



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

PLANNING DIVISION

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**Case #: ZBA # 2005-32-R1-10/2011**  
**Site: 1180 Broadway**  
**Date of Decision: November 16, 2011**  
**Decision: *Petition Approved with Conditions***  
**Date Filed with City Clerk: November 22, 2011**

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**ZBA DECISION**

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<b>Applicant Name:</b>	Jonathan Medeiros
<b>Applicant Address:</b>	1 Hardwick Street, Cambridge, MA 02141
<b>Property Owner Name:</b>	Cherif Benattia
<b>Property Owner Address:</b>	655 Concord Avenue, #701, Cambridge, MA 02138
<b>Agent Name:</b>	N/A

Legal Notice: Applicant Jonathan Medeiros and Owner Cherif Benattia, seek a modification to the original parking variance (ZBA 2005-32) under SZO §5.5 in order to add four parking spaces of relief to the variance.

<u>Zoning District/Ward:</u>	NB zone/Ward 7
<u>Zoning Approval Sought:</u>	§5.5
<u>Date of Application:</u>	October 18, 2011
<u>Date(s) of Public Hearing:</u>	November 16, 2011
<u>Date of Decision:</u>	November 16, 2011
<u>Vote:</u>	5-0

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Appeal #ZBA 2005-32-R1-10/2011 was opened before the Zoning Board of Appeals at Somerville City Hall on November 16, 2011. 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. After one hearing of deliberation, the Zoning Board of Appeals took a vote.



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**DESCRIPTION:**

The Applicant is proposing to open a mind and body fitness training studio (by appointment only) in the commercial space at the 1180-1188 Broadway building. The use, at its maximum capacity, will not have any more than 10 occupants at any one time which would include both trainers and clients. Typically the studio would be operating with three fitness trainers with the hours of operation being Monday to Friday from 6:00 AM to 9:00 PM and Saturday and Sunday from 8:00 AM to 8:00 PM. The interior space will require some modifications to install a front desk, storage space, an additional bathroom, and fitness flooring throughout the space. This type of use, a recreational center/health club, requires nine parking spaces per §9.5 of the Somerville Zoning Ordinance (SZO). The site already contains 33 parking spaces in a first floor garage that is controlled by gate access. Most of these 33 spaces are designated for the residential units on the floors above and only two of the 33 spaces have been allocated to the business by the property owner. The original variance at the property provided for three parking spaces of relief. These factors mean that the proposed fitness training studio use for this space needs to provide four additional off-street parking spaces to comply with the zoning ordinance, but the Applicant cannot as the existing structure takes up the entire lot. Therefore, the Applicant is requesting a modification to the original parking variance for the property (ZBA 2005-32) in order to add four parking spaces of relief to the variance.

**FINDINGS FOR VARIANCE (SZO §5.5):**

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.”

The building at 1180-1188 Broadway takes up almost the entire lot it sits upon with another 16% of the property being allocated to landscaping at the site. All of the parking spaces for the residential units and the commercial space are located in a garage that sits on the first floor of the building and is controlled by a gate entry. The garage contains 33 parking spaces and two of these spaces have been allocated to the storefront commercial space (1180 Broadway). This means that there are 31 spaces remaining for the 20 residential units, or 1.55 parking spaces per unit. There are no other locations on the property where the Applicant could potentially locate off-street parking spaces to conform with §9.5 of the SZO. The areas on each side of the building between the edge of the structure and the property line is where most of the landscaping for the property is located. There is no space to fit conforming parking spaces or maneuvering areas into these locations or at the rear of the property either. Furthermore, even if there was a small amount of remaining space on the property for additional parking spaces, these new spaces would eat up the small amount of landscaping that exists at the 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.”

Section 9.5 of the SZO requires that recreational centers and health clubs have, whichever is higher, one parking space for every 500 gross square feet of building area or, one parking space per every four persons based on the occupancy capacity of the largest assembly area. The commercial space is 2,316 square feet which would require five parking spaces and the largest assembly area is 560 square feet which would require nine parking spaces. The original parking variance at the property provided three spaces of parking relief and the Applicant has been allocated two parking spaces in the parking garage at the building. Consequently, the nine required parking spaces is reduced down to a requirement for only four additional off-street parking spaces for the proposed fitness training studio to be in compliance with §9.5 of the SZO. Therefore, the request for four additional parking spaces of relief is the minimum amount required as part of the modification to the variance to allow the fitness studio use to locate in the storefront at 1180 Broadway.



