



**CITY OF SOMERVILLE, MASSACHUSETTS**  
**MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT**  
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**MAYOR**

MICHAEL F. GLAVIN  
EXECUTIVE DIRECTOR

PLANNING DIVISION

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**Case #: ZBA 2017-87**  
**Site: 235A Elm Street**  
**Date of Decision: September 27, 2017**  
**Decision: Petition Approved with Conditions**  
**Date Filed with City Clerk: September 29, 2017**

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**ZBA DECISION**

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**Applicant Name:** Vallier, LLC c/o Sophie Vallier  
**Applicant Address:** 281 Essex Street, Unit C2, Salem, MA 01970  
**Property Owner Name:** Dana Family Realty Trust and RMD, Sr. Realty Trust  
**Property Owner Address:** Myer Dana and Sons, 1340 Centre Street, Suite 101, Newton, MA 02459  
**Agent Name:** N/A

Legal Notice: Applicant, Vallier, LLC c/o Sophie Vallier, and Owner, Dana Family Realty Trust and RMD, Sr. Realty Trust, seek a Special Permit with Design Review under §7.11.10.2.a for a change in use to convert a jewelry store into a café style establishment with 12 seats and a Special Permit under §9.13 for parking relief.

Zoning District/Ward: CBD zone/Ward 6  
Zoning Approval Sought: §7.11.10.2.a & §9.13  
Date of Application: July 26, 2017  
Date(s) of Public Hearing: September 27, 2017  
Date of Decision: September 27, 2017  
Vote: 4-0

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Appeal #ZBA 2017-87 was opened before the Zoning Board of Appeals at the Visiting Nurse Association on September 27, 2017. Notice of the Public Hearing was given to persons affected and was published and posted, all as required by M.G.L. c. 40A, sec. 11 and the Somerville Zoning Ordinance. After one hearing of deliberation, the Zoning Board of Appeals took a vote.



**DESCRIPTION:**

The proposal is to convert the former jewelry store into a café style bakery with 12 seats.

**FINDINGS FOR SPECIAL PERMIT (SZO §7.11.10.2.a and §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 Board 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.a a fast order food establishment with no drive-up service of less than 2,500 square feet of gross floor area in the CBD 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.”

*SZO §5.1.5.A: Design Guidelines for Business Zones*

All developments within the CBD district that require a special permit with design review should comply with the following guidelines to the highest degree practicable.

1. *Across the primary street edge, the building should complete the streetwall.*
2. *At the street level, provide continuous storefronts or pedestrian arcade which shall house either retail occupancies, or service occupancies suitably designed for present or future retail use.*
3. *Massing of the building should include articulation which will blend the building in with the surrounding district. At the fourth floor, a minimum five-foot deep setback is recommended.*
4. *Locate on-site, off-street parking either at the rear of the lot behind the building or below street level; parking should not abut the street edge of the parcel.*
5. *Provide access to on-site, off-street parking from either a side street or alley. Where this is not possible, provide vehicular access through an opening in the street level facade of the building of a maximum twenty-five (25) feet in width.*

The existing building will not be significantly altered nor added to. The proposal is to change the use from a jewelry store to a cafe style bakery. The Applicant will replace the jewelry store sign with a green wall sign with gold lettering and add single letters above the entry on the green band. Both signs add up to 24.5 square feet and will conform to the maximum allowed (28 square feet) by Article 12 of the SZO. The existing building currently completes the street wall that provides a continuous storefront of retail occupancy. Parking is located in the rear of the building within the public parking lot accessed off of Grove Street.



*Article 9: Off-Street Parking and Loading.*

SZO §9.13 allows for sites with nonconforming parking to apply for a Special Permit to modify parking requirements if the total number of spaces is six or fewer. The locus is currently nonconforming with respect to the number of required off-street parking spaces as two spaces are required and none are provided. The property owner owns the parking lot in the rear but the spaces are for metered public parking. The proposal to convert the space into a cafe increases the parking requirement by five spaces to a total of seven required spaces. Since the locus does not currently have sufficient off-street parking, SZO §9.4.2 requires the proposal to only provide 50% of the additional requirement.

	<i>Existing jewelry store</i>	<i>Proposed cafe</i>
Requirement	1 space per 500 n.s.f	1 space per 110 n.s.f
	746/500=1.5	746/110=6.7
	<b>2 spaces</b> (rounded up from 1.5)	<b>7 spaces</b> (rounded up from 6.7)

**5 additional required spaces \* 50% = 2.5 spaces**

Additionally, uses within six hundred fifty (650) feet of municipal parking garages or lots shall be entitled to a ten percent (10%) reduction in required parking. This shall be computed by application of the normal unit(s) of parking measurement of Section 9.5 to determine the normal requirement, including any fractional requirement, and then multiplying this number by a factor of 0.90.

**2.5 spaces x 0.90 = 2.25 (round down to 2)**

The applicant is requesting parking relief from providing two additional parking spaces.

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 Section 9.1, and upon reaching the findings and determinations set forth in Section 5.1.4”. 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. The Board finds that granting the requested Special Permit is consistent with the purposes of SZO §9.1 and will not cause detriment to increased traffic volumes, traffic congestion of queuing of vehicles, changes in the type of traffic, change in traffic patterns and access to the site, reduction in on-street parking, or unsafe conflicts of motor vehicles and pedestrian traffic.

