



**CITY OF SOMERVILLE, MASSACHUSETTS**  
**OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT**  
**JOSEPH A. CURTATONE**  
**MAYOR**

*PLANNING DIVISION*

**STAFF**

GEORGE PROAKIS, *PLANNING DIRECTOR*  
LORI MASSA, *SENIOR PLANNER*  
ADAM DUCHESNEAU, *PLANNER*  
DAWN PEREIRA, *ADMINISTRATIVE ASSISTANT*  
FREDERICK J. LUND, *SENIOR DRAFTSMAN*

**Case #:** ZBA 2011-28  
**Date:** May 4, 2011  
**Recommendation:** Conditional Approval

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**PLANNING STAFF REPORT**

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**Site:** 37-37A Davis Square

**Applicant Name:** Davis Square Food Services, Inc. d/b/a Boston Burger Company  
**Applicant Address:** 37 Davis Square, Somerville, MA 02144  
**Property Owner Name:** Sixty-six Highland Ave Realty Trust  
**Property Owner Address:** 99 Albion St, Suite 6, Somerville MA 02144  
**Agent Name:** Charles J. Sillari, Jr.  
**Agent Address:** 510 Medford St, Somerville MA 02145  
**Alderman:** Rebekah Gewirtz

Legal Notice: Applicant Davis Square Food Services, Inc. d/b/a Boston Burger Company and Owner Sixty-six Highland Ave Realty Trust seek a special permit for modification of parking requirements (§9.13) to waive the requirement to provide two (2) additional parking spaces while adding 18 seats in the restaurant that is expanding by 300 sf in the existing building.

Zoning District/Ward: CBD / 6

Zoning Approval Sought: SZO §9.13, 9.4

Date of Application: April 5, 2011

Dates of Public Hearing: Zoning Board of Appeals May 4, 2011

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**I. PROJECT DESCRIPTION**

1. Subject Property: The property is a 3081 sf parcel with a three-story mixed use structure. There are four commercial uses on the ground floor including but are not limited to Boston Burger Company and Citizen Bank and there are residential units above. There are currently no off-street parking spaces provided for patrons of the businesses in the building. The site received relief for parking



CITY HALL • 93 HIGHLAND AVENUE • SOMERVILLE, MASSACHUSETTS 02143  
(617) 625-6600 EXT. 2500 • TTY: (617) 666-0001 • FAX: (617) 625-0722

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requirements in 2002 for a previous restaurant that had 30 seats in the space that Boston Burger Company currently occupies. Boston Burger Company has 28 seats in the 670 sf space. The restaurant is open from 11am to 11pm, seven days per week. There are typically 5 employees working at any given time.

2. Proposal: The proposal is to expand the restaurant into the adjacent commercial space that was previously a hair salon but is currently vacant. The space is 370 gsf (300 nsf) and would fit 18 seats. The total square footage of the restaurant would be 1040 sf and the total number of seats would be 46. There would be one additional employee working at the restaurant. A door would be built to connect the two spaces internally. No exterior renovations would be required.

3. Nature of Application: The use of the property as a “restaurant, other than fast order food” is a by-right use up to 5,000 sf in the Central Business District. Since the total space would be 1040 sf, the use would continue to be by-right.

The 18 additional seats require additional parking spaces that the Applicant is not able to provide. The Applicant is requesting a special permit under SZO § 9.13 to reduce the number of off-street parking that are required. Under § 9.13, the SPGA may grant a special permit modifying the parking requirement if the lot is nonconforming in terms of parking requirements and the number of parking spaces required is six or fewer.

The parking requirement is calculated by determining half of the difference between the requirement for the new use and the old use. The beauty shop use required (300 nsf / 550) 0.5 parking spaces. The new use requires (18 seats / 4 = 4.5 + 0.75\*1 employee = 5.25) five parking spaces. A 20% reduction of the figures was taken for the proximity to the Davis Square T station (§9.6.3). The resulting requirement for the beauty salon is 0.4 and 4.2 for the restaurant. Half of the difference of these figures is 1.9 and therefore, the use requires relief for 2 parking spaces.

4. Surrounding Neighborhood: The subject property is located in the heart of the Davis Square Central Business District. There are a mix of commercial uses and some residences. Most of the lots in Davis Square do not have parking onsite. Patrons utilize the on-street parking spaces, the five municipal parking lots in the Square, public transportation or come by foot from the nearby business or residences to access the site.

