for the space. The Applicant is also proposing to overlay the existing canopy facing, rework the façade signage including adding a small nine square foot blade sign, and replace the existing floodlight outside the entrance with recessed lighting in the canopy and three gooseneck lamps on the façade.

3. Nature of Application: Section 9.5 of the Somerville Zoning Ordinance (SZO) requires that restaurants have, whichever is greater, 0.75 parking spaces per employee plus 1 parking space for every four seats or, one parking space per every 110 gross square feet of space. The café would have no more than four employees on site at any time, which would require 3 parking spaces, and 68 seats which would require 17 spaces for a total of 20 off-street parking spaces. The storefront space also has 2,448 gross square feet which would require 22 parking spaces. Since the gross square footage parking calculation is greater, the café would need to provide 22 parking spaces on-site. The existing convenient store was required to have four parking spaces on-site but has none. After performing the parking space calculation for the existing nonconforming parking situation as laid out in SZO §9.4 (one half the difference between the existing parking spaces being 'provided' and the required number of parking spaces for the proposed new use) and calculating the 20% allowed parking reduction for being within 1,000 feet of a rapid transit station, the Applicant is only required to provide an additional seven off-street parking spaces for the proposed use at the site. Since the existing building takes up almost the entire subject property, the Applicant is seeking a variance under §5.5 of the SZO from the parking requirements of §9.5 of the SZO for seven parking spaces of relief for the commercial storefront.

The structure is also nonconforming with regard to maximum ground coverage at 92%, as only 80% is permitted in the CBD, and landscaped area at 0% as 10% is required in the district. These existing nonconformities require the Applicant to obtain a special permit under SZO §4.4.1 to alter the nonconforming structure to alter the window opening above the main entrance and overlay the existing canopy facing on the façade of the existing storefront.

4. Surrounding Neighborhood: The subject property is located in a Central Business District (CBD) in Davis Square approximately 885 feet from the Davis Square Red Line T Station. The property is surrounded by commercial, retail, restaurant, entertainment, and office uses, all reflective of the underlying CBD zoning for Davis Square. Moving further out from the Square, the neighborhoods become almost exclusively residential.

5. Impacts of Proposal: The Parking Memorandum submitted as part of the application by Fort Hill Infrastructure Services, LLC indicates that the impact of the proposed project on the Davis Square parking supply is likely to be minimal. The memorandum strongly encourages the Applicant to consider offering discounted MBTA passes to employees, participating in the City's employee parking program, and making customers fully aware of the public transportation options available to them, especially through the use of iYo Café's website. The Parking Memorandum states how the particular proposed use of the space, a restaurant/café, would tend to generate trips where the trip takers will have already visited another establishment in Davis Square. These particular types of trips are closely associated with other existing dessert type establishments in the Davis Square area, such as J.P. Licks. The trips that the restaurant/café will generate will also be offset by the storefront's proximity to alternate modes of transportation (Red line, MBTA Bus Service, taxis, Tufts Shuttle Bus, Community Path, etc.) and the

multiple public parking lots located within 650 feet of the establishment. These factors will help to minimize the impacts of the proposed café's parking needs.

The Traffic and Parking Department has indicated that the requested parking variance would create a minor increase in traffic congestion and vehicle delay in this location in Davis Square. There will also be a slight decrease in pedestrian and bicycle safety as well as a lowering of parking space turnover rates. Aside from these impacts, there are no negative anticipated affects from the proposed parking variance. Traffic and Parking suggests that to alleviate this condition and to promote a safe comprehensive transportation network in Davis Square, mitigation to provide effective turnover rates at parking spaces is required. To encourage appropriate turnover rates, Traffic and Parking is recommending that the Applicant purchase and deliver to the City seven single-space parking meters capable of accepting coins, credit cards and pay-by-cell phone technology. Planning Staff has included this recommendation as a condition of the variance. Furthermore, this business would help to maintain the vibrancy of the streetscape and the high quality pedestrian environment in Davis Square, which is a benefit to the surrounding neighborhood.

As for the proposed changes to the existing façade, these would also have a minimal impact, if any, on the surrounding area. The Applicant is proposing to remove an unsightly through-wall air conditioner and wood infill panel over the main entrance and to replace them both with a glass panel. This change, along with overlaying the existing canopy facing and replacing the floodlight with recessed lighting in the canopy and gooseneck lamps, will further enhance an already high quality pedestrian experience along Elm Street. The additional transparent glass and pedestrian friendly lighting and signage will enhance the surrounding neighborhood.

