



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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ALEX MELLO, *PLANNER*
DAWN PEREIRA, *ADMINISTRATIVE ASSISTANT*

Case #: ZBA 2017- 103
Date: December 13, 2017

Recommendation: Conditional Approval

PLANNING STAFF REPORT

Site: 311 Highland Avenue

Applicant Name: Lydia Rose Trust, John Costello Trustee
Applicant Address: 311 Highland Avenue, Somerville, MA 02144

Owner Name: Lydia Rose Trust, John Costello Trustee

Owner Address: 311 Highland Avenue, Somerville, MA 02144

Alderman: Lance Davis

Legal Notice: Applicant, John Costello, and Owner, Lydia Rose Trust, John Costello Trustee), seek special permits to modify the signage requirements as permitted in the original zoning approval of ZBA 2014-120. RC zone. Ward 6.

Date of Hearing: December 13, 2017 – ZBA



Above: 311 Highland Avenue prior to completion. The first floor commercial suite is owned by the Applicant and is the subject of the signage proposal.

I. PROJECT DESCRIPTION

- 1. Subject Property:** The subject property is a mixed-use building located in the RC zone. The first floor provides commercial space and the upper floors residential. The first floor commercial space is owned by the Applicant and is the subject of the special permit signage proposal.
- 2. Proposal:** The Applicant, John Costello, received a violation notice from Inspectional Services in August, 2017, because he had affixed advertising signs in the windows of his ground floor commercial unit. The violation notice indicates that these signs were in violation of the Special Permit conditions that the ZBA approved when this project was permitted under a prior owner. The Applicant seeks a new Special Permit that would allow him to affix advertising signs in his storefront windows.
- 3. Green Building Practices:** None listed.
- 4. Comments:**

Ward Alderman Lance Davis sponsored a neighborhood meeting regarding the installation of signage on some of the storefront windows. This meeting was held at 6:00pm on Monday, November 20th. A total of seven people attended this meeting. The attendees were a combination of abutters and building residents from the upper floor condominium units. The applicant and a member of the Planning Staff also attended the neighborhood meeting.

At this meeting, the Applicant briefly explained to the attendees of the signage he was looking to install along with its placement along the storefront and on either side of the main entry doors to the first floor commercial suite.

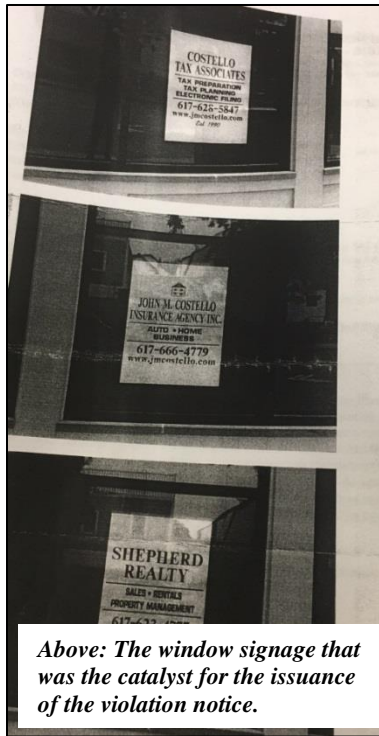
All of the attendees present held an informal vote to support the Applicant's proposal to affix lettering directly to three of the storefront windows and on either side of the main entry doors. The letter of support that they submitted to the planning office for the ZBA's review is attached to the end of this staff report.

II. FINDINGS FOR SPECIAL PERMIT (SZO Article 12):

In order to grant a special permit, the SPGA must make certain findings and determinations as outlined in the relevant sections of the SZO. This section of the report goes through those sections in detail.

1. Information Supplied:

The Applicant provided an application form and a copy of the violation letter received from ISD which included photographs of the signs in violation of the Special Permit. The signs, initially affixed to the storefront windows appear immediately below while a copy of the violation letter appears at the end of this staff report.



In addition, Staff reviewed the original staff report and associated ZBA decision from January, 2015, case # ZBA 2014-20 under the street address of 315 Highland Avenue. This project necessitated a special permit with site plan review (SPSR). Item 19, "Signage" of the staff report states that signage was to be located in the signage band on the front façade of the commercial storefront. This portion of the original staff report reads as follows:

19. Signage: *The Applicant must ensure that "the size, location, design, color, texture, lighting and materials of all permanent signs and outdoor advertising structures or features shall reflect the scale and character of the proposed buildings."*

A signage band is located on the commercial storefront. A condition of this report is that commercial signage be reviewed by Planning Staff prior to installation.

The original staff report and associated approvals only address signage in the form of a sign band, which is affixed to the building façade itself. The Applicant is now requesting that he be allowed to affix lettering directly to three storefront windows and to either side of the main entry doors as additional signage. To do so, a special permit is needed.

The Applicant has provided Planning Staff with an example of the proposed lettering and the dimensions that such lettering would cover on the selected windows. Staff has included the proposed lettering, dimensions and proposed storefront locations at the end of this staff report.

