



CITY OF SOMERVILLE, MASSACHUSETTS
OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2011-64

Date: September 14, 2011

Recommendation: Conditional Approval

PLANNING STAFF REPORT

Site: 400 Highland Ave.

Applicant Name: Open Center for Children

Applicant Address: 155 Powderhouse Blvd., Somerville, MA 02144

Property Owner Name: 400 Highland Avenue, LLC

Property Owner Address: 159 Salem St. Unit 0, Malden, MA 02148

Agent Name: O'Donovan, Dwyer and O'Flaherty

Alderman: Rebekah Gewirtz

Legal Notice: Applicant Open Center for Children and Owner 400 Highland Ave. LLC seek a special permit under SZO §9.13 to waive the requirement to provide 2 parking spaces in order to establish a day care center on the second floor of an existing building. CBD Zone. Ward 6.

Zoning District/Ward: CBD / 6

Zoning Approval Sought: Special Permit under SZO §9.13

Date of Application: August 16, 2011

Dates of Public Hearing: Zoning Board of Appeals September 21, 2011

I. PROJECT DESCRIPTION

1. Subject Property: The subject property is a 3,250 square foot lot located on Highland Avenue in Davis Square. The lot is almost entirely covered by a two-story brick and concrete building. The first floor of the building is occupied by the Five Horses Tavern, an American restaurant, and the second floor is currently vacant.

Restaurant tenants in this location have applied for zoning permits in the past. In 1991, the property owner sought a special permit and variance to enlarge an existing Chinese restaurant into an adjacent vacant video store. The Board of Appeals granted a special permit to modify the parking requirement (2 parking spaces) and a variance for the landscaping requirement (1 street tree). In 1995, the



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owner received a special permit and variance to expand the restaurant by enclosing two areas at the rear of the building. In 2003, the ZBA granted a special permit to renovate the building's front façade in conjunction with the establishment of Sauce, an Italian restaurant.

2. Proposal: The proposal is to establish a daycare center on the second floor of the existing building. The second floor has a net floor area of approximately 2,200 square feet. It will be built out to include two classrooms, two offices, a library/meeting room, a kitchenette, and restrooms. The Applicant is not proposing any alterations to the building façade.

The daycare center will be operated by the Open Center for Children, a non-profit preschool currently located at 155 Powderhouse Boulevard in Somerville. The Open Center for Children has 29 students between the ages of 2 and 5½ and total of 8 staff members, who work staggered shifts with a maximum of 6 employees in the peak period. The hours of operation are 8:00 AM to 5:30 PM Monday through Friday. Drop-off times are from 8:00 AM to 9:00 AM, and pick-up times are from 3:30 PM to 5:30 PM.



Existing conditions, 400 Highland Avenue

3. Nature of Application: Establishing a daycare center at the subject property requires 2 off-street parking spaces, which the Applicant is not able to provide. The Applicant is therefore requesting a special permit under §9.13 of the Somerville Zoning Ordinance (SZO) to reduce the parking requirement. The Child Care Facility (§7.11.5.A.3) is a by-right use.

Per SZO §9.5.5, a daycare center requires 1 parking space per employee. The Open Center for Children has 6 employees on the peak shift (§9.6.1), and would thus require 6 parking spaces. The number of required spaces is reduced per §9.6.1, because the property is located within 1,000 feet of a rapid transit station (the Davis Square MBTA station) and within 650 feet of two municipal parking lots (the Brooks Pharmacy Lot and the Grove Street Lots). Section 9.6.1 allows for a 20% reduction in parking when a project meets both criteria, so the requirement decreases from 6.00 to 4.80 spaces.

The subject property does not have any off-street parking spaces, so it is currently nonconforming with respect to parking requirements. SZO §9.4.1 provides the methodology to adjust the parking requirement for a nonconforming lot. For a change in use with no change in floor area, the adjusted requirement is based on the difference between the requirement for the proposed use and the requirement for the existing (or previous) use. The second floor of the building was last occupied by a retail store, which requires 1 parking space per 1,000 square feet (on floors other than street level). The retail use thus required 2.20 spaces. This requirement is reduced by 20% based on proximity to transit and municipal parking lots, which yields 1.76 spaces. The difference between the daycare center use and the retail use is therefore $4.80 - 1.76 = 3.04$ spaces.

Section 9.4.1 states that if the new use requires 2 or more additional parking spaces than the previous use, then 50% of the additional requirement shall be provided. Fifty percent of 3.04 is 1.52, which is rounded to 2 spaces.

The Applicant is not able to provide 2 parking spaces, because the parcel is almost entirely covered by the building. The Applicant therefore seeks a special permit under SZO §9.13 to waive the requirement. Under §9.13, the SPGA may grant a special permit modifying certain parking standards of Article 9: “where the total number of parking spaces required by the Ordinance is six (6) or fewer, the requirements for lots or sites that are nonconforming with respect to parking as specified in Section 9.4 may be modified.”

4. Surrounding Neighborhood: The subject property is located within the heart of the Davis Square Central Business District. It is surrounded by retail stores, offices, restaurants, and residential use. Private off-street parking in the area is limited, because most businesses do not provide on-site parking. There are several municipal parking lots located in the vicinity, as well as metered on-street parking. The parcel is approximately 550 feet from the Davis Square MBTA station.

