



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

MICHAEL F. GLAVIN
EXECUTIVE DIRECTOR

PLANNING DIVISION STAFF

GEORGE PROAKIS, *DIRECTOR OF PLANNING*
SARAH LEWIS, *SENIOR PLANNER*
SARAH WHITE, *PLANNER/PRESERVATION PLANNER*
ALEX MELLO, *PLANNER*
DAWN PEREIRA, *ADMINISTRATIVE ASSISTANT*

Case #: ZBA 2017-133

Date: January 31, 2018

Recommendation: Conditional Approval

PLANNING STAFF REPORT

Site: 197 Elm Street

Applicant Name: Nookie and Sons, LLC
Applicant Address: 25 Hubbard Ave, #2, Cambridge, MA 02140
Owner Name: Panos Van G Trustee and Bev Realty Trust
Owner Address: P.O. Box 52, Belmont, MA 02178
Agent Name: Kristen Scanlon, Scanlon Law, LLC
Agent Address: 30 Rows Wharf, Suite 600, Boston, MA 02110
Alderman: Lance Davis

Legal Notice: Applicant, Nookie and Sons, LLC, and Owner, Panos Van G Trustee and Bev Realty Trust, seek a Special Permit with Design Review under SZO §7.11.10.2.2.b and a Special Permit under SZO §9.13* for parking relief to establish a café with seasonal outdoor seating. NB Zone. Ward 6.

* - A Special Permit for parking relief is not required.

Dates of Public Hearing: Zoning Board of Appeals – January 31, 2018

I. PROJECT DESCRIPTION

1. Subject Property: The subject property is an approximately 4,300 s.f. lot on Elm Street, just outside the Davis Square Central Business District. The lot contains a two-story structure at the front, with a storefront at the first floor and an apartment above. There is a two-and-one-half story single-family home in the rear of the lot. The site received a special permit with design review (SPD) in 2004 to establish the Subway fast-order food establishment; however, a



condition of that permit was that it would terminate automatically on the date that Subway vacated the property.

2. Proposal: The proposal is to establish a new fast-order food establishment with a café type restaurant with seasonal outdoor seating on their own property. It is anticipated to have 20 employees and a total indoor/outdoor occupancy of 60. The proposed hours of operation are 7:00 A.M – 7 P.M daily.
3. Green Building Practices: The proposal will meet the applicable energy codes.
4. Comments:

Ward Alderman: Alderman Davis has been informed of this proposal but has yet to comment as of the publication of this report.

II. FINDINGS FOR SPECIAL PERMIT (SZO §7.11.10.2.2.b):

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."*

Article 7: Permitted Uses

Pursuant to SZO §7.11.10.2.2.b a fast order food establishment with no drive-up service of 2,500-4,999 square feet of gross floor, conducted in part or in whole outside and enclosed building, area in the NB zoning district requires a special permit with design review.

A fast order food establishment is defined as *"an establishment whose primary business is the sale of food for consumption on or off the premises which is: (a) primarily intended for immediate consumption rather than for use as an ingredient or component of meals; (b) available upon a short waiting time; (c) packaged or presented in such a manner that it can be readily eaten inside or outside the premises where it is sold; and, (d) which, because of the nature of the operation, causes or is a major contributor to a large volume or frequent turnover of vehicular traffic."*

Section 6.1.4. NB - Neighborhood Business Districts

Specific District Standards and Guidelines. All developments within the NB district that require a special permit with design review or special permit with site plan review should comply with the following guidelines to the highest degree practicable.

1. *When a fourth floor is included, provide a minimum five (5) foot deep setback from the front lot line building wall, such as a balcony or deck, for the purpose of promoting a scale appropriate to surrounding neighborhoods.*
2. *Give preference to locating on-site, off-street parking at the rear of the lot, behind the building or below street level, providing vehicular access from either a side street or alley where possible.*

The NB specific district standards and guidelines do not apply as there is no fourth floor nor is there any on-street parking for the site.

Article 9: Off-Street Parking and Loading.

There is a driveway at the site leading to the house at 197R Elm Street. It does not appear wide enough for two-way access. There is room for two to four cars parked in tandem in the driveway, though this blocks access to the house. The driveway would not be available for customer parking. On-street parking is available on Elm Street, and there is a municipal parking lot within 300 feet at Cutter Square. The Applicant is grandfathered for the required parking and does not require parking relief to establish the use.

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 promote 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 prevent the overcrowding of land; to avoid undue concentration of population; 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 NB district, which is, "to establish and preserve areas for small-scale retail stores, services and offices which are located in close proximity to residential areas and which do not have undesirable impacts on the surrounding neighborhoods."

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."*

Surrounding Neighborhood: The surrounding neighborhood contains a mixture of residential and commercial uses, reflective of its Neighborhood Business (NB) classification. There is a Residence A district behind and to the east of the property, while the Davis Square Central Business District begins three lots to the west. There are two other restaurants within the NB district on Elm Street, Palm Sugar Thai Cuisine and Posto, and there is a tea shop, eye care center, and a diaper lab across the street.

