



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

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**Case #: ZBA 2018-87**  
**Site: 17-27 Holland Street**  
**Date of Decision:** August 8, 2018  
**Decision:** Petition Approved with Conditions  
**Date Filed with City Clerk:** August 13, 2018

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**ZBA DECISION**

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**Applicant Name:** Waikiki, Inc. c/o Wei Zheng  
**Applicant Address:** 19 Sandpiper Way, Sharon, MA 02067  
**Owner Name:** JTD 17 Holland, LLC c/o Carla DeLellis  
**Owner Address:** 22 Hillside Avenue, Winchester, MA 01890  
**Alderman:** Lance Davis

**Legal Notice:** Applicant, Waikiki, Inc. c/o Wei Zhang, and Owner, JTD 17 Holland, LLC c/o Carla DeLellis, seek a Special Permit with Design Review (SPD) under SZO §7.11.10.2.1.a and a Variance under Article 9 for parking relief to establish a fast-order food establishment. CBD Zone. Ward 6.

\* Since the advertisement of this case, it has been determined that relief for parking is via a Special Permit.

|                                   |                              |
|-----------------------------------|------------------------------|
| <u>Zoning District/Ward:</u>      | CBD Zone. Ward 6.            |
| <u>Zoning Approval Sought:</u>    | §7.11.10.2.1.a and Article 9 |
| <u>Date of Application:</u>       | June 13, 2018                |
| <u>Date(s) of Public Hearing:</u> | August 8, 2018               |
| <u>Date of Decision:</u>          | August 8, 2018               |
| <u>Vote:</u>                      | 5-0                          |

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Appeal #ZBA 2018-87 was opened before the Zoning Board of Appeals in the Aldermanic Chambers, Somerville City Hall, 93 Highland Ave, Somerville, MA. 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. On August 8, 2018, the Zoning Board of Appeals took a vote.



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## I. DESCRIPTION:

The proposal is to establish a fast-order food establishment in a portion of the previously permitted ground floor retail space.

## II. FINDINGS FOR SPECIAL PERMIT (SZO §7.11.10.2.1.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 6.1.5. CBD - Central Business Districts.*

B. Specific District Standards and Guidelines. All developments within the CBD 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. Across the primary street edge, the building should complete the streetwall.*

The proposed building will be constructed right up against the sidewalk to complete the streetwall and will have an active street front with commercial businesses.

#### *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.*

The building design of the façade at the street level is articulated with glass which will suit the proposed tenant and another prospective tenant for the other commercial space.

#### *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.*

The proposed building will include a mix of glass, brick, wood, cementitious materials, and metal that will blend the building in with the surrounding district. The fourth story is stepped back ten feet from the front of the building.

#### *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 proposed parking area includes a two-car garage in the rear of the site off of Winter Street.

#### *Article 7 Permitted Uses*

Section 7.11.10.2.1.a of the SZO requires a special permit with design review for the establishment of a fast-order food establishment of less than 2,500 square feet of gross floor area in the CBD zoning district.

#### *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 three spaces are required by the previously permitted retail space and two are provided in the rear of the building. The proposal to convert the space into a fast-order food establishment increases the parking requirement by ten spaces to a total of 13 required spaces. Since the locus does not currently have sufficient off-street parking, SZO §9.4.1 requires the proposal to only provide 50% of the additional requirement.

|              | <b>Previously Approved</b>            | <b>Proposed</b>                         |
|--------------|---------------------------------------|---|
|              | 1,400 g.s.f of retail    2.8 spaces   | 1,400 g.s.f of fast-order    2 spaces   |
| <b>Total</b> | <b>3 spaces (rounded up from 2.8)</b> | <b>13 spaces (rounded up from 12.7)</b> |

$$10 \text{ additional required spaces} * 50\% = 5 \text{ spaces}$$

Additionally, when a use is located so as to be both within six hundred fifty (650) feet of a municipal parking garage or lot and within one thousand (1,000) feet of a rapid transit station, said use shall be entitled to a twenty percent (20%) reduction.

$$5 \text{ spaces} \times 0.80 = 4$$

The applicant is requesting parking relief from providing four 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 adequately protect the natural environment; 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:* 17-27 Holland Street is located in an area with myriad styles, sizes and forms of buildings which serve mixed commercial and residential purposes. The proposal for this site is compatible with the surrounding area.

*Impacts of Proposal (Design and Compatibility):*

Special Permits with Design Review and Special Permit with Site Plan 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.*

The proposed building will be constructed right up against the sidewalk to complete the streetwall and will have an active street front with commercial businesses.