5. Impacts of Proposal: The reduction of two parking spaces is not anticipated to negatively impact the parking situation in Davis Square. There are many options for traveling to the site, including walking, biking, and using public transportation. If families do drive to the daycare center, parking options include metered on-street spaces, nearby municipal parking lots, and resident parking for Somerville residents. The daycare center’s pick-up and drop-off times do not overlap with peak parking demand in Davis Square, which is generally later in the evening (6:00 PM to 9:00 PM) and on weekends when the center will be closed. In addition, the mixed use environment of the Square eliminates the need for some additional vehicle trips; a family picking up or dropping off a child at the daycare center may patronize another nearby business, reducing the number of combined vehicular trips to the area.

6. Green Building Practices: None indicated in the application.

7. Comments:

Fire Prevention: Fire Prevention had questions about the structural integrity of the building and the existing sprinkler and fire alarm systems. Sprinkler and fire alarm systems shall be upgraded to be code compliant.

Ward Alderman: Alderman Gewirtz is in support of this application.

Traffic & Parking: City Traffic Engineer Terence Smith requested that the Applicant submit a Traffic Memorandum to assess the impact of waiving the requirement to provide two parking spaces. The Applicant submitted a self-prepared memorandum on September 12, 2011. Mr. Smith has provided verbal comments to Planning Staff, which are summarized here.

The Traffic Memorandum states that the mixed-use nature of Davis Square will reduce the traffic generated by the daycare center because families will arrive at the center by “pass-by trips,” “diverted trips,” or “internal trips.” Although this analysis has been successfully used to justify parking reductions for restaurants and retail stores in Davis Square, Traffic and Parking is not convinced that it applies to a daycare center.

The memorandum also cites public parking utilization data collected for Davis Square in 2005, 2008, and 2009, which indicate that there is ample reserve capacity in the parking supply to support the proposal. Traffic and Parking is concerned that this data is out of date, and that parking utilization has increased in recent years.

Traffic and Parking notes that due to the lack of fulfilling the 2 required off-street parking spaces, there will be a minor increase in traffic congestion and vehicle delay in the Davis Square area. There will also be a slight decrease in pedestrian and bicycle safety as well as a lowering of parking space turnover rates. To alleviate this condition and promote a safe comprehensive transportation network in the Davis Square area, mitigation to provide effective turnover rates at parking spaces is required.

To encourage appropriate turnover rates, it is recommended that the Applicant purchase and deliver to the City four single-space parking meters capable of accepting coins, credit cards, and possible pay-by-cell phone technology. The parking meters should be manufactured by the IPS Group or approved equivalent. Specifications for all requirements of the parking meters will be supplied by Traffic and Parking Staff when appropriate.

Provided the above is incorporated, Traffic and Parking has no objection to this application.

II. FINDINGS FOR SPECIAL PERMIT (SZO §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 §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 regarding the above criteria. The reduction of 2 parking spaces would not cause significant changes in traffic volumes, congestion, patterns, or conflict. Families will have many options for traveling to the site, including walking, biking, and using public transportation. Private off-street parking in the area is limited, but there are on-street metered parking spaces and municipal parking lots available in the vicinity. The daycare center's pick-up and drop-off times do not overlap with peak parking demand in Davis Square, and prior parking studies have found that there is reserve capacity in the Square's parking supply throughout the day. The center is therefore not expected to significantly reduce the availability of on-street parking.

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 establishment of a daycare center is also consistent with the purpose of the Central Business District, which is to "preserve and enhance central business areas for retail, business services, housing, and office uses and to promote a strong pedestrian character and scale in those areas. A primary goal for the districts is to provide environments that are safe for and conducive to a high volume of pedestrian traffic, with a strong connection to retail and pedestrian accessible street level uses." The daycare center would provide a convenient childcare option for families who live near, work in, or commute from Davis Square. The lack of on-site parking and the location of the daycare center on the second floor promote the strong pedestrian character and scale of the area.

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 §9.1. The proposal is consistent with the purpose of §9.1 as described in a memo submitted by the Applicant that states that there should be no noticeable impact on the parking supply in the area as a result of the proposal.

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 use would be compatible with the surrounding uses in the Davis Square commercial area, which provides for a variety of retail, business services, housing, and office uses. The proposal is also compatible with the built environment, as the Applicant is not proposing any alterations to the building façade.

III. RECOMMENDATION

Special Permit under §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 waiving the requirement to provide 2 parking spaces in order to establish a daycare center on the second floor of an 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>(August 16, 2011)</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>August 11, 2011</td> <td>Plans submitted to OSPCD (Schematic Plan)</td> </tr> <tr> <td>September 12, 2011</td> <td>Traffic and Parking Assessment</td> </tr> </tbody> </table> <p>Any changes to the approved use that are not <i>de minimis</i> must receive SPGA approval.</p>	Date (Stamp Date)	Submission	(August 16, 2011)	Initial application submitted to the City Clerk's Office	August 11, 2011	Plans submitted to OSPCD (Schematic Plan)	September 12, 2011	Traffic and Parking Assessment	BP/CO	ISD/Plng.	
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2	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP									
3	The Applicant or Owner shall purchase and deliver to the City four single-space parking meters capable of accepting coins, credit cards, and possible pay-by-cell technology. The parking meters shall be manufactured by the IPS Group or approved equivalent. Specifications for all requirements of the parking meters will be supplied by Traffic and Parking Staff when appropriate.	Final sign off	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.									

