



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

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Case #: ZBA 2019-56
Site: 36-38 Summer Street
Date of Decision: July 17, 2019
Decision: Approved with Conditions
Date Filed with City Clerk: July 19, 2019

ZBA DECISION

Site: 36-38 Summer Street

Applicant Name: MF Dulock, Inc.
Applicant Address: 201A Highland Avenue, Somerville, MA 02143
Owner Name: Michael F. Dulock and Maureen E. Gaffney
Owner Address: 12 Woodbine Street, Somerville, MA 02143
Agent Name: Adam Dash, Esq.
Agent Address: 48 Grove Street, Suite 304, Somerville, MA 02144
City Councilor: Ben Ewen-Campen

Legal Notice: Applicant, MF Dulock, Inc., and Owners, Michael F. Dulock and Maureen E. Gaffney, seek a special permit under SZO §4.5.1 to change from one nonconforming use (a laundromat) into another nonconforming use (butcher shop). Parking relief under Article 9 is also required. RB Zone. Ward 3.
** Planning Staff has determined that a parking relief under Article 9 is not required.*

| | |
|-----------------------------------|-----------------|
| <u>Zoning District/Ward:</u> | RB Zone. Ward 3 |
| <u>Zoning Approval Sought:</u> | SZO §4.5.1 |
| <u>Date of Application:</u> | May 29, 2019 |
| <u>Date(s) of Public Hearing:</u> | July 17, 2019 |
| <u>Date of Decision:</u> | July 17, 2019 |
| <u>Vote:</u> | 5-0 |

Case number ZBA 2019-56 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.



CITY HALL • 93 HIGHLAND AVENUE • SOMERVILLE, MASSACHUSETTS 02143
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I.PROJECT DESCRIPTION

The proposal it to change the use from a laundromat into a retail butcher’s shop. The proposal will include replacing the existing signage, repairing parts of the exterior, and make interior alterations.

II. FINDINGS FOR SPECIAL PERMIT (SZO §4.4.1):

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 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."*

Article 4: Nonconforming Uses and Structures

The structure is currently nonconforming with respect to the use as a laundromat and the following dimensional requirements: lot area, ground coverage, landscaped area, pervious area, front yard, rear yard, both side yard setbacks, and street frontage.

The proposal will not impact any of the nonconforming dimensions but the landscaped and pervious percentage will be increased from 0% to 16% by landscaping the rear asphalt yard.

Section 4.4.1 states that “[l]awfully existing nonconforming structures other than one- and two-family dwellings may be enlarged, extended, renovated or altered only by special permit authorized by the SPGA in accordance with the procedures of Article 5. The SPGA must find that such extension, enlargement, renovation or alteration is not substantially more detrimental to the neighborhood than the existing nonconforming building. In making the finding that the enlargement, extension, renovation or alteration will not be substantially more detrimental, the SPGA may consider, without limitation, impacts upon the following: traffic volumes, traffic congestion, adequacy of municipal water supply and sewer capacity, noise, odor, scale, on-street parking, shading, visual effects and neighborhood character.”

Section 4.5 of the SZO states that “a nonconforming use may be changed to another nonconforming use only by special permit authorized by the SPGA in accordance with the procedures of Article 5, provided that the SPGA finds that such change is not substantially more detrimental to the neighborhood than the existing nonconforming use. In judging detriment, the SPGA may consider, without limitation, impacts upon the following: traffic volumes, traffic congestion, type of traffic, change in traffic patterns and access to the site, adequacy of municipal water supply and sewer capacity, noise, odor, glare, scale, on-street parking, shading, visual effects and neighborhood character.”

In considering a special permit under §4.4 and 4.5 of the SZO, the Board finds that the alterations and use proposed would not be substantially more detrimental to the neighborhood than the existing structure/use. The proposal will allow for the rehabilitation of the structure and bring a more active use and aesthetic improvements.



Article 9: Off-street Parking and Loading

| Existing laundromat | Proposed butcher's shop |
|--|---------------------------------------|
| 1 space per 450 n.s.f 788/450=1.75 | 1 space per 425 n.s.f 788/425=1.85 |
| 2 spaces (rounded up from 1.85) | 2 spaces (rounded up from 6.7) |

The proposed butcher's shop use has the same parking requirement as the existing laundromat and is not required to provide any additional parking relief; therefore, **a special permit for parking relief is not required.**

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 lessen congestion in the streets; to protect health; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to conserve the value of land and buildings; to adequately protect the natural environment; 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 RB district, which is, "to establish and preserve medium density neighborhoods of one-, two- and three-family homes, free from other uses except those which are both compatible with and convenient to the residents of such districts."

