



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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MAYOR

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EXECUTIVE DIRECTOR

PLANNING DIVISION
ZONING BOARD OF APPEALS MEMBERS

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DANIELLE EVANS, *CLERK*
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DREW KANE, (ALT.)

Case #: ZBA 2019-47
Site: 23A Bow Street
Date of Decision: July 17, 2019
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: July 18, 2019

ZBA DECISION

Site: 23A Bow Street
Applicant Name: Sofia P. Ibarra Deschamps / barra.bars, LLC
Applicant Address: P.O. Box 335, Somerville, MA 02143
Owner Name: Eddie Giron / Musician Realty Trust, LLC
Owner Address: 50 Woodfall Road, Belmont, MA 02478
City Councilor: Ben Ewen-Campen

Legal Notice: Applicant, Sofia P. Ibarra Deschamps / Ibarra Bars, LLC, and Owner, Eddie Giron of Musician Realty Trust, LLC, seek Special Permits under Article 7 of the SZO to establish a bar, Article 9 of the SZO for parking relief, and Article 4 of the SZO to alter a non-conforming structure. NB zone. Ward 3.

<u>Zoning District/Ward:</u>	NB zone, Ward 3.
<u>Zoning Approval Sought:</u>	SZO §7.11.10.2.6.a, §9.4, §4.4.1
<u>Date of Application:</u>	May 1, 2019
<u>Date(s) of Public Hearing:</u>	7/17/19
<u>Date of Decision:</u>	July 17, 2019
<u>Vote:</u>	5-0

Case # ZBA 2019-47 was opened before the Zoning Board of Appeals in the Council Chambers at Somerville City Hall. 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. On July 17, 2019 the Zoning Board of Appeals took a vote.



I. PROJECT DESCRIPTION

The Applicant proposes establishing a bar serving small plates and snacks. Bar seating for 12 people and additional standing room is planned. 3-4 employees plus manager/owner will be present at any given time. The proposed hours of operation are **Lunch:** Monday - Friday 12-3pm; **Dinner:** Monday – Sunday 5pm – 12; **Brunch:** Saturday & Sunday 12-4pm. Special Permits were needed to establish a bar use and for three (3) parking spaces of relief.

II. FINDINGS FOR SPECIAL PERMIT with Design Review (SPD) (SZO §7.11.10.2.6.a), (SZO §9.4), & (SZO §4.4.1):

In order to grant a special permit, the SPGA must make certain findings and determinations as outlined in §7.11.10.2.6.a, §9.4, and §4.4.1 of the SZO. This section of the report goes through these three sections of the SZO in detail.

1. Information Supplied:

The Board finds that the information provided by the Applicant conforms to the requirements of §7.11.10.2.6.a, §9.4 and §4.4.1 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."

Pursuant to §7.11.10.2.6.a, when a “bar, tavern, drinking establishment, nightclub, dance hall, entertainment facility, or convention center” is proposed, the Applicant requires a Special Permit with Design Review for this use in the NB zoning district.

- The Board finds that the change of use from fast food use to a bar establishment is consistent with the purpose of the NB district and is consistent with other similar businesses found throughout the Union Square neighborhood.

Pursuant to §4.4.1 of the SZO:

In considering a special permit under §4.4.1 of the SZO, the Board finds that the interior reconfigurations proposed would not be substantially more detrimental to the neighborhood than what currently exists within this unit of the structure. The reconfiguration is a necessary measure in order to accommodate the production equipment, food storage and customer needs anticipated by the proposed business.

Pursuant to §9.4 of the SZO, the Applicant is required to provide 3 parking spaces associated with the business.

- In considering a special permit under §9.4 of the SZO, the Board finds that the request for parking relief is reasonable given the location of this establishment in the heart of Union Square. This is a business in the NB district that is close to residential areas and small businesses which will provide a substantial amount of ambulatory traffic to support the business.



- Of further note is the Union Square Green Line “T” stop that is anticipated to open within the next two years. Union Square will become more of a transit-oriented destination than it currently is, allowing for future customers of this establishment to patronize it not only on foot but via public transportation.
- Lastly, there is no means of accessing the rear of the 23 Bow Street lot from either Bow Street or from the abutting Walnut Street, leaving no possibility of providing parking on-site now or in the future.

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 promoting the health, safety, and welfare of the inhabitants of the City of Somerville; to secure safety from fire, panic and other dangers; to encourage the most appropriate use of land throughout the City; and to encourage housing for persons of all income levels.
- The proposal is consistent with the purpose of the NB district, which is “to establish and preserve areas for small-scale retail stores, services and offices which are located in close proximity to residential areas and which do not have undesirable impacts on the surrounding neighborhoods.”
- In terms of the design criteria for NB districts, the Board finds that they are not applicable to this project:

1.

1. When a fourth floor is included, provide a minimum five (5) foot deep setback from the front lot line building wall, such as a balcony or deck, for the purpose of promoting a scale appropriate to surrounding neighborhoods. (Not applicable to ZBA 2019-47)

2.

2. Give preference to locating on-site, off-street parking at the rear of the lot, behind the building or below street level, providing vehicular access from either a side street or alley where possible. (Not applicable to ZBA 2019-47)

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 surrounding neighborhood is a mix of residential buildings and small-scale retail stores, services, and offices.



- There are few visual impacts from the proposal as, except for signage, all of the changes will be internal to the unit.

5. Housing Impact: Will not create adverse impacts on the stock of existing affordable housing.

The proposal will not add to the existing stock of affordable housing.

6. SomerVision:

The proposal to extend the foundation will have no impacts on SomerVision goals.

III. DECISION:

Present and sitting were Members Orsola Susan Fontano, Josh Safdie, Danielle Evans, Anne Brockelman, Elaine Severino, and Drew Kane (*alt*). Upon making the above findings, Danielle Evans made a motion to approve the request for a Special Permit. Elaine Severino seconded the motion. The Zoning Board of Appeals voted **5-0** to **APPROVE** the request **WITH CONDITIONS**. The following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes						
1	Approval is to establish a bar establishment with food. Parking relief for 3 spaces.	BP/CO	ISD/ PIng.							
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>May 1, 2019</td> <td>Initial application submitted to the City Clerk’s Office</td> </tr> <tr> <td>June 14, 2019</td> <td>Articles of incorporation received by OSPCD</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	May 1, 2019	Initial application submitted to the City Clerk’s Office	June 14, 2019	Articles of incorporation received by OSPCD
	Date (Stamp Date)				Submission					
May 1, 2019	Initial application submitted to the City Clerk’s Office									
June 14, 2019	Articles of incorporation received by OSPCD									
Any changes to the approved plan 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	Signage for the establishment must first be reviewed and approved by Planning Staff prior to ordering an installation. Planning Staff, through the Zoning Review Planner, shall be provided with dimensions, color, layout, materials for the sign as well as any lighting plan. No internally-lit signs shall be approved. No signage shall be posted on the storefront windows. Approved signage shall be installed before CO is issued.	CO	ISD/PIng.							
Final Sign-Off										



4	<u>The Applicant shall contact Planning Staff at least five (5) working days in advance of a request for a final inspection</u> 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.	
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Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Chairman*
Danielle Evans, *Clerk*
Elaine Severino
Josh Safdie
Anne Brockelman
Drew Kane (*Alt.*)

Attest, by the Planner: _____

Sarah White

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 _____