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 CBD 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.”

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 subject property is located in the heart of the Davis Square Central Business District. There are a mix of commercial uses and some residences. A café would add to the pedestrian oriented mix of uses in the Square. Most of the lots in Davis Square do not have parking onsite which allows the build form in the Square to be pleasant for pedestrians. 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.

*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.*

The Board 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. 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.

6. 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.*

Davis Square generates a lot of visitors based on its many different dining options. A French patisserie will provide another option and will fit in with business composition of the square. Any impacts on traffic circulation, parking and visual, physical, or historical characteristics of the particular location will not be detrimental.

7. Housing Impact: Will not create adverse impacts on the stock of existing affordable housing.

8. 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, transform key opportunity areas, preserve and expand an integrated, balanced mix of safe, affordable and environmentally sound rental and homeownership units for households of all sizes and types from diverse social and economic groups; and, make Somerville a regional employment center with a mix of diverse and high-quality jobs.*

The proposed French patisserie will fit in with the character of Davis Square and preserve its character. It will also be seen as an amenity for local residents and visitors of the square as an option to consume fresh baked French style pastries.



**DECISION:**

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Elaine Severino, and Josh Safdie with Danielle Evans, Anne Brockelman, and Pooja Phaltankar absent. Upon making the above findings, Richard Rossetti made a motion to approve the request for a Special Permit. Elaine Severino seconded the motion. Wherefore the Zoning Board of Appeals voted **4-0** to **APPROVE** the request. In addition the following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes								
1	Approval is for a fast-order food establishment with 12 seats. 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>July 26, 2017</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>August 17, 2017</td> <td>Floor plan submitted to OSPCD (A-101)</td> </tr> <tr> <td>September 22, 2017</td> <td>Exterior rendering</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	July 26, 2017	Initial application submitted to the City Clerk's Office	August 17, 2017	Floor plan submitted to OSPCD (A-101)	September 22, 2017	Exterior rendering
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	August 17, 2017				Floor plan submitted to OSPCD (A-101)							
September 22, 2017	Exterior rendering											
Any changes to the approved plan, elevations, or use that are not <i>de minimis</i> must receive SPGA approval.												
<b>Design</b>												
2	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.									
<b>Signage</b>												
3	Signage will be limited in size and location to that shown in the elevation diagrams. The sign shall not be internally illuminated.	CO/Cont.	Plng.									
4	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/Cont.	Plng.									
<b>Miscellaneous</b>												
5	Approval is for the fast food use for the Applicant, Caramel Patisserie. A future tenant of this space for the fast order food use would have to come back to the ZBA for special permit approval in order to operate in this location.	Perpetual	ISD									
<b>Final Sign-Off</b>												
6	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.									



Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Chairman*  
Richard Rossetti, *Clerk*  
Elaine Severino  
Josh Safdie

Attest, by the case City Planner: \_\_\_\_\_

Alexander C. Mello

Copies of this decision are filed in the Somerville City Clerk's office.  
Copies of all plans referred to in this decision and a detailed record of the  
SPGA proceedings are filed in the Somerville Planning Dept.

**CLERK'S CERTIFICATE**

Any appeal of this decision must be filed within twenty days after the date this notice is filed in the Office of the City Clerk, and must be filed in accordance with M.G.L. c. 40A, sec. 17 and SZO sec. 3.2.10.

In accordance with M.G.L. c. 40 A, sec. 11, no variance shall take effect until a copy of the decision bearing the certification of the City Clerk that twenty days have elapsed after the decision has been filed in the Office of the City Clerk and no appeal has been filed, or that if such appeal has been filed, that it has been dismissed or denied, is recorded in the Middlesex County Registry of Deeds and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title.

Also in accordance with M.G.L. c. 40 A, sec. 11, a special permit shall not take effect until a copy of the decision bearing the certification of the City Clerk that twenty days have elapsed after the decision has been filed in the Office of the City Clerk and either that no appeal has been filed or the appeal has been filed within such time, is recorded in the Middlesex County Registry of Deeds and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The person exercising rights under a duly appealed Special Permit does so at risk that a court will reverse the permit and that any construction performed under the permit may be ordered undone.

The owner or applicant shall pay the fee for recording or registering. Furthermore, a permit from the Division of Inspectional Services shall be required in order to proceed with any project favorably decided upon by this decision, and upon request, the Applicant shall present evidence to the Building Official that this decision is properly recorded.

This is a true and correct copy of the decision filed on \_\_\_\_\_ in the Office of the City Clerk, and twenty days have elapsed, and

FOR VARIANCE(S) WITHIN

\_\_\_\_\_ there have been no appeals filed in the Office of the City Clerk, or  
\_\_\_\_\_ any appeals that were filed have been finally dismissed or denied.

FOR SPECIAL PERMIT(S) WITHIN

\_\_\_\_\_ there have been no appeals filed in the Office of the City Clerk, or  
\_\_\_\_\_ there has been an appeal filed.

Signed \_\_\_\_\_ City Clerk Date \_\_\_\_\_

