



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

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Case #: ZBA 2017-111
Site: 314 Highland Ave
Date of Decision: March 7, 2018
Decision: Petition Approved with Conditions
Date Filed with City Clerk: March 15, 2018

ZBA DECISION

Applicant Name: Pet Stop Plus
Applicant Address: 314 Highland Avenue, Somerville, MA 02144
Owner Name: C T & M, LLC c/o Barbara Capuano
Owner Address: 172 Central Street, Somerville, MA 02145
Agent Name: Richard DiGirolamo, Esq.
Agent Address: 424 Broadway, Somerville, MA 02145
Alderman: Lance Davis

Legal Notice: Applicant, Pet Stop Plus, and Owner, C T & M, LLC, seeks approval from the Zoning Board of Appeals pursuant to a prior Decision (Case # ZBA 2013-23) and a Variance under SZO §5.5 and §12.3 to install signage for the veterinarian. RC Zone. Ward 6.

<u>Zoning District/Ward:</u>	RC Zone. Ward 6.
<u>Zoning Approval Sought:</u>	§5.5 and §12.3
<u>Date of Application:</u>	October 18, 2017
<u>Date(s) of Public Hearing:</u>	1/17/18, 1/31/18, 2/14/18, 3/7/18
<u>Date of Decision:</u>	March 7, 2018
<u>Vote:</u>	4-0

Appeal #ZBA 2017-111 was opened before the Zoning Board of Appeals in the Aldermanic Chambers, City Hall, 93 Highland Avenue. 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 two hearings of deliberation, the Zoning Board of Appeals took a vote.



CITY HALL • 93 HIGHLAND AVENUE • SOMERVILLE, MASSACHUSETTS 02143
(617) 625-6600 EXT. 2500 • TTY: (617) 666-0001 • FAX: (617) 625-0722
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DESCRIPTION:

The proposal is to construct a 52 foot-wide blue awning along the front of the building that will serve as a sign for the Somerville Veterinary Center. The proposed sign will include lettering that will have an area of 46.67 square feet of signage.

FINDINGS FOR SPECIAL PERMIT (SZO §7.11.8.11.a):

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."*

The use is allowed by Special Permit, which has already been granted in 2013, and no parking relief is required. A past condition of approval for this site is that signs for the storefronts are to be no larger than the proposed 13 square feet each, made of wood, and are not to be internally-illuminated. The Applicant has not been able to successfully merge the two storefronts to appear as one business by complying with the allowed 13 square feet of signage.

The sign would conform to the maximum allowed area requirement for signs in business districts as 112 square feet of signage area would be allowed as of right and the proposal is for 46.67 square feet.

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 conserving the value of land and buildings and encouraging the most appropriate use of land throughout the City. The proposal is also consistent with the RC district in providing a use that is compatible with residential uses and convenient to the residents of the district.

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: This particular stretch of Highland Ave includes residential, commercial, and mixed use structures.



Impacts of Proposal (Design and Compatibility): The purpose of the proposed awning is to merge the two storefronts into one storefront since they are both occupied by the same tenant. There is a similar type of awning a block away at the corner of Cedar Street and Highland Avenue for a yoga studio.

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

FINDINGS FOR VARIANCE (SZO §5.5):

A Variance (§5.5) is sought to install an awning that is over the allowed signage area for a Residence C zoning district. The RC zoning district allows a maximum signage area of 13 square feet and the proposed is 46.67 square feet. Additionally, signs in conjunction with a permitted nonresidential building or use may not be located nearer to a street lot line than one-half the depth of the required yard at that location. The proposed sign will be on the face of the existing building and will extend two feet beyond the façade.

In order to grant a variance the Board must make certain findings and determinations as outlined in §5.5.3 of the SZO.

1. *There are "special circumstances relating to soil conditions, shape or topography of land or structures which especially affect such land or structures but not affecting generally the zoning district in which it is located, causing substantial hardship, financial or otherwise."*

Applicant's response: The proposal is for signage and an awning at Somerville Veterinary Center on Highland Avenue, a major thruway in the City. The premises has a small storefront at the first level and residential dwellings above. This is a RC zoning district which allows for such mixed use projects. The addition of the fifty-two foot (52 ft) veterinary clinic awning will be an asset to this particular area of Highland Avenue. The site is along the sidewalk and absent a larger sign, traffic that passes the site will not see the Somerville Veterinary Clinic. The sites location needs to have greater visibility.

Board's response: The structure is a mixed use structure located in the RC district right along the front lot line. The requirements for signage in the RC district are burdensome for lawful commercial structures as 13 square feet of signage does not allow much for a business to advertise itself, which could have a financial impact for the particular business.

2. *"The variance requested is the minimum variance that will grant reasonable relief to the owner, and is necessary for a reasonable use of the building or land."*

Applicant's response: The proposal will allow for appropriate signage distinguishing the building from the other buildings in this area. The signage is important at this site so there can be visibility for walkers, bicyclists, and vehicles. The veterinary office has been at this location for approximately three (3) years they have heavily relied on their clientele from their previous location in Union Square. The larger sign is the minimum relief that gives a reasonable use of the premises.



Board's response: It is reasonable to require an awning to advertise the business in a manner that would merge the two storefronts since they are both occupied by the same tenant and function as one space.

3. *"The granting of the variance would be in harmony with the general purpose and intent of this Ordinance and would not be injurious to the neighborhood or otherwise detrimental to the public welfare."*

Applicant's response: The proposal is harmonious with the neighborhood as it is an RC zoning district which is a mixed use area that has changed with various development projects. With the changes in this neighborhood, proper signage is a must so area pet owners will be aware of the clinic. Thus, the veterinary signage would not be detrimental to the neighborhood but a welcomes addition.

Board's response: The proposed awning will fit in with the Highland Avenue streetscape. It would be in harmony with the general purposed of the SZO and not be injurious to the neighborhood.

DECISION:

SPECIAL PERMIT (SZO §7.11.8.11.a) and VARIANCE (§5.5)

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Elaine Severino, and Josh Safdie. Upon making the above findings, Richard Rossetti made a motion to approve the request for a **Special Permit** and **Variance**. 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 the installation of an awning. 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>October 18, 2017</td><td>Initial application submitted to the City Clerk's Office</td></tr><tr><td>February 8, 2018</td><td>Awning rendering</td></tr></table>				Date (Stamp Date)	Submission	October 18, 2017	Initial application submitted to the City Clerk's Office	February 8, 2018	Awning rendering
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	February 8, 2018				Awning rendering					
Any changes to the approved (site plan or 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	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				
4	Applicant shall provide final material and color samples for signage to Planning Staff for review and approval prior to the issuance of a building permit.	BP	Plng.	
Miscellaneous				
5	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				
6	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
7	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				
8	Signage will be limited in size and location to that shown in the elevation diagrams.	CO/Cont.	Plng.	
Final Sign-Off				
9	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
Elaine Severino
Josh Safdie

Attest, by City Planner: _____

Alex 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 _____