6. Green Building Practices: The Applicant has indicated that they are exploring opportunities for commercial recycling and composting. The architect is proposing recycled materials where practical.

7. Comments:

Fire Prevention: Has been contacted but has not yet provided comments.

Ward Alderman: Alderman Gewirtz has been contacted but has not yet provided comments.

Traffic and Parking: Stated the following in an email to Planning Staff:

The Applicant seeks a variance from the parking requirement for relief from seven required off street parking spaces. The Applicant proposes to re-occupy a space currently available at 234 Elm Street in Davis Square. The project proposes the redevelopment of an existing 2,400 square foot space with no change in the floor area from an existing retail space to a café.

The Applicant has hired a professional transportation firm, Fort Hill Infrastructure Services, LLC to provide a parking assessment to determine the impact of not providing the seven required off street parking spaces on the parking supply in the immediate neighborhood.

Fort Hill has submitted a thorough and well prepared Parking Memorandum. This Parking Memorandum concludes that the proposed re-development will likely have a minimal impact on the surrounding neighborhood's public parking supply. Traffic and Parking does not fully support this assertion.

Traffic and Parking notes that due to the lack of fulfilling the seven required off-street parking spaces there will be a minor increase in the traffic congestion and vehicle delay in this location, which is in Davis

Square. There will also be a slight decrease in pedestrian and bicycle safety as well as a lowering of parking space turnover rates. To alleviate this condition and promote a safe comprehensive transportation network in Davis Square, mitigation to provide effective turnover rates at parking spaces is required.

To encourage appropriate turnover rates, it is recommended that the Applicant purchase and deliver to the City seven single-space parking meters capable of accepting coins, credit cards and pay-by-phone technology. The parking meters should be manufactured by the IPS Group or approved equal. Specifications for all requirements of the parking meters can be supplied by Traffic and Parking if required and necessary.

Provided the above is incorporated, Traffic and Parking has no objections to this application.



Existing Conditions

II. FINDINGS FOR VARIANCE (SZO §5.5):

In order to grant a variance the Board must make certain findings and determinations as outlined in §5.5.3 of the SZO.

1. “There are special circumstances relating to soil conditions, shape or topography of land or structures which especially affect such land or structures but not affecting generally the zoning district in which it is located, causing substantial hardship, financial or otherwise.”

The building at 230-234 Elm Street takes up the entire lot it sits upon with exception of a small four foot deep by 55 foot wide strip at the rear of the property. The footprint of the existing structure occupies 92% of the subject property. There is no other space on the lot for the Applicant to provide any off-street parking spaces to conform with §9.5 of the SZO. The existing use, a convenient store, is operating without any off-street parking and the Applicant is proposing to do the same.

2. “The variance requested is the minimum variance that will grant reasonable relief to the owner, and is necessary for a reasonable use of the building or land.”

Section 9.5 of the SZO requires that restaurants have, whichever is greater, 0.75 parking spaces per employee plus 1 parking space for every four seats or, one parking space per every 110 gross square feet of space. The café would have no more than four employees on site at any time, which would require 3 parking spaces, and 68 seats which would require 17 spaces for a total of 20 off-street parking spaces. The storefront space also has 2,448 gross square feet which would require 22 parking spaces. Since the gross square footage parking calculation is greater, the café would need to provide 22 parking spaces on-site. The existing convenient store was required to have four parking spaces on-site but has none. After performing the parking space calculation for the existing nonconforming parking situation as laid out in SZO §9.4 (one half the difference between the existing parking spaces being ‘provided’ and the required number of parking spaces for the proposed new use) and calculating the 20% allowed parking reduction for being within 1,000 feet of a rapid transit station, the Applicant is only required to provide an additional seven off-street parking spaces for the proposed use at the site. Since the existing building takes up almost the entire subject property, the Applicant is seeking a variance under §5.5 of the SZO from the parking requirements of §9.5 of the SZO for seven parking spaces of relief for the commercial storefront. Therefore, the request for seven parking spaces of relief is the minimum variance required to allow the café to locate in the storefront at 234 Elm Street.

3. “The granting of the variance would be in harmony with the general purpose and intent of this Ordinance and would not be injurious to the neighborhood or otherwise detrimental to the public welfare.”

