



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2019-99
Date: October 2, 2019
Recommendation: Conditional approval

PLANNING STAFF REPORT

Site: 219-221 Elm St, a/k/a 387-391 Summer St and 217 Elm St, a/k/a 376 Summer St

Applicant Name: Painted Burro, Inc.
Applicant Address: 187 Elm Street, Somerville, MA 02144
Property Owner Name: Laverty Family Trust
Property Owner Address: 255 Bent Street, Cambridge, MA 02141
Agent Name: Adam Dash, Esq.
Agent Address: 48 Grove Street, Suite 304, Somerville, MA 02144
Alderman: Lance Davis

Legal Notice: Applicant, Painted Burro, Inc., and Owner, Laverty Family Trust, seeks a Variance under SZO §5.5 and Article 9 for parking relief to expand the number of seats in the restaurant from 110 to 142. CBD Zone. Ward 6.

Dates of Public Hearing: Zoning Board of Appeals – October 2, 2019

I. PROJECT DESCRIPTION

1. Subject Property: Located in Davis Square at the corner of Elm Street/Summer Street and Grove Street, the property itself is 15,696 square feet with a one-story flat roofed building on it that sits right up against Elm Street/Summer Street. There is a 29 space public parking lot behind the existing structure at the property that serves all of Davis Square.



In January of 1991, the Zoning Board of Appeals (ZBA) awarded a 10 space parking Variance to the property (ZBA 1990-85). In October of 2012, The ZBA granted approval for the restaurant to expand into

what was formerly Spike’s. As a result the restaurant now has 4,058 square feet of street level space, 4,058 square feet of basement level space, and 110 total seats.

2. Proposal: The proposal is to reconfigure the seating plan within the restaurant that will result in 142 total seats. The proposal to increase the number of seats by 32 requires parking relief as the additional seats increase the parking requirement by eight spaces.

3. Green Building Practices: None listed on the application form.

4. Comments:

City Councilor: Councilor Davis has been informed of the proposal and has yet to comment as of the publication of this report.

II. FINDINGS FOR VARIANCE (§5.5 and Article 9)

A Variance (§5.5) is sought for parking relief of 8 spaces.

<i>Existing 110 seat restaurant</i>	<i>Proposed 142 seat restaurant</i>
0.75 spaces per employee on the largest shift plus one per four seats	0.75 spaces per employee on the largest shift plus one per four seats
35 employees * 0.75 = 26.25	35 employees * 0.75 = 26.25
110 seats / 4 = 27.5	142 seats / 4 = 35.5
54 spaces (rounded up from 53.75)	62 spaces (rounded up from 61.75)

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.”*

Applicant’s response: The property has several business establishments and a small parking area. No additional parking can be obtained. The lot is oddly shaped, such that no new parking can be added. Applicant is a popular restaurant with people having to wait for seating at many times. Applicant would like to make better use of its interior space and add seating to address that consumer demand, however, business growth is hampered by the inability to increase the available parking. This is a hardship and stifles the ability for the business to grow. Had the lot been more regularly shaped, then additional parking could be created, but that is not the case. Davis Square has a Red Line MBTA station and ample bus service. The customers waiting for a table at Applicant’s restaurant are already in Davis Square. All Applicant wishes to do is to add seats to accommodate them.

Staff’s response: Staff concurs that the shape and size of the lot prevents the option of adding additional parking spaces on-site.

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.”*

Applicant’s response: This is minimum increase in seating to allow Applicant to serve its customers and reasonably use its space. No other changes are being made.

Staff's response: Staff finds that the request is the minimum variance that will grant reasonable relief to the owner and is necessary for a reasonable use of the building as a restaurant.

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."

Applicant's response: The proposal is simply to expand the seating in the existing and popular Painted Burro Mexican restaurant. As Painted Burro is currently part of the neighborhood, its expansion is in keeping with the character of the neighborhood. A parking variance was granted in 1990 to convert these storefronts into restaurant spaces in ZBA case number 1990-85, and Painted Burro was granted special permits in 2012 to expand into the adjacent former Spike's Junkyard Dogs space in ZBA case number 2012-83. No parking relief was required for the 2012 expansion in square footage. The building dimensions, square footage and exterior will not change.

Staff's response: Staff finds that the proposal will be in harmony with the general purpose and intent of this Ordinance and will not be injurious to the neighborhood or otherwise detrimental to the public health. There will be no changes to the outside or operations of the restaurant and adding more seats will decrease the impacts that queuing has onto the sidewalk.

III. RECOMMENDATION

Variance under §5.5 and Article 9

Based on the materials submitted by the Applicant, the above findings and subject to the following conditions, the Planning Staff recommends **CONDITIONAL APPROVAL** of the requested **VARIANCE**.

The recommendation is based upon a technical analysis by Planning Staff of the application material 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 the addition of seats to the existing restaurant. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	ISD/Plng.							
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>August 28, 2019</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>August 19, 2019</td> <td>Existing and Proposed floor plans</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	August 28, 2019	Initial application submitted to the City Clerk's Office	August 19, 2019	Existing and Proposed floor plans
	Date (Stamp Date)				Submission					
	August 28, 2019				Initial application submitted to the City Clerk's Office					
August 19, 2019	Existing and Proposed floor plans									
Any changes to the approved seating plans that are not <i>de minimis</i> must receive SPGA approval.										

Final Sign-Off				
2	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.	