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 subject property is located on the southern side of Summer Street on the block between Church Street and Bow Street. It is located across from Nunziato Field. Nearby land uses are primarily residential.

Impacts of Proposal (Design and Compatibility): The building footprint will not be altered by the proposal. The Applicant will repair and paint the masonry veneer, wood paneling, and fascia/trim. The sign will also be replaced with smaller sign containing back lit lettering. Overall, the proposal is an aesthetic improvement compared to the laundromat.

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

6. 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, Susan Fontano, Danielle Evans, Josh Safdie, 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 for the change in use to a butcher’s shop. 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>May 29, 2019</td> <td>Initial application submitted to the City Clerk’s Office</td> </tr> <tr> <td>May 30, 2019</td> <td>Plans submitted to OSPCD (0.1, Z1.1, D1.1, D2.1, A1.1, and A2.1)</td> </tr> </tbody> </table> | | | | Date (Stamp Date) | Submission | May 29, 2019 | Initial application submitted to the City Clerk’s Office | May 30, 2019 | Plans submitted to OSPCD (0.1, Z1.1, D1.1, D2.1, A1.1, and A2.1) |
| | Date (Stamp Date) | | | | Submission | | | | | |
| May 29, 2019 | Initial application submitted to the City Clerk’s Office | | | | | | | | | |
| May 30, 2019 | Plans submitted to OSPCD (0.1, Z1.1, D1.1, D2.1, A1.1, and A2.1) | | | | | | | | | |
| Any changes to the approved site plan or elevations/use 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. | | | | | | | |
| 3 | 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 | | | | | | | |
| 4 | 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 | | | | | | | |
| 5 | For the convenience of and respect for the neighborhood, during the construction phase, construction work shall not begin prior to 7:30am and shall finish no later than 5pm Monday through Friday. There shall be no construction or construction-related work performed on weekends or holidays. | During Construction | ISD | | | | | | | |
| Design | | | | | | | | | | |
| 6 | Applicant shall provide final material samples for siding, trim, windows, and doors to Planning Staff for review and approval prior to the issuance of a building permit. | BP | Plng. | | | | | | | |
| Site | | | | | | | | | | |



| | | | | |
|------------------------------|---|-------------------|-------------------------|--|
| 7 | Landscaping shall be installed and maintained in compliance with the American Nurserymen's Association Standards; | Perpetual | Plng. / ISD | |
| Traffic & Parking | | | | |
| 8 | The Applicant must coordinate with the Public Space and Urban Forestry as well as the Mobility Divisions of OSPCD to provide two bicycle racks within the vicinity of the subject property. | CO | PSUF and Mobility | |
| Miscellaneous | | | | |
| 9 | Electrical conduits on the exterior facades of buildings shall be painted to match the wall material to which they are attached. Conduits are not allowed on the front of any structure. | CO | Plng. | |
| 10 | Garbage and recycling locations shall be clearly indicated on site plans. Storage areas shall be inside of the structure or shall be fully screened from view from both the public way and abutters by an appropriate material reviewed and approved by staff. The location shall not impact any parking, landscaping, or egress. | BP | Plng. | |
| 11 | The Applicant, its successors and/or assigns, shall be responsible for maintenance of both the building and all on-site amenities, including landscaping, fencing, lighting, parking areas and storm water systems, ensuring they are clean, well kept and in good and safe working order. | Cont. | ISD | |
| Public Safety | | | | |
| 12 | The Applicant or Owner shall meet the Fire Prevention Bureau's requirements. | CO | FP | |
| 13 | 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. | |
| Signage | | | | |
| 14 | Signage will be limited in size and location to that shown in the elevation diagrams and lighting after 10p.m. facing residential property will be turned down or off. | CO/Cont. | Plng. | |
| Final Sign-Off | | | | |
| 15 | 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 Zoning Board of Appeals:

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

Attest, by Planner:

Alexander Mello

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 _____

