



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

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Case #: ZBA 2014-74
Site: 1234-1236 Broadway
Date of Decision: November 5, 2014
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: November 13, 2014

ZBA DECISION

Applicant Name:	Yaron Gal Carmel, The Therapy Center for Mind and Body, LLC
Applicant Address:	1234-1236 Broadway, Somerville, MA 02144
Property Owner Name:	Yaron Gal Carmel, The Therapy Center for Mind and Body, LLC
Property Owner Address:	1234-1236 Broadway, Somerville, MA 02144
Agent Name:	N/A

Legal Notice: Applicant, Yaron Gal Carmel, The Therapy Center for Mind and Body, LLC, and Owner, Yaron Gal Carmel, seek a Special Permit under SZO §7.11.7.2.a to expand the office use by approx. 800 sf*, for parking relief under §9.5 and 9.13, and to alter the nonconforming structure to add a front entrance and lift.

<u>Zoning District/Ward:</u>	RC zone/Ward 7
<u>Zoning Approval Sought:</u>	§7.11.1.2.a, §9.5 & §9.13
<u>Date of Application:</u>	July 23, 2014
<u>Date(s) of Public Hearing:</u>	November 5, 2014
<u>Date of Decision:</u>	November 5, 2014
<u>Vote:</u>	5-0

Appeal #ZBA 2014-74 was opened before the Zoning Board of Appeals at Somerville City Hall on November 5, 2014. 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.



CITY HALL • 93 HIGHLAND AVENUE • SOMERVILLE, MASSACHUSETTS 02143
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DESCRIPTION:

The proposal is to expand the medical use to the basement. The basement would be built out with 4 rooms for a total of 750 square feet. The hours of operation for the business would remain the same. The proposal also includes altering the structure to add a front entrance at the basement level and to add an exterior lift to access the basement.

FINDINGS FOR SPECIAL PERMIT (SZO §4.4.1, 9.13, 7.11.7.2.a):

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."*

A medical office (SZO §7.11.7.2.a) is allowed by-right in the RC district up to 5,000 gross square feet. The gross square feet of the entire structure is 4,848 as listed in the Assessor’s database. Therefore, the use is allowed. In considering a special permit under §4.4 of the SZO, Staff find that the alterations proposed would not be substantially more detrimental to the neighborhood than the existing structure. The building and site are nonconforming in terms of the landscaping, pervious surface, rear yard setbacks and the number of parking spaces. The stairs are only impacting the nonconforming pervious area which would decrease by 4%. The proposed stairs are less than 3 feet tall since they are going down into the ground and therefore they do not need to comply with setbacks. The most visible change to the structure would be a new railing around the stairs and lift, which would match the existing railing on the front porch. The new door with an awning over it would be almost entirely below grade. There will be a stone-caped low wall and planters incorporated into the new entrance between the impervious surface to make up for the loss of landscaping in the front yard.

A Special Permit is required for parking relief for the use under §9.5 and 9.13. Medical office space in the RC district requires 1 space per 400 square feet. The new office space will be 750 square which requires 2 parking spaces. There is a driveway on the property which only technically counts as one parking space so the site is nonconforming. There is no room to add more onsite parking.

In considering a special permit under §9.13 of the SZO the Applicant must be able to demonstrate that granting the requested special permit would not cause detriment to the surrounding neighborhood through any of the criteria as set forth under SZO §9.13, which are as follows:

- 1) increase in traffic volumes;
- 2) increased traffic congestion or queuing of vehicles;
- 3) change in the type(s) of traffic;
- 4) change in traffic patterns and access to the site;
- 5) reduction in on-street parking;
- 6) unsafe conflict of motor vehicle and pedestrian traffic.

The medical practice has many client’s arrive by foot, by the bus that runs on Broadway and by bicycle. The relief for two parking spaces for a small medical office on Broadway is not anticipated to cause detriment to the criteria listed above.

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 providing for and maintaining the uniquely integrated structure of uses in the City and to conserving the value of land and buildings.

The proposal is consistent with the purpose of the district, which is for multi-family residences with compatible uses that are convenient to the residents. This office use has been operating in the location and the increase in four rooms will make the space more function and continue to be compatible with the neighborhood as the exterior of the building is only changing slightly to accommodate a new door and stairs.