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.*

The different building entrances for each retail space and the residential units are recessed from the rest of the primary street elevations.

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.*



The proposed building does not actually use bays but a bay pattern is articulated with a difference in material across the primary elevation. The building includes recessed balconies for the residential units on the second and third floor and the fourth floor is stepped back ten feet.

5. *Provide roof types and slopes similar to those of existing buildings in the area.*

The primary roof type is Davis Square is flat.

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.*

The proposed building will include a mix of glass, brick, wood, cementitious materials, and metal that will blend the building in with the surrounding district. The fourth story is stepped back ten feet from the front of the building.

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.*

The proposed parking area includes a two-car garage in the rear of the site off of Winter Street.

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.*

The proposed change in use to a fast-order food establishment is not expected to necessitate such systems. The previous Decision includes a condition that there be no venting on the Holland Street façade of the building.

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.*

See finding 2 above.

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.*

The proposal is designed to be compatible with the characteristics of the surrounding area and it is consistent with the district standards and guidelines for developments within the CBD as laid out in SZO §6.1.5, and with the design standards for a business zone as laid out in SZO §5.1.5.A. Findings for the consistency of this proposal with these elements of the SZO can be found in Part II, Section 2 of this



report. The establishment of this type of business will enhance the streetscape and maintain the high quality pedestrian environment within Davis Square, which benefits the surrounding neighborhood.

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, 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.

## DECISION:

### Special Permit under §7.11.10.2.1.a and §9.13

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Elaine Severino, Danielle Evans, Anne Brockelman, and Pooja Phaltankar. Upon making the above findings, Richard Rossetti made a motion to approve the request for a Special Permit. Elaine Severino seconded the motion. The Zoning Board of Appeals voted **5-0** to **APPROVE** the request. In addition the following conditions were attached:

| #   | Condition  | Timeframe for Compliance | Verified (initial) | Notes |  |            |               |  |               |                                |
|---|--|--------------------------|--------------------|-------|--|------------|---------------|--|---------------|--------------------------------|
| 1   | Approval is for the establishment of a fast-order food establishment. This approval is based upon the following application materials and the plans submitted by the Applicant:  | BP/CO                    | ISD/Pln g.         |       |  |            |               |  |               |                                |
|   | <table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>June 13, 2018</td><td>Initial application submitted to the City Clerk’s Office</td></tr><tr><td>June 14, 2018</td><td>Plans submitted to OSPCD (A-1)</td></tr></table>  |                          |                    |       | Date (Stamp Date)  | Submission | June 13, 2018 | Initial application submitted to the City Clerk’s Office | June 14, 2018 | Plans submitted to OSPCD (A-1) |
|   | Date (Stamp Date)  |                          |                    |       | Submission   |            |               |  |               |                                |
|   | June 13, 2018  |                          |                    |       | Initial application submitted to the City Clerk’s Office |            |               |  |               |                                |
|   | June 14, 2018  |                          |                    |       | Plans submitted to OSPCD (A-1)                           |            |               |  |               |                                |
| Any changes to the approved elevations/use that are not <i>de minimis</i> must receive SPGA approval. |  |                          |                    |       |  |            |               |  |               |                                |
| <b>Construction Impacts</b>   |  |                          |                    |       |  |            |               |  |               |                                |
| 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                |       |  |            |               |  |               |                                |
| <b>Miscellaneous</b>  |  |                          |                    |       |  |            |               |  |               |                                |



|                       |   |                |       |  |
|-----------------------|---|----------------|-------|--|
| 4                     | This Special Permit is for “Waikiki” use only. Transfer to another fast order food establishment requires Special Permit revision.  | Cont.          | ISD   |  |
| 5                     | Electrical conduits on the exterior facades of buildings shall be painted to match the wall material to which they are attached. Conduits are not allowed on the front of any structure.  | CO             | Plng. |  |
| <b>Public Safety</b>  |   |                |       |  |
| 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. |  |
| <b>Signage</b>        |   |                |       |  |
| 8                     | Signage will be limited in size and location to that shown in the elevation diagrams and lighting after 10p.m. facing residential property will be turned down or off.  | CO/Cont.       | Plng. |  |
| <b>Final Sign-Off</b> |   |                |       |  |
| 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, *Clerk*  
Elaine Severino  
Daniel Evans  
Anne Brockelman (*Alt.*)

Attest, by 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 \_\_\_\_\_