Impacts of Proposal (Design and Compatibility):

Special Permits with Design Review applications must meet the design guidelines under SZO §5.1.5. The design guidelines for business districts are as follows:

1. *Maintain a strong building presence along the primary street edge, continuing the established streetwall across the front of the site so as to retain the streetscape continuity; however, yards and setbacks as required by Article 8 shall be maintained.*
2. *Differentiate building entrances from the rest of the primary street elevation, preferably by recessing the entry from the plane of the streetwall or by some other articulation of the elevation at the entrance.*
3. *Make use of the typical bay widths, rhythms and dimensions prevalent in buildings adjacent to the site, especially in new construction or substantial redevelopment.*

4. *Clearly define these bay widths, rhythms and dimensions, making them understandable through material patterns, articulations and modulations of the facades, mullion design and treatment, etc...*
5. *Provide roof types and slopes similar to those of existing buildings in the area.*
6. *Use materials and colors consistent with those dominant in the area or, in the case of a rehabilitation or addition, consistent with the architectural style and period of the existing building. Use of brick masonry is encouraged, but not considered mandatory.*
7. *When parking lots are provided between buildings, abutting the primary street and breaking the streetwall, provide a strong design element to continue the streetwall definition across the site, such as a low brick wall, iron works or railing, trees, etc.*
8. *Locate transformers, heating and cooling systems, antennae, and the like, so they are not visible from the street; this may be accomplished, for example, by placing them behind the building, within enclosures, behind screening, etc.*
9. *Sites and buildings should comply with any guidelines set forth in Article 6 of this Ordinance for the specific base or overlay zoning district(s) the site is located within.*

Staff finds that the above guidelines do not apply to the current proposal to change the use of this particular storefront in an existing building.

5. Fast food establishments: *In special permit applications for fast-order, take-out or automobile oriented food service establishments, there shall be establishment of a need for such a facility in the neighborhood or in the City, and impacts on traffic circulation, parking and visual, physical, or historical characteristics of the particular location shall not be detrimental.*

Staff finds that the particular use is appropriate and needed in the area, as the site has been a fast order food establishment (Subway) serving submarine sandwiches and the like since 2004. The proposed café would still be considered a fast order food establishment albeit with a different menu that focused on coffee and café style items. There are minimal changes proposed to the building and, as conditioned, the building will not have a detrimental impact on the parking, visual, physical, or historical characteristics of the location. Staff finds that the proposed cafe is generally of less impact than other fast food chains, as the bulk of their menu does not require cooking, reducing odors and cooking waste. Staff does recommend limiting the life of the special permit to the cafe restaurant in order to prevent an as-of-right change to a different fast food restaurant.

6. Housing Impact: Will not create adverse impacts on the stock of existing affordable housing.
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 and make Somerville a regional employment center with a mix of diverse and high-quality jobs.

III. RECOMMENDATION**Special Permit with Design Review under §7.11.10.2.2.b**

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 with DESIGN REVIEW**.

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 to allow a fast order food establishment, Revival Cafe. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	ISD/Plng.							
	<table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>December 22, 2017</td><td>Initial application submitted to the City Clerk’s Office</td></tr><tr><td>November 30, 2017</td><td>Plans submitted to OSPCD (G-001, G-002, A-010, A-101, A-200, and A-300)</td></tr></table>				Date (Stamp Date)	Submission	December 22, 2017	Initial application submitted to the City Clerk’s Office	November 30, 2017	Plans submitted to OSPCD (G-001, G-002, A-010, A-101, A-200, and A-300)
	Date (Stamp Date)				Submission					
	December 22, 2017				Initial application submitted to the City Clerk’s Office					
November 30, 2017	Plans submitted to OSPCD (G-001, G-002, A-010, A-101, A-200, and A-300)									
Any changes to the approved elevations/use that are not <i>de minimis</i> must receive SPGA approval.										
Construction Impacts										
2	The applicant shall post the name and phone number of the general contractor at the site entrance where it is visible to people passing by.	During Construction	Plng.							
3	The Applicant shall at their 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							
4	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							
Design										
5	Applicant shall provide final material samples for siding, trim, windows, and doors to Planning Staff for review and approval prior to the issuance of a building permit.	BP	Plng.							
Site										

6	Landscaping shall be installed and maintained in compliance with the American Nurserymen's Association Standards;	Perpetual	Plng. / ISD	
Miscellaneous				
7	Garbage and recycling locations shall be clearly indicated on site plans. Storage areas shall be inside of the structure or shall be fully screened from view from both the public way and abutters by an appropriate material reviewed and approved by staff. The location shall not impact any parking, landscaping, or egress.	BP	Plng.	
8	Approval is for the fast order food establishment for the Applicant, Revival Café. A future tenant of this space for a fast order food establishment would have to come back to the ZBA for special permit approval in order to operate in this location.	Perpetual	ISD	
9	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				
10	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
11	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				
12	Signage will be limited in size and location to that shown in the elevation diagrams. The sign shall not be internally illuminated. The storefront windows should not be blocked by more than 30% by interior storage, signage or window coverings.	CO/Cont.	Plng.	
Final Sign-Off				
13	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.	