This project is consistent with the purposes of the SZO and will not be detrimental to the Davis Square neighborhood. The granting of this parking variance for seven parking spaces of relief would allow a café to locate in a Davis Square storefront that will maintain the vibrancy of the streetscape, enhance the pedestrian environment along Elm Street, and complement the existing shopping and restaurant options of the area. Furthermore, the Parking Memorandum submitted by Fort Hill Infrastructure Services, LLC indicates that the impact of the proposed project on the Davis Square parking supply is likely to be minimal. The memorandum states how the particular proposed use of the space, a restaurant/café, would tend to generate trips where the trip takers will have already visited another establishment in Davis Square. These particular types of trips are closely associated with other existing dessert type establishments in the Davis Square area, such as J.P. Licks. The trips that the restaurant/café will generate will also be offset by the storefront’s proximity to alternate modes of transportation (Red line, MBTA Bus Service, taxis, Tufts Shuttle Bus, Community Path, etc.) and the multiple public parking lots located within 650 feet of the establishment. These factors will help to minimize the impacts of the proposed café’s parking needs.

The Traffic and Parking Department has indicated that the parking variance would create a minor increase in traffic congestion and vehicle delay in this location which is in Davis Square. Traffic

and Parking also feels there will be a slight decrease in pedestrian and bicycle safety as well as a lowering of parking space turnover rates. However, aside from these impacts, there are no negative anticipated affects from the proposed parking variance. The Traffic and Parking Department has suggested that to alleviate this condition and to promote a safe comprehensive transportation network in Davis Square, mitigation to provide effective turnover rates at parking spaces is required. To encourage appropriate turnover rates, Traffic and Parking is recommending that the Applicant purchase and deliver to the City seven single-space parking meters capable of accepting coins, credit cards and pay-by-cell phone technology. Planning Staff has included this recommendation as a condition of the variance. Furthermore, this business would help to maintain the vibrancy of the streetscape and the high quality pedestrian environment in Davis Square, which is a benefit to the surrounding neighborhood. Planning Staff feels that the variance would not be injurious to the neighborhood or detrimental to the public welfare. The structure will remain a one-story building used for commercial purposes.

III. FINDINGS FOR SPECIAL PERMIT (SZO §4.4.1, §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."

In considering a special permit under §4.4 of the SZO, Staff finds that the alterations proposed to the façade would not be substantially more detrimental to the neighborhood than the existing structure. The proposed changes to the façade of the building will be an improvement to the existing situation as they will be increasing the amount of transparent glass on the storefront and improving the lighting situation. The existing through-wall air conditioner and wood infill panel above the main entrance will be replaced with a glass panel. The existing exposed floodlight will be removed and replaced with recessed lighting in the canopy and some gooseneck lighting on the façade to illuminate the proposed signage. These changes will to maintain the vibrancy of the streetscape and the high quality pedestrian environment in the Davis Square area.

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; to conserve the value of land and buildings; to encourage the most appropriate use of land throughout the City; and to preserve and increase the amenities of the municipality."

The proposal is also consistent with the purpose of the district (6.1.5. CBD - Central Business Districts), which is, 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.”

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 designed to be compatible with the characteristics of the surrounding area and it is consistent with the district standards and guidelines for developments within the CBD as laid out in SZO §6.1.5 as follows:

1. Across the primary street edge, the building should complete the streetwall.

The existing building completes the streetwall along both Elm Street and Bowers Avenue. The Applicant is not proposing any changes as part of this project that would alter this situation at the site.

2. At the street level, provide continuous storefronts or pedestrian arcade which shall house either retail occupancies, or service occupancies suitably designed for present or future retail use.

The proposed changes to the façade of the building will maintain the existing continuous storefront situation at the property and along Elm Street. The project will replace a convenient store with a café, which are both pedestrian oriented uses, in the Davis Square area. The proposal will continue to maintain an interactive sidewalk and pedestrian friendly environment.

3. Massing of the building should include articulation which will blend the building in with the surrounding district. At the fourth floor, a minimum five-foot deep setback is recommended.

The project does not propose to change the massing of the building. The proposed changes to the structure will further enhance the pedestrian environment by improving signage and lighting and increasing the amount of transparent storefront through the addition of glass at the street level along the Elm Street streetscape.

4. Locate on-site, off-street parking either at the rear of the lot behind the building or below street level; parking should not abut the street edge of the parcel.