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."*

As proposed by the Applicant and as conditioned by Staff, Planning Staff believes that the lettering to be affixed to three of the storefront windows and to either side of the main entry doors to function as additional signage is in keeping with the intent of the original special permit and is not injurious to the site or surrounding neighborhood. The original special permit does not preclude the Applicant from affixing additional signage to the building in the future, but local zoning requires the Applicant to obtain a special permit in order to do so.

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, as conditioned, 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 secure safety from fire, panic and other dangers; and to encourage the most appropriate use of land throughout the City.

Further, Staff finds that the proposed is in keeping with the purpose of Article 12, Signage which is designed, in part, to "...preserve and enhance the substantial interests of the City of

Somerville in the appearance of the city; to preserve and enhance the public interest in aesthetics; to preserve and increase the amenities of the municipality; to control and reduce visual clutter and blight...

4. Purpose of District: *The Applicant has to ensure that the project “is consistent with the intent of the specific zoning district as specified in Article 6”.*

Staff finds that the proposed project, as-conditioned, is consistent with the intent of the RC zoning district which is “...to establish and preserve a district for multi-family residential and other compatible uses which are of particular use and convenience to the residents of the district.”

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

The proposal will not add to the existing stock of the City’s affordable housing units.

6. 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.*

Staff finds that the proposal allows for a use and advertisement that is consistent with the goals of an RC district. In general, the project as a whole, since its original permitting, has helped transform this area of Highland Avenue.

III. RECOMMENDATION

Special Permit under Article 12 of the SZO

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 to affix lettering to identified storefront windows and the windows buttressing the main front doors of the first floor commercial space according to submitted and identified plans.	BP/CO	ISD/PIng.							
	<table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>September 13, 2017</td><td>Initial application submitted to the City Clerk’s Office</td></tr><tr><td>November 27, 2017</td><td>Proposed signage (lettering) with dimensionals and location submitted to OSPCD</td></tr></table>				Date (Stamp Date)	Submission	September 13, 2017	Initial application submitted to the City Clerk’s Office	November 27, 2017	Proposed signage (lettering) with dimensionals and location submitted to OSPCD
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	September 13, 2017				Initial application submitted to the City Clerk’s Office					
November 27, 2017	Proposed signage (lettering) with dimensionals and location submitted to OSPCD									
<u>Any changes to the approved site plan or elevations that are not <i>de minimis</i> must receive SPGA approval. Whether or not a change is <i>de minimis</i> in nature must be determined by the Planning Office.</u>										
Signage										
2	Lettering shall be affixed to the storefront windows and the widows buttressing the main doors of the commercial space only and in the locations identified in the plan accompanying this staff report	CO & Perpetual	ISD/PIng							
3	Lettering shall possess any reflective quality.	CO & Perpetual	ISD/PIng							
4	Any changes to the lettering in dimension, location, style, or color either now or in the future shall first received approval from the ZBA before it is altered/installed.	CO & Perpetual	ISD/PIng							
5	Signage shall be prohibited from being affixed to the main entrance doors of the first floor commercial space.	CO & Perpetual	ISD/PIng							
6	The Applicant shall also comply with the provisions of the zoning code in Section 12.3 “Signs in Residence Districts” which states that ALL signs (those in the signage band and any attached to movable stands or other apparatus) together, in total, shall have a total face area that does not exceed 20% of the storefront window area.	CO & Perpetual	ISD/PIng							
Final Sign-Off										
7	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	PIng.							



**CITY OF SOMERVILLE
INSPECTIONAL SERVICES - BUILDING DIVISION**

1 Franey Road Somerville, MA 02145
(617) 625-6600 Ext. 5600

VIOLATION NOTICE

COSTELLO JOHN M TRUSTEE
311-315 HIGHLAND AVE
SOMERVILLE, MA 02144

Date: August 24, 2017
Subject: Signs in windows.
Site Address: 311 HIGHLAND AVE
File #: 17-003090

Dear Mr. John Costello :

On , acting under the authority of Massachusetts General Laws Chapter 143 section 3A and Article 1 of the Massachusetts Building Code and/or the Somerville Zoning Ordinance, the Building Inspector has caused an inspection to be conducted at 311 HIGHLAND AVE.

According to the records of the municipal assessor's office, this property is owned by you.

