



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

PLANNING DIVISION

PLANNING BOARD MEMBERS

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DOROTHY A. KELLY GAY
AMELIA ABOFF
GERARD AMARAL, (ALT.)

Case #: PB 2019-17
Site: 9 Sanborn Court
Date of Decision: August 22, 2019
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: August 23, 2019

PLANNING BOARD DECISION

Site: 9 Sanborn Court

Applicant Name: Sara Markey
Applicant Address: 9 Sanborn Court, Somerville, MA 02143
Owner Name: EJH Realty LLC c/o Edward Kepnes
Owner Address: 10 Nouvelle Way, Unit S1208, Natick, MA 01760
City Councilor: Ben Ewen-Campen

Legal Notice: Applicant, Sara Markey, and Owner, EJH Realty LLC c/o Edward Kepnes, seeks a special permit under SZO §6.1.22.D.6 to conduct a portion of the business outdoors by installing a patio. CCD-55*/Arts Overlay Zone. Ward 3.

****The subject property is actually in the CCD-45Zone.***

<u>Zoning District/Ward:</u>	CCD-45 zone. Ward 3.
<u>Zoning Approval Sought:</u>	SZO §6.1.22.D.6
<u>Date of Application:</u>	June 13, 2019
<u>Date(s) of Public Hearing:</u>	August 8, 2019 and August 22, 2019
<u>Date of Decision:</u>	August 22, 2019
<u>Vote:</u>	4-0

Case number # **PB 2019-17** was opened before the Planning Board in the City Council Chambers, second floor of City Hall, 93 Highland Avenue, Somerville, MA. Notice of the Public Hearing was given to persons affected and was published and August 22, 2019, the Planning Board took a vote.



I. PROJECT DESCRIPTION

The proposal is to conduct a portion of the business outdoors by installing a patio along the building in Sanborn Court.

II. FINDINGS FOR SPECIAL PERMIT (SZO §6.1.22.D.6):

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."*

Under SZO §6.1.22.D.6, certain accessory uses may be conducted outdoors through a Special Permit (SP) without requiring additional parking. Such a permit may only be granted for outdoor display or operation during approved business hours, for Use Clusters B (Small Retail and Service (less than 1,500 net square feet)), C (Medium Retail and Service (1,500 to 10,000 net square feet)), D (Eating and Drinking), and G (Educational/Recreational Services)..

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 promote the health, safety, and welfare of the inhabitants of the City of Somerville; to provide for and maintain the uniquely integrated structure of uses in the City; to protect health; to secure safety from fire, panic and other dangers; to provide adequate light and air; 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 consistent with the purpose of the CCD district, which is, "to promote appropriate infill development along heavily traveled transportation corridors, especially where those corridors meet at named Squares. The district recognizes that such corridors present opportunities for an active mix of uses while also addressing development challenges posed by smaller lots and nearby existing residential development and the need to be accessible by multiple modes of transportation. The major objectives of the districts are to:

1. Encourage active mid-rise commercial and residential uses that contribute to a multi-modal-friendly street;
2. Increase commercial investment in high-profile, accessible areas including retail that is largely neighborhood-serving in multi-tenant, mixed use buildings;
3. Preserve and complement historic structures;



4. Discourage inappropriate auto-oriented, significant trip-generating uses along transit corridors; and,
5. Promote pedestrian and bicycle activity.

The CCD has two sub-districts, which are distinguished solely by their respective height and density regulations. These regulations are shown in Section 8.5 Table of Dimensional Requirements.

- CCD-45. This sub-district shall provide for mixed-use or commercial development at a small to mid-rise scale.

The proposal is also consistent with the purpose of the Arts Overlay District (AOD), which was established in order to encourage the preservation and enhancement of Arts-Related Uses, particularly within Union Square. The district is also intended to preserve and enhance the area as a center for a variety of retail, business services, housing, and office uses and to promote a strong pedestrian character and scale throughout the district.

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."*

Surrounding Neighborhood: The property is located in the heart of Union Square and there are many restaurants and other businesses in the area. An adjacent restaurant (Bronwyn) also has a patio along this side of the building in Sanborn Court.

Impacts of Proposal (Design and Compatibility): The proposed patio will be located on Sanborn Court, which is a private way. The area that the patio will occupy will be where two cars are currently parking and will take up less width of the private way than the current parking spaces. The Board believes that the proposed patio will not unreasonable impact others' access through the private way. It is conditioned that the Applicant must make best efforts to ensure that their employees and vendors do not obstruct others' access through the private way. The Somerville Fire Prevention Bureau provided comment to the Planning Board, through Planning Staff, that they have no objections to the proposal.

The current hours of operation listed on their liquor license allows indoor food and alcohol service until 1am. The Applicant will be seeking a license to serve food and liquor outdoors until 9pm.

The establishment of a seasonal outdoor seating area in Union Square is viewed as a net benefit for the neighborhood by the Board. The proposal is compatible with the built surrounding area. The location is adjacent to Union Square Plaza, a significant public space that plays host to seasonal events and other outdoor seating areas for nearby businesses.

7. Housing Impact: Will not create adverse impacts on the stock of existing affordable housing.
8. SomerVision Plan: Complies with the applicable goals, policies and actions of the SomerVision plan, including the following, as appropriate: Preserve and enhance the character of Somerville's neighborhoods.

III. DECISION

Present and sitting were Michael Capuano, Joseph Favaloro, Amelia Aboff and Gerard Amaral. Upon making the above findings, Michael Capuano made a motion to approve the request for a Special Permit.



Joseph Favaloro seconded the motion. The Board voted **4-0** to **APPROVE** the request **WITH THE FOLLOWING CONDITIONS:**

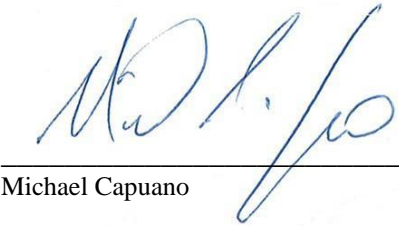
#	Condition	Timeframe for Compliance	Verified (initial)	Notes								
1	Approval is for the installation of an outdoor patio. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	ISD/Plng.									
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>June 13, 2019</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>April 24, 2019</td> <td>Exterior Patio Seating (A1.0)</td> </tr> <tr> <td>June 4, 2019</td> <td>Plot Plans</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	June 13, 2019	Initial application submitted to the City Clerk's Office	April 24, 2019	Exterior Patio Seating (A1.0)	June 4, 2019	Plot Plans
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	April 24, 2019				Exterior Patio Seating (A1.0)							
June 4, 2019	Plot Plans											
Any changes to the approved site plan that are not <i>de minimis</i> must receive SPGA approval.												
Construction Impacts												
2	The applicant shall post the name and phone number of the general contractor at the site entrance where it is visible to people passing by.	During Construction	Plng.									
Design												
3	Applicant shall provide details of final fencing materials to Planning Staff for review and approval prior to the issuance of a building permit.	BP	Plng.									
Miscellaneous												
4	Outdoor food and liquor service shall cease by 9pm seven days a week.	Perpetual	Plng.									
5	The Applicant must make best efforts to ensure that their employees and vendors do not obstruct others' access through the private way.	Perpetual	Plng.									
Public Safety												
6	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP									
7	To the extent possible, all exterior lighting must be confined to the subject property, cast light downward and must not intrude, interfere or spill onto neighboring properties.	CO	Plng.									
Final Sign-Off												
8	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.									



Attest, by the Planning Board:




Joseph Favaloro



Michael Capuano



Gerard Amaral



Amelia Aboff

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 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 _____

