



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

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ELIZABETH MORONEY
JERRY AMARAL, (ALT.)

Case #: PB 2014-21
Site: 185 Somerville Avenue
Date of Decision: August 21, 2014
Decision: Petition Approved with Conditions
Date Filed with City Clerk: August 25, 2014

PLANNING BOARD DECISION

Applicant Name:	North East Foods, LLC
Applicant Address:	4415 Highway 6, Sugarland, TX 77478
Property Owner Name:	Carroll's Corporation
Property Owner Address:	968 James Street, Syracuse, NY 13217
Agent Name:	Jeffrey Benevides
Agent Address:	148 West River Street, Suite 5, Providence, RI 02904

Legal Notice: Applicant North East Foods, LLC, and Owner, Carroll's Corporation, seek a Special Permit per SZO §6.1.22.5 for building alterations and §6.1.22.H.7 for signage.

<u>Zoning District/Ward:</u>	CCD 55 zone/Ward 2
<u>Zoning Approval Sought:</u>	§6.1.22.5 & §6.1.22.H.7
<u>Date of Application:</u>	June 9, 2014
<u>Date(s) of Public Hearing:</u>	8/7 & 8/21/14
<u>Date of Decision:</u>	August 21, 2014
<u>Vote:</u>	4-0

Appeal #PB 2014-21 was opened before the Planning Board at Somerville City Hall on August 7, 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 hearings of deliberation, the Planning Board took a vote.



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DESCRIPTION:

The proposal is to alter the exterior of the building to update it to the current Burger King architectural standards. This includes removing the pitched roof and some of the existing parapet to make a cohesive parapet using stucco and metal panel. Grey clapboard and canopy accents will be added on the front and side entrance. Additional canopy accents will be added at the drive-through. The building will be repainted. There will be 5 signs on the building – 4 externally lit box signs with the Burger King logo and 1 lettered sign on a canopy saying, “home of the whopper.” There is a merchandising area to the left of the side entrance.

FINDINGS FOR SPECIAL PERMIT (SZO §6.1.22.5 & §6.1.22.H.7):

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."*

Alterations to an existing or approved façade other than a one-for-one replacement of signage within the same sign footprint and using the same sign technology shall require a Special permit per SZO §6.1.22.5. The exterior renovations and signage require a Special Permit.

In considering a special permit under §6.1.22.5, the Board finds that the alterations proposed would not be substantially more detrimental to the neighborhood than the existing structure.

In the CCD districts, new developments must adhere to the Development Standards. Although this is not a new development, applicable sections of the development standards are below.

1. **Penthouses and Mechanical Equipment.**

Rooftop equipment will be screened by the parapet.

2. **Pedestrian Oriented Requirements.** To promote pedestrian activity, buildings shall be designed with separate front entrance doors to lobbies, cultural spaces, retail and business, and other sources of pedestrian activity. These entrances shall be oriented to existing public sidewalks and other open space (as opposed to a central "mall" entrance).

The building is not a redevelopment which would have to adhere to these standards. However, the sidewalks leading to the site from the Somerville Avenue entrance are paved in blacktop and do not adhere to City standard. To increase pedestrian comfort around and to the site, a condition of this report is that the Applicant repave the sidewalk on the Somerville Avenue frontage to DPW standard including the driveway apron.

3. **Lighting.** Lighting shall be appropriate to the historic and pedestrian-oriented character of surrounding neighborhoods and buildings, and shall enhance safety and security while minimizing glare and light trespass.

The Applicant has proposed internally lit box signs which are Burger King standard. However, the



Applicant has agreed to use a fixed, wall mounted up-light instead. A condition of this report is that no internally illuminated signs be installed and that final lighting/signage specifications be submitted to Planning Staff for review and approval. This only applies to the proposed signage, the pylon signage is not part of this proposal.

4. Parking Design. Refer to Section 9.17 for parking requirements. Parking and loading areas shall be hidden from view from public ways. They may be located at the side or rear of a lot or in concealed structures shall be suitably screened both visually and acoustically from the street and abutters (sufficient to conform to the City's Noise Ordinance during operation). Any views into parking structures shall be minimized through use of landscaping or architectural treatment.

There are 40+ parking spaces provided on site and 9 are 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 promoting the health, safety, and welfare of the inhabitants of the City of Somerville.

The proposal is consistent with the purpose of the Corridor Commercial Districts which is to, 'establish and promote appropriate infill development along heavily traveled transportation corridors, especially where those corridors meet at named Squares.' As conditioned, the project will promote pedestrian activity around and to the site. In general, auto oriented fast food uses do not adhere to the purpose of this district but this is an established use.

