



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2013-26
Date: April 25, 2013
Recommendation: Conditional Approval

PLANNING STAFF REPORT

Site: 779 Somerville Avenue

Applicant Name: Ralph Malin
Applicant Address: 17 Blueberry Lane, Lexington, MA 02420
Property Owner Name: Ralph Malin
Property Owner Address: 17 Blueberry Lane, Lexington, MA 02420
Agent Name: Richard G. Di Girolamo, Esq.
Agent Address: 424 Broadway, Somerville, MA 02145
Alderman: Maryann Heuston

Legal Notice: Applicant and Owner, Ralph Malin, seek a Special Permit under SZO §4.5.1 for a change in nonconforming use from a retail store (§7.11.9.5.a) to an office (§7.11.7.1.a). RB zone. Ward 2.

Zoning District/Ward: RB / Ward 2

Zoning Approval Sought: Special Permit under SZO §4.5.1

Date of Application: March 25, 2013

Dates of Public Hearing: Zoning Board of Appeals – **Wednesday, May 1, 2013**

I. PROJECT DESCRIPTION

1. Subject Property: The subject property is 2,430 square foot parcel with a triple-decker, or three-family dwelling, and a small (400 square foot) commercial space, which is attached to the dwelling and located near the sidewalk. The parcel is located in a Residence B district near Porter Square in Cambridge. Abutters along Somerville Avenue are primarily residential. In Cambridge, across the railroad, are several large commercial and mixed use structures.



Prior zoning relief was sought in 2000 for a change in nonconforming use from a fruit and vegetable market to a retail flower shop. A Special Permit was granted June 14, 2000 subject with conditions that include a new loading area and additional landscaping.

2. Proposal: Applicant and Owner, Ralph Malin, proposes to change the nonconforming use of the commercial storefront from a retail flower shop to a real estate office.

The Applicant does not intend to alter the storefront nor does the Applicant intend to install signage as part of this proposal. The interior plan proposes three desks with a storage room, rear egress and lavatory located at the back of the space.

There is currently no parking for this commercial space. The Applicant does not propose to change the existing parking situation as part of this proposal.



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3. Nature of Application: The structure is a mixed-use building within a Residential B district and the previous retail flower shop was a nonconforming use. In accordance with the Somerville Zoning Ordinance (SZO) §4.5.1, to change from one nonconforming use to another, retail flower shop (§7.11.9.5.a) to a real estate office (§7.11.7.1.a), requires Special Permit approval.

This commercial space is also nonconforming with regard to parking. The previous use only requires one parking stall and the proposed use also only requires one parking stall. In accordance with the §9.4.c., if the new use requires the same number of parking spaces as the existing, then no additional parking spaces are necessary to provide.

4. Surrounding Neighborhood: The structure is located in a Residence B district near the Porter Square MBTA station in Cambridge. The north side of Somerville Avenue is predominantly multi-family residential while the south side, located in Cambridge, is comprised of large commercial and mixed use properties.

5. Impacts of Proposal: The proposed change in nonconforming use, from a retail flower shop to a real estate office, will not be detrimental to the structure or the surrounding residential neighborhood. The currently vacant storefront will become active once again and enhance the streetscape leading into Porter

Square. The use proposed is compatible with a residential neighborhood and the Applicant does not intend to alter the storefront nor does the Applicant intend to install signage as part of this proposal.

6. Green Building Practices: There are no green building practices identified on the application.

7. Comments:

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

Ward Alderman: Has been contacted but has not yet submitted comments.

II. FINDINGS FOR SPECIAL PERMIT (SZO §4.5.1):

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: 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 §4.5 of the SZO, Staff find that the use proposed would not be substantially more detrimental to the neighborhood than the existing use. The proposed change in use, from a retail flower shop to a real estate office, enables the storefront to be active once again and is compatible with the residential use of this portion of Somerville Avenue.

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; to provide for and maintain the uniquely integrated structure of uses in the City; to protect health; to secure safety from fire, panic and other dangers; to provide adequate light and air; to conserve the value of land and buildings; to encourage the most appropriate use of land throughout the City; and to preserve and increase the amenities of the municipality."

The proposal is consistent with the purpose of the Residence B district, §6.1.2, which is, "To establish and preserve medium density neighborhoods of one-, two- and three-family homes, free from other uses except those which are both compatible with and convenient to the residents of such districts."

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 proposal to change the nonconforming use to a real estate office will reactivate the storefront and is compatible with the residential neighborhood along Somerville Avenue.

5. Adverse environmental impacts: The proposed use, structure or activity will not constitute an adverse impact on the surrounding area resulting from: 1) excessive noise, level of illumination, glare, dust, smoke, or vibration which are higher than levels now experienced from uses permitted in the surrounding area; 2) emission of noxious or hazardous materials or substances; 3) pollution of water ways or ground water; or 4) transmission of signals that interfere with radio or television reception.

6. Vehicular and pedestrian circulation: The circulation patterns for motor vehicles and pedestrians which would result from the use or structure will not result in conditions that create traffic congestion or the potential for traffic accidents on the site or in the surrounding area.

III. RECOMMENDATION

Special Permit under §4.5.1

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	Approval is for a Special Permit for a change in nonconforming use from a retail store to an office. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	ISD/Plng.							
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>(March 25, 2013)</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>January 30, 2013 (April 22, 2013)</td> <td>Plot plan and Grade Level Floor Plan submitted to OSPCD</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	(March 25, 2013)	Initial application submitted to the City Clerk's Office	January 30, 2013 (April 22, 2013)	Plot plan and Grade Level Floor Plan submitted to OSPCD
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Any changes to the approved use that are not <i>de minimis</i> must receive SPGA approval.										
Public Safety										
2	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP							
Final Sign-Off										
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	Plng.							

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