

**DEVELOPMENT NARRATIVE
FOR REVISION OF PREVIOUSLY APPROVED SPECIAL PERMIT**

Property: 365 and 369 Broadway
Applicant: Somerville Family Dental PC
Owner: Senick LLC
Agent: Adam Dash, Esq.
Zoning District: Mid-Rise 5 (“MR5”)
In the ½ Mile Transit Area
In the Pedestrian Street District

Summary: Application to Remove a Condition From an Approved Special Permit

The Property is two adjoining commercial condominium units, being 365 and 369 Somerville Avenue respectively, in a larger mixed-use building which sits at the intersection of Bow Street and Somerville Avenue in Union Square in Ward 2. These two ground floor units which are the subject of this Application face Somerville Avenue and are currently operated by Applicant as a single dental office.

The dental office use was granted a Special Permit with conditions on June 25, 2020 by the Planning Board in Case DRA#2020-0125 due to this Health Care Services use being on the ground floor facing a Pedestrian Street, which is Somerville Avenue.

Applicant now seeks to remove condition 3 from said 2020 Planning Board decision. Said condition 3 now reads:

“The use runs with the Applicant, Nikhilesh Rao Gorukanti, and is granted only to this applicant and is non-transferable. The Special Permit shall terminate immediately if the Applicant ceases to occupy the space.”

There are no dimensional changes proposed to the Property, and Applicant is not asking to change any of the other conditions in said 2020 Planning Board decision.

Relief Requested

Applicant now seeks the following relief:

-Revision of the previously approved Special Permit to remove a condition under Somerville Zoning Ordinance (“SZO”) Section 15.2.1.f.iii.

SZO Section 15.2.1.f states as follows:

Conditions

- i. The review board may attach conditions or limitations that it deems necessary to ensure compliance to the Board's findings and the standards for granting of a specific Special Permit.*
- ii. Conditions must have a rational nexus to potential impacts of the proposed development, and be roughly proportional, both in nature and extent, to the impacts of the proposed development.*
- iii. The review board may subsequently remove conditions or limitations attached to any Special Permit subject to the review procedures of §15.2.1.d.*

Applicant has been operating a dental practice at the Property in conformance with said 2020 Planning Board decision, however, condition 3 in said decision constrains Applicant's ability to restructure, sell, bring in partners, retire, or otherwise change the ownership and/or operation of said dental practice. Said condition would force this successful dental practice to shut down under any of those circumstances, or if Dr. Gorukanti died or became disabled. This would put Applicant's employees out of work, force the patients at the practice to find new dentists elsewhere, and leave this ground floor commercial space vacant.

Applicant has no current plans to change anything at the existing dental office, but condition 3 in said 2020 Planning Board decision is a large risk to the Applicant's practice while not providing any benefit to the City or the neighborhood.

Condition 3 does not actually satisfy the requirements of a condition to a Special Permit stated in SZO Section 15.2.1.f because requiring only Dr. Gorukanti to own and operate the dental practice:

-does not ensure compliance with the Planning Board's findings and standards as required in SZO Section 15.2.1.f.i. The Planning Board's findings, standards and other conditions attached to said 2020 Special Permit are plainly stated in said decision which has been recorded at the Middlesex South District Registry of Deeds. Any owner or operator of a dental practice at the Property will have to abide by said findings, standards and conditions. They are not unique to Dr. Gorukanti.

-does not have a rational nexus to potential impacts of the proposed development as required in SZO Section 15.2.1.ii. The Special Permit was only for the Health Care Services use because it was on the ground floor facing a Pedestrian Street. The building in which the Property is located is old and was not redeveloped for this dental practice. Restricting the Special Permit to only Dr. Gorukanti unreasonably restricts the ownership and operation of the dental practice as it grows, and removing condition 3 does not impact the neighborhood or the City in any way. The dental practice will have to operate in conformance with the 2020 Special Permit no matter who owns and operates the practice.

Applicant is not a chain (or formula) business. It has been in operation for over 5 years and provided a needed service to the neighborhood in particular, and to the City as a whole.

A dental practice is not the sort of business that is going to drastically change the services it provides, or alter its layout, should a different owner or operator come in. Most dental practices are the same, such that removing condition 3 will not change anything other than the dentist in charge. Such a restriction does not serve any public interest.

Conclusion

Per SZO Section 15.2.1.f.iii stated above, the Planning Board may remove a condition attached to said 2020 Special Permit, and Applicant respectfully requests that condition 3 be removed from the June 25, 2020 decision of the Planning Board in Case DRA#2020-0125.