The Inspection revealed the following violations of the International Building Code (IBC), State Building Code (780 CMR) and/or Somerville Zoning Ordinance (SZO):

SZO Sec. 5.3.6 Conditions for Approval of Special Permits

Conditions for Approval of Special Permits or Special Permits with Site Plan Review. In addition to the conditions, standards and criteria set forth in the sections of this Ordinance that authorize the granting of a special permit or a special permit with site plan review, the SPGA may attach such conditions and limitations as it deems necessary to ensure that the findings and determinations it must make under Sections 5.1 and 5.2 are complied with. In the event that the SPGA approves a special permit or a special permit with site plan review, any use or any construction, or any subsequent reconstruction or substantial exterior alteration shall be carried out only in conformity with all conditions and limitations included in the decision of the SPGA, and only in conformity with the application and the definitive site plan on the basis of which the findings and determinations were made. **SIGNS IN WINDOWS (SEE PICS) ARE A VIOLATION OF SPECIAL PERMIT BY ZONING BOARD OD APPEALS.**

~~You are hereby ordered to abate these violations within 14 days. You must obtain any applicable permits prior to performing any work. The Building Inspector will re-inspect as needed.~~

If you fail to comply with this violation notice, the Building Inspector may invoke the following procedures to compel you to correct the violations: 1) the issuance of a ticket; 2) an application for criminal complaint; 3) a complaint for injunction from a Court of competent jurisdiction; and/or 4) any other remedy allowed by law.

If you are aggrieved by this Order relative to the State Building Code, you have the right to appeal within 45 days to the State Building Code Appeals Board pursuant to Massachusetts General Laws Chapter 143 Section 100.

If you are aggrieved by this Order relative to the Somerville Zoning Ordinance, you have the right to appeal within 30 days to the Zoning Board of Appeals pursuant to Somerville Zoning Ordinance Section 3.1.9 and 3.2.3.

With respect to zoning violations, Somerville Zoning Ordinance Section 3.1.8 provides that any person who violates any provision of this Ordinance or who fails to perform any act required hereunder or does any prohibited act, shall upon conviction thereof, be punished by a fine of not more than \$500 for each offense and every day that a violation continues to exist shall constitute a separate offense and shall be punishable thereas.

With respect to the State Building Code, General Laws Chapter 143 Section 94(a) provides that "[w]hoever violates any provision of the state building code ... shall be punishable by a fine of not more than one thousand dollars or by imprisonment for not more than

one year, or both, for each such violation. Each day that a violation exists shall constitute a separate offense."

Please feel free to contact me at 617-625-6600 ext. 5622 to discuss this matter.

Respectfully,

A handwritten signature in dark ink, appearing to read "Dennis McDonald", written over a horizontal line.

Dennis McDonald
Building Inspector
617-625-6600 ext. 5622

311-315 Highland Ave Condo Association
315 Highland Avenue
Somerville, MA 02144

November 17, 2017

Somerville Zoning Board of Appeals
Somerville City Hall
93 Highland Avenue
Somerville, MA 02143

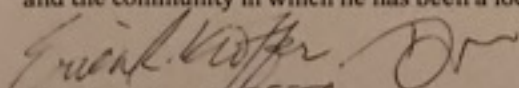
To the Somerville Zoning Board of Appeals:

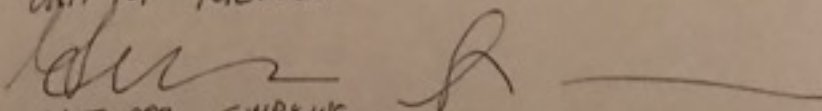
As Trustees of the 311-315 Highland Ave Condo Association, we, the undersigned, are responding to the recent announcement by the Somerville Zoning Board of its intent to review signage posted in Costello Tax Associates located at 311 Highland Avenue in Somerville. As neighbors who live in the residential portion of the building (315 Highland Avenue), we support Mr. Costello's use of signs in and on his windows to promote his businesses.

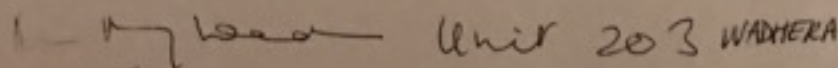
Currently Mr. Costello is using signs in acrylic frames that hang in the windows. We would prefer he be allowed to create signs that would be adhered or painted onto the windows. These would provide a more professional appearance for his business and a more attractive look to our building and the street. We have reviewed designs that Mr. Costello is proposing and believe those are in good taste and can be effective for him as well as the community.

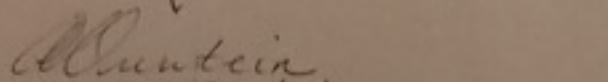
We are pleased to be part of a multi-use building that combines commercial and residential space. It is our belief that for this to be successful, the city needs to allow the businesses to have signage that supports their commercial goals.

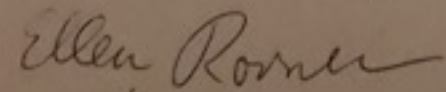
Thank you for your consideration of this request. As owners/residents we strongly urge you to allow Mr. Costello to have the signs on the windows of his businesses. This will benefit Mr. Costello and the community in which he has been a local business owner for the past 27 years.


UNIT 101 KIEFFER


UNIT 302 SIMPKINS


Unit 203 WADHERA


#202 Audrey Jack Orenstein


#303
Unit 201 Owen Wilkard & Alexandra Leach