The Applicant is not proposing any changes to the existing parking situation at the site.

5. Provide access to on-site, off-street parking from either a side street or alley. Where this is not possible, provide vehicular access through an opening in the street level façade of the building of a maximum twenty-five (25) feet in width.

The Applicant is not proposing any changes to the existing parking situation at the site.

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.

No adverse environmental impacts are anticipated from this proposal. No new noise, glare, smoke, vibration, nor emissions of noxious materials nor pollution of water ways or ground water nor transmission of signals that interfere with radio or television reception are anticipated as part of the project. The structure will remain a one-story building used for commercial purposes.

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

The Applicant is not proposing any changes to the existing parking situation at the site. The structure will remain a one-story building used for commercial purposes.

IV. RECOMMENDATION

Variance under §5.5 and §9.5 and Special Permit under §5.1 and §4.4.1

Based on the above findings and subject to the following conditions, the Planning Staff recommends **CONDITIONAL APPROVAL** of the requested **VARIANCE** and **SPECIAL PERMIT**.

The recommendation is based upon a technical analysis by Planning Staff of the application materials based upon the required findings of the Somerville Zoning Ordinance, and is based only upon information submitted prior to the public hearing. This report may be revised or updated with new recommendations, findings and/or conditions based upon additional information provided to the Planning Staff during the public hearing process.

#	Condition	Timeframe for Compliance	Verified (initial)	Notes												
1	Approval is for a Variance under SZO §5.5 from the parking requirements of SZO §9.5 for relief from seven required off-street parking spaces and for a Special Permit to alter a nonconforming structure under SZO §4.4.1 to make façade alterations including window and lighting changes. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	ISD/PIng.													
	<table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>(December 6, 2011)</td><td>Initial application submitted to the City Clerk’s Office</td></tr><tr><td>December 6, 2011 (December 21, 2011)</td><td>Site Plan for 234 Elm Street (SP.1)</td></tr><tr><td>December 6, 2011 (December 21, 2011)</td><td>Vicinity Plan for 234 Elm Street (VP.1)</td></tr><tr><td>December 6, 2011 (December 21, 2011)</td><td>Existing Plan and Existing Façade Elevation & Section (EX1.1 and EX1.2)</td></tr><tr><td>December 6, 2011 (December 21, 2011)</td><td>Proposed Plan and Proposed Façade Elevation & Section (SK1.1 and SK1.2)</td></tr></table>				Date (Stamp Date)	Submission	(December 6, 2011)	Initial application submitted to the City Clerk’s Office	December 6, 2011 (December 21, 2011)	Site Plan for 234 Elm Street (SP.1)	December 6, 2011 (December 21, 2011)	Vicinity Plan for 234 Elm Street (VP.1)	December 6, 2011 (December 21, 2011)	Existing Plan and Existing Façade Elevation & Section (EX1.1 and EX1.2)	December 6, 2011 (December 21, 2011)	Proposed Plan and Proposed Façade Elevation & Section (SK1.1 and SK1.2)
	Date (Stamp Date)				Submission											
	(December 6, 2011)				Initial application submitted to the City Clerk’s Office											
	December 6, 2011 (December 21, 2011)				Site Plan for 234 Elm Street (SP.1)											
	December 6, 2011 (December 21, 2011)				Vicinity Plan for 234 Elm Street (VP.1)											
	December 6, 2011 (December 21, 2011)				Existing Plan and Existing Façade Elevation & Section (EX1.1 and EX1.2)											
December 6, 2011 (December 21, 2011)	Proposed Plan and Proposed Façade Elevation & Section (SK1.1 and SK1.2)															
Any changes to the approved use or site plans that are not <i>de minimis</i> must receive SPGA approval.																
2	Applicant shall comply with Fire Prevention Bureau’s requirements.	CO	FP													
3	The Applicant shall purchase and deliver to the City seven (7) single-space parking meters capable of accepting coins, credit cards and pay-by-cell phone technology. The parking meters should be manufactured by the IPS Group or approved equal. Specifications for all requirements of the parking meters can be supplied by Traffic and Parking if required or necessary.	Final Sign Off	T&P													

4	The Applicant shall at their 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	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	
6	The Applicant shall use either an 'inverted-u' or a 'post and ring' style bicycle rack for the proposed bicycle parking space. The installation of this bicycle parking space is subject to Planning Staff approval.	CO	Plng.	
7	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.	



234 Elm Street