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 surrounding neighborhood is a mix of commercial and residential uses and is essentially a transition from the Somerville Avenue fabric to McGrath Highway. There is an auto use on the corner and Target across the street. Mansfield Street has the typical Somerville residential character.

There are little to no impacts to the proposal to renovate the exterior of the building and change the signage.

The design guidelines of §6.5.H have been adhered to when possible including the use of high quality exterior materials.

1. Signage and awning design should respect buildings' context (e.g., scale, design, style, colors, materials), be oriented to pedestrians, and be subordinate to the overall building composition. Creative shapes must be carefully designed and coordinated with the overall appearance of the building. The design should also maintain an existing "signage line" and respect the character, scale, and locations of adjacent signs and awnings. Large, interior-lit or back-lit signs or awnings, neon "open" signs, vinyl or plastic materials and overly bright colors are generally discouraged. To add interest and character to the retail environment signs or awnings may convey interesting elements or logos without excessive wording. They should be limited to advertising the business name and its main goods or services, with minimal or no national brand names or logos. Type styles should enhance readability of the sign and provide information simply and legibly. Use awnings to create pleasant shaded spaces in front of a building. Signs and awnings should enhance important architectural details and not conceal or obliterate them.

A condition of this report is that there shall be no internally light box signs installed on the building. The pylon signs are not part of this proposal.



2. A sidewalk depth of at least ten (10) feet from the street curb to building is strongly encouraged for developments fronting major streets.

A condition of this report is that the Applicant repave the Somerville Avenue frontage to DPW standard including the driveway apron.

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

This project will have no impact on 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, 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.

Although the use is not ideal, the building alterations will enhance the site.

DECISION:

Present and sitting were Members Joseph Favalaro, Michael Capuano, James Kirylo and Gerard Amaral with Kevin Prior and Dorothy Kelly Gay absent. Upon making the above findings, James Kirylo made a motion to approve the request for a Special Permit. Gerard Amaral seconded the motion. Wherefore the Planning Board voted **4-0** to **APPROVE** the request. In addition the following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes						
1	<p>Approval is for Special Permit per SZO §6.1.22.5 for building alterations and §6.1.22.H.7 for signage. 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>June 9, 2014</td> <td>Initial application submitted to the City Clerk’s Office</td> </tr> <tr> <td>(July 30, 2014)</td> <td>Modified plans submitted to OSPCD (G-1 Cover, C-1 Site, EX-1 Existing FP, EX-2 Existing Elev, A-1 Proposed FP, A-2 Proposed Elev, D2 Proposed FP w/Furniture, Colored Elev, Signage Plan, Signage Elev 1, Signage Elev 2, Signage Detail 1-4, Signage Detail with Awning)</td> </tr> </tbody> </table> <p>Any changes to the approved elevations that are not <i>de minimis</i> must receive SPGA approval.</p>	Date (Stamp Date)	Submission	June 9, 2014	Initial application submitted to the City Clerk’s Office	(July 30, 2014)	Modified plans submitted to OSPCD (G-1 Cover, C-1 Site, EX-1 Existing FP, EX-2 Existing Elev, A-1 Proposed FP, A-2 Proposed Elev, D2 Proposed FP w/Furniture, Colored Elev, Signage Plan, Signage Elev 1, Signage Elev 2, Signage Detail 1-4, Signage Detail with Awning)	BP/CO	ISD/ Plng.	
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Pre-Construction				
2	The Applicant must contact the Engineering Department to obtain a street address prior to a building permit being issued.	BP	Eng.	
Construction Impacts				
3	Approval is subject to the Applicant's and/or successor's right, title and interest in the property.	Cont.	Plng.	Deed submitted
4	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	
5	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				
6	The Applicant shall install a new sidewalk on the Somerville Avenue frontage. All new sidewalks will be installed by the Applicant in accordance with the specifications of the Highway Superintendent. Specifically, all driveway aprons shall be concrete.	CO	Plng.	
Miscellaneous				
7	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				
8	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
9	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				
10	Signage will be limited in size and location to that shown in the elevation diagrams. There shall be no internally illuminated box signs. Signage shall be lit with spot accent lighting. Lighting after 10p.m. facing residential property will be turned down or off.	CO/Cont.	Plng.	
Final Sign-Off				
11	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.	



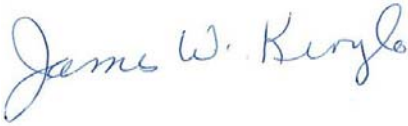
12	The Applicant will shall work with Planning Staff for review and approval of a signage plan with painted wood signs in substitute of box signs.	BP	Plng.	
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Attest, by the Planning Board:



Joseph Favaloro



James Kirylo



Michael A. Capuano, Esq.



Gerard Amaral

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 _____