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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.”

The granting of this modification to the existing parking variance for an additional four parking spaces of relief would allow a mind and body fitness training studio (by appointment only) to locate in a Broadway commercial storefront in Teele Square that has been vacant since 2007. This business would increase the vibrancy of the streetscape and enhance the pedestrian environment along Broadway as one heads into and out of Teele Square, which is a benefit to the surrounding neighborhood. The Applicant is also indicating that due to the small number of occupants that would be in the fitness studio at any one time, there will be little to no change in the amount of foot/vehicular traffic in the vicinity of 1180 Broadway. Further, the Parking Assessment Memorandum submitted by Design Consultants, Inc. indicates that the proposed fitness studio will have a negligible impact to the on-street parking condition in the area and will not overburden the surrounding neighborhood with additional parking needs. The memorandum indicates that even during the periods of the highest demand for parking in the neighborhood, which is during the evening period of weekdays, there is a minimum of 11 available on-street parking spaces in the immediate area. These 11 spaces, combined with the two spaces already allocated in the garage on-site would provide 13 total parking spaces for occupants of the fitness studio, and, as indicated above, there would only be a maximum of 10 occupants in the space at any one time.

The Traffic and Parking Department has indicated that there will be a minor increase in traffic congestion and vehicle delay in this location which is in the immediate vicinity of Teele Square. Traffic and Parking also feels that there will be a slight decrease in pedestrian and bicycle safety as well as a lowering of parking space turnover rates. However, aside from these impacts, there are no negative anticipated affects from the proposed modification to the parking variance. The Traffic and Parking Department has suggested that to alleviate this condition and to promote a safe comprehensive transportation network in the Teele Square area, mitigation to provide effective turnover rates at parking spaces is required. Furthermore, the modification of the existing parking variance will allow a health and fitness use to establish in Teele Square, which is a particular use that is in line with the overall healthy living and well being that the City promotes to its residents. The Board feels that the variance would not be injurious to the neighborhood or detrimental to the public welfare.



**DECISION:**

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans, Scott Darling and Josh Safdie with Herbert Foster absent. Upon making the above findings, Richard Rossetti made a motion to approve the request for a variance. Scott Darling seconded the motion. Wherefore the Zoning Board of Appeals voted **5-0** to **APPROVE** the request. In addition the following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes								
1	<p>Approval is modify the original parking variance (ZBA 2005-32) under SZO §5.5 in order to add four parking spaces of relief to the variance. This approval is based upon the following application materials and the plans submitted by the Applicant:</p> <table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>(October 18, 2011)</td> <td>Initial application submitted to the City Clerk’s Office</td> </tr> <tr> <td>October 25, 2011 (November 8, 2011)</td> <td>Unit Plans (basement + first floors) – Z-100</td> </tr> <tr> <td>October 25, 2011 (November 8, 2011)</td> <td>Site Plan – Z-101</td> </tr> </tbody> </table> <p>Any changes to the approved use or site plans that are not <i>de minimis</i> must receive SPGA approval.</p>	Date (Stamp Date)	Submission	(October 18, 2011)	Initial application submitted to the City Clerk’s Office	October 25, 2011 (November 8, 2011)	Unit Plans (basement + first floors) – Z-100	October 25, 2011 (November 8, 2011)	Site Plan – Z-101	BP/CO	ISD/PIng.	
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2	The Applicant shall purchase and deliver to the City four (4) single-space parking meters capable of accepting coins, credit cards and pay-by-cell phone technology. The parking meters should be manufactured by the IPS Group or approved equal. Specifications for all requirements of the parking meters can be supplied by Traffic and Parking if required or necessary.	Final Sign Off	T&P									
3	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	PIng.									



Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Acting Chairman*  
Richard Rossetti, *Acting Clerk*  
T.F. Scott Darling, III, Esq.  
Danielle Evans  
Josh Safdie (Alt.)

Attest, by the Administrative Assistant:

\_\_\_\_\_  
Dawn M. Pereira

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 \_\_\_\_\_



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