5. Impacts of Proposal: The proposal is not anticipated to negatively impact the parking situation in Davis Square. There are many options for traveling to the site including walking, biking, using public transportation or driving and parking at an on-street metered space or a municipal parking lot. Also, the mixed use environment of the Square allows for reduced trips because someone is able to walk for one establishment to another, eliminating the need for an additional vehicular trip. Someone eating at the restaurant may patronize another nearby business, reducing the number of combined vehicular trips to the area.

6. Green Building Practices: None listed on the application form.

7. Comments:

*Fire Prevention:* Has been contacted but has not yet provided comments.

*Ward Alderman:* Did not objections to the application.

*Traffic & Parking:* The applicant for 37 -37A Davis Square seeks a special permit for modification of parking requirements for 2 parking spaces to add 18 seats in a restaurant that is expanding by 300 sf in the existing building. The lack of fulfilling the required 2 parking spaces as per the Somerville Zoning Ordinance (SZO) will result in a minor increase in traffic congestion and vehicle delay in the street network of the Davis Square area. There will also be a slight decrease in pedestrian and bicycle safety. To alleviate this condition and promote a safe comprehensive transportation network for all modes of transportation in the Davis Square area, traffic mitigation is required. Two pedestrian impact recovery systems to be placed along pedestrian corridors to/from Davis Sq should be provided by the applicant to the City. Provided the above is incorporated, Traffic and Parking has no objections to this application.

## **II. FINDINGS FOR SPECIAL PERMIT (SZO §9.4, 9.13):**

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 Staff 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."

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.

There will be minimal impact on the neighborhood through the above criteria. The minor increase in traffic congestion and vehicle delay and slight decrease in pedestrian and bicycle safety that would be caused by not providing two additional parking spaces onsite would be conditioned to be alleviated by the Applicant providing two pedestrian impact recovery systems to the City. The markers should be placed along pedestrian corridors to and from Davis Square to promote a safe comprehensive transportation network for all modes of transportation.

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 encouraging the most appropriate use of land throughout the City. The small expansion of a restaurant is consistent with the purpose of the Central Business District that seeks to preserve and enhance businesses with a strong pedestrian character.

Also, the proposal meets the intent of §9.1, the purpose of the Off-street Parking and Loading Article. Relief from providing two parking spaces along with the installation of two pedestrian impact recovery systems will not create a situation that would be a nuisance or hazard to pedestrians and adjacent properties, nor would it decrease the traffic carrying capacity of the adjacent streets or significantly compromise the on-street parking available in Davis Square.

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."

An approximately 1,000 sf restaurant in Davis Square is a compatible use with the mix of businesses located in Davis Square. Most businesses in the neighborhood do not supply parking onsite which allows the build form in the Square to be pleasant for pedestrians. The expansion of the restaurant will not require alterations to the exterior of the building and will only require installation of an interior door to join the two spaces. The alterations would not preclude a future need for two smaller tenants to convert the space back to two separate spaces.

**III. RECOMMENDATION**

**Special Permit under SZO §9.4, 9.13**

Based on the materials submitted by the Applicant, the above findings and subject to the following conditions, the Planning Staff recommends **CONDITIONAL APPROVAL** of the requested **SPECIAL PERMIT**.

The recommendation is based upon a technical analysis by Planning Staff of the application material based upon the required findings of the Somerville Zoning Ordinance, and is based only upon information submitted prior to the public hearing. This report may be revised or updated with new recommendations, findings and/or conditions based upon additional information provided to the Planning Staff during the public hearing process.

#	Condition	Timeframe for Compliance	Verified (initial)	Notes								
1	<p>Approval is for the modification of parking requirements (§9.13) to waive the requirement to provide two (2) additional parking spaces while adding 18 seats in the restaurant that is expanding by 300 sf in the existing building. 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>Apr 5, 2011</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>May 1, 1990</td> <td>Plans submitted to OSPCD (Plot Plan)</td> </tr> <tr> <td>Jan 12, 2011</td> <td>Plans submitted to OSPCD (A-1 floor plan)</td> </tr> </tbody> </table> <p>Any changes to the approved number of seats that are not <i>de minimis</i> must receive SPGA approval.</p>	Date (Stamp Date)	Submission	Apr 5, 2011	Initial application submitted to the City Clerk's Office	May 1, 1990	Plans submitted to OSPCD (Plot Plan)	Jan 12, 2011	Plans submitted to OSPCD (A-1 floor plan)	BP/CO	Plng.	
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2	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP									
3	The Applicant shall purchase and deliver to the City two in-street pedestrian crosswalk signs (pedestrian impact recovery systems) to be placed along pedestrian corridors to/from Davis Sq.	CO	T&P									
4	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.									

