



City of Somerville

# PLANNING BOARD

City Hall 3<sup>rd</sup> Floor, 93 Highland Avenue, Somerville MA 02143

## DECISION

---

**PROPERTY ADDRESS:** 44 Medford St  
**CASE NUMBER:** P&Z 21-079  
**OWNER:** 44-48 Medford, LLC  
**OWNER ADDRESS:** 1330 Boylston St, Suite 600, Chestnut Hill, MA 02467  
**DECISION:** Approved with Conditions (Use Special Permit)  
**DECISION DATE:** November 29, 2021

This decision summarizes the findings made by the Planning Board (the "Board") regarding the Use Special Permit submitted for 44 Medford Street.

### LEGAL NOTICE

KapSam LLC seeks to establish a Fitness Services Use on a Pedestrian Street, which requires a Special Permit.

### RECORD OF PROCEEDINGS

On November 18th, 2021, the Planning Board held a public hearing advertised in accordance with M.G.L. 40A and the Somerville Zoning Ordinance. Present and sitting at the public hearing were Board Members Vice Chair Amelia Aboff, Clerk Rob Buchanan, Erin Geno, Debbie Howitt Easton, and Russell Pildes.

Following the Applicant's brief overview of the proposal the Board discussed the reasoning behind Staff's proposed condition restricting the Fitness Services Use to only KapSam, LLC, and not transferable. The Board noted that on similar applications for a Fitness Services Use this condition was not required. Ultimately, the Board removed this condition.

### SPECIAL PERMIT FINDINGS

In accordance with the Somerville Zoning Ordinance, the Board may approve or deny a special permit upon making findings considering, at least, each of the following:

#### Special Permit Considerations

1. The comprehensive plan and existing policy plans and standards established by the City.
2. The intent of the zoning district where the property is located.
3. The maintenance of a diverse blend of commercial uses within the neighborhood
4. The existing concentration of uses from the same category within the neighborhood.
5. The availability of the same services within the neighborhood.

6. The availability of comparable commercial spaces within the neighborhood

Information relative to the required considerations is provided below:

1. *The comprehensive plan and existing policy plans and standards established by the City.*

The Board finds that the proposal supports the objectives of SomerVision 2040, the comprehensive plan of the City of Somerville including, but not limited to, the following:

- Protect and promote a diverse, interesting mix of small-scale businesses in Somerville's neighborhoods.
- Facilitate thoughtfully designed, pedestrian-oriented mixed-use development and reuse opportunities in commercial corridors, squares and around transit stations that are sensitive to neighborhood context and serve existing and future residents and businesses.
- Make Somerville a regional employment center with a mix of diverse and high-quality jobs.

2. *The intent of the zoning district where the property is located.*

The Board finds that the proposal is consistent with the intent and purpose of the MR4 zoning district which is, in part: "To create, maintain, and enhance areas appropriate for smaller scale, multi-use and mixed-use buildings and neighborhood serving uses."

3. *The maintenance of a diverse blend of commercial uses within the neighborhood*

The Board finds that the proposal contributes to the blend of commercial uses by introducing a new use which is unique and distinct from other service uses in the neighborhood.

4. *The existing concentration of uses from the same category within the neighborhood.*

The Board finds that the proposal integrates a use that is unique among the range of existing uses within in the area.

5. *The availability of the same services within the neighborhood.*

The Board finds that the proposal offers the residents of the neighborhood access to a use that is not currently found within or near the neighborhood.

6. *The availability of comparable commercial spaces within the neighborhood*

The Board finds that the proposal could encourage other small-business tenants to occupy the ground floor commercial along Medford, which will contribute to the creation of a walkable and active neighborhood center.

**DECISION**

Following public testimony, review of the submitted plans, and discussion of the statutorily required considerations, Vice Chair Aboff moved to approve the Special Permit to establish a Fitness Services Use. Clerk Buchannon seconded. The Board voted **5-0** to approve the permit, subject to the following conditions:

Prior to Building Permit

1. A copy of the recorded Decision stamped by the Middlesex South Registry of Deeds must be submitted to the Planning, Preservation & Zoning Division for the public record.

Prior to Certificate of Occupancy

2. This Decision must be recorded with the Middlesex County Registry of Deeds prior to applying for a Certificate of Occupancy.

Attest, by the Planning Board:

Amelia Aboff, *Vice Chair*  
Rob Buchannon, *Clerk*  
Erin Geno  
Debbie Howitt Easton, *Alternate*  
Russell Pildes, *Alternate*



Sarah Lewis, Director of Planning, Preservation & Zoning  
Office of Strategic Planning & Community Development

**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. 15.5.3.

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.**

**FOR SITE PLAN APPROVAL(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 \_\_\_\_\_