In considering a special permit under §9.13 of the SZO the SPGA may grant such a special permit only when consistent with the purposes set forth in Section 9.1. The reduction in two parking spaces is not proposed to cause detriment to the neighborhood. There is street parking on Broadway and bus service that currently serves the employees and patients. There will not be a significant burden on these services as a result of 750 square of additional office space.

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 stairs and lift in the front of the house have been designed to be compatible with the existing structure. The railings around the sunken stairs and lift will match that of the existing front porch. There will be a stone-capped low wall and planters to incorporate the new entrance into the front yard.

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

Housing is not in the existing or proposed space that the office will occupy.

7. 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, transform key opportunity areas, preserve and expand an integrated, balanced mix of safe, affordable and environmentally sound rental and homeownership units for households of all sizes and types from diverse social and economic groups; and, make Somerville a regional employment center with a mix of diverse and high-quality jobs. The areas in the SomerVision map that are designated as enhance and transform should most significantly contribute towards the SomerVision goals that are outlined in the table below. The areas marked as conserve are not expected to greatly increase the figures in the table since these areas are not intended for large scale change.*

The proposal will increase the number of jobs in this location which is a significant goal of the Comprehensive Plan. The number of jobs will be 4 to 12 depending on how many free time or part time worker rent the space.



DECISION:

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Danielle Evans and Elaine Severino. Upon making the above findings, Susan Fontano made a motion to approve the request for a Special Permit. Richard Rossetti 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	Approval is for the alteration of the structure to add an entrance to the office space in the basement and for the relief of 2 parking spaces. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	ISD/PIng.									
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>Jul 23, 2014</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>Sept 14, 2014</td> <td>Modified plans submitted to OSPCD (Entrance plans with lift: A-1 front entrance basement level, A-2 front entrance street level, A-3 Section at Lift)</td> </tr> <tr> <td>Jun 26, 2014</td> <td>Modified plans submitted to OSPCD (A-2 Basement floor plan (lift not included in plan), A-0 Site Plan, A4.1 Front Elevation, A4.2 Side Elevation, A5.1 Section)</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	Jul 23, 2014	Initial application submitted to the City Clerk's Office	Sept 14, 2014	Modified plans submitted to OSPCD (Entrance plans with lift: A-1 front entrance basement level, A-2 front entrance street level, A-3 Section at Lift)	Jun 26, 2014	Modified plans submitted to OSPCD (A-2 Basement floor plan (lift not included in plan), A-0 Site Plan, A4.1 Front Elevation, A4.2 Side Elevation, A5.1 Section)
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Any changes to the approved site plan or elevations that are not <i>de minimis</i> must receive SPGA approval.												
Pre-Construction												
2	The Applicant must contact the Engineering Department to obtain a street address prior to a building permit being issued.	BP	Engineering									
3	The Applicant will be required to demonstrate that the updated project plans meet the current City of Somerville stormwater policy. Utility, grading, and drainage plans must be submitted to the Engineering Department for review and approval.	BP	Eng.									
4	The Applicant shall submit a proposed grading and drainage plan, stamped by a registered PE in Massachusetts that demonstrates compliance with the City's stormwater policy.	BP	Eng.									
5	The Applicant shall submit a proposed drainage report, stamped by a registered PE in Massachusetts that demonstrates compliance with the City's stormwater policy.	BP	Eng.									



6	The Applicant shall develop a demolition plan in consultation with the City of Somerville Inspectional Services Division. Full compliance with proper demolition procedures shall be required, including timely advance notification to abutters of demolition date and timing, good rodent control measures (i.e. rodent baiting), minimization of dust, noise, odor, and debris outfall, and sensitivity to existing landscaping on adjacent sites.	Demolition Permitting	ISD	
Construction Impacts				
7	The Applicant shall at his 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	
8	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	
Site				
9	Landscaping should be installed and maintained in compliance with the American Nurserymen's Association Standards;	Perpetual	Plng. / ISD	
10	Applicant will supply a bike rack in the rear yard or inside of the building.	CO	Plng.	
Miscellaneous				
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.	
14	The Applicant shall provide notice of intent to strictly comply with applicable State and Federal regulations regarding air quality including without limitation continuous dust control during demolition and construction.	CO	Plng/OSE	
Signage				
15	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				



16	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.	
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Attest, by the Zoning Board of Appeals:

Herbert Foster, *Chairman*
Orsola Susan Fontano, *Clerk*
Richard Rossetti
Danielle Evans
Elaine Severino

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 _____

