



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

ZONING BOARD OF APPEALS MEMBERS

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Case #: ZBA 2019-120
Site: 45 South Street
Date of Decision: November 20, 2019
Decision: Petition Approved with Conditions
Date Filed with City Clerk: November 26, 2019

ZBA DECISION

Applicant Name: Portico Brewing Co. LLC
Applicant Address: 3 Shady Hill Square, Cambridge, MA 02138
Owner Name: BBD South St, LLC
Owner Address: 99 Crescent Avenue, Chelsea, MA 02150

Legal Notice: Applicant, Portico Brewing Co. LLC, and Owner, BBD South St, LLC, seek a Special Permit with Design Review under SZO §7.11.10.6.b to establish a drinking establishment and a Variance under SZO §5.5 and Article 9 for parking relief. BA Zone. Ward 2.

Zoning District/Ward: BA/Ward 2
Zoning Approval Sought: SPD §7.11.10.6.b and Variance §5.5 and §9
Date of Application: October 18, 2019
Date(s) of Public Hearing: November 20, 2019
Date of Decision: November 20, 2019
Vote: 5-0

Appeal #ZBA 2019-120 was opened before the Zoning Board of Appeals at Somerville City Hall on November 20, 2019. 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 November 20, 2019, the Zoning Board of Appeals took a vote.

DESCRIPTION: 45 South Street is a 3,478 SF, 1-story factory unit attached to 33 South St. The unit was previously leased as storage space to Harvard University. The unit shares the east wall with the bakery, Union Sq. Donuts, is flush against the sidewalk along South and Harding Streets, and abuts Mystic Valley Foundry on the North Side.

FINDINGS FOR SPECIAL PERMIT (SZO §7.11.10.6.b):

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 Board finds the proposal in compliance with the standards.

Article 7: Permitted Uses

The establishment of a 3,266 square foot drinking establishment in the BA zoning district requires a Special Permit with Design Review (SPD) under SZO §7.11.10.6.b.

Article 6: Establishment of Zoning Districts

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

1. *Give preference to locating on-site, off-street parking at the rear of the lot, behind the building or below street level, providing vehicular access from either a side street or alley where possible.*
2. *Give preference to providing landscaping along the primary street edge.*

The existing building footprint occupies the entire site making it impossible to provide on-site parking and landscaping along the primary street edge.

Article 9: Off-Street Parking and Loading

<i>Existing 3,478 sf warehouse</i>	<i>Proposed 2,349 drinking establishment</i>
1 per 1,500 gross s.f. building area	1 per 110 gross s.f.
3,478 / 1,500 = 2.3	2,349 SF / 110 = 21.35
2 spaces (rounded down from 2.31)	21 spaces (rounded up from 21.35)

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.

$$19 \text{ additional required spaces} * 50\% = 9.5 \text{ spaces}$$

The applicant is requesting a Variance from providing 10 additional parking spaces.

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 Board finds that 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 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 Board finds that the proposal is consistent with the purpose of the BA district, which is, *"to establish and preserve business areas bordering main thoroughfares that are attractive to a wide range of uses, including retail business and services, housing, government, professional and medical offices, and places of amusement. While it is anticipated that most users will arrive by motor vehicle, it is intended that the area should be safe for and conducive to pedestrian traffic."*

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 on the north side of South Street on the block between Harding Street and Horace Street. The neighborhood is industrial in nature with a few blocks of residential house to the north and south.

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.*

The building takes up the entire lot and creates a street wall along South Street and Harding Street.

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 building entrances will be differentiated with accent lighting and paint.

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.*

N/A

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.*

N/A

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.*

The building will remain brick and will be painted to differentiate 45 South Street and 33 South Street.

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.*

N/A

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 applicant intends on locate mechanical equipment on the roof.

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

6. SomerVision Plan: The Board finds that this proposal 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.

FINDINGS FOR VARIANCE (SZO §5.5 and §9):

A Variance (§5.5) is sought for parking relief of 10 spaces.

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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.

$$19 \text{ additional required spaces} * 50\% = 9.5 \text{ spaces}$$

The applicant is requesting a Variance from providing ten additional parking spaces.

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: We are requesting a variance for parking relief due to the specific nature of the existing building. The existing building, 45 South St., takes up the whole site and does not provide any options for parking on site. Our plans for the taproom include 58 seats. Typically we will have 2-3 employees working at one time. This

results in parking relief for 17 spaces. The requirement of this many spaces places a burden on the applicant given the availability of public parking spaces and the amount of other travel options available to our customers.

The Board concurs that the shape and size of the lot prevents the option of adding parking spaces on-site.

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 variance will grant reasonable relief to Portico Brewing because it will allow us to open our taproom utilizing the many transportation options that are made available by this location.

- There are approximately 26 2-hour public parking spots within very close proximity to the building. There are many public transportation options such as the Lechmere Green Line stop, 69
- Bus (Cambridge St @Berkshire St. Stop), and soon-to-be Green Line Union Square stop
- Drop-off (Uber/Lyft) services, taxis
- Walking and biking are options for the many customers that live in the densely populated surrounding neighborhood

Furthermore, being a drinking establishment we will encourage all of our customers to avoid Driving when visiting us and utilize the many options available to them.

The Board finds that the request is the minimum variance that will grant reasonable relief to the owner and is necessary for a reasonable use of the building as a brewery and taproom.

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 granting of this variance will be in harmony with the Somerville Zoning Ordinance and the overall direction that the City is headed to integrate public transit back into the fabric of Somerville’s many walkable neighborhoods. 45 South St., located in Boynton Yards, already has great proximity to existing public transit. Over the next few years as the Union Square Development progresses, there will be even more accessible paths to our location, such as the Green Line stop in Union Sq., bike paths, more sidewalks in Boynton Yards, and more public parking provided by new developments going in on the adjacent parcels. Moreover, granting parking relief will not be in any way injurious to the neighborhood in that there are still many public parking options within close proximity and it will encourage customers to seek alternate, and safer, modes of travel.

The Board finds that the proposal will be in harmony with the general purpose and intent of this Ordinance and will not be injurious to the neighborhood or otherwise detrimental to the public health.

DECISION:

Present and sitting were Members Orsola Susan Fontano, Danielle Evans, Anne Brockelman, Elaine Severino, Josh Safdie, Drew Kane. Upon making the above findings, Josh Safdie made a motion to approve the request for a Special Permit. Elaine Severino seconded the motion. Wherefore 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 to establish a brewery and taproom at the site. 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, 2019</td><td>Initial application submitted to the City Clerk's Office</td></tr><tr><td>October 17, 2019</td><td>Plans submitted to OSPCD (T1, P1, P2, R1, EX1-EX3, A1.1, A5.1, and A6.1)</td></tr><tr><td>November 14, 2019</td><td>Architectural site plan</td></tr></table>				Date (Stamp Date)	Submission	October 18, 2019	Initial application submitted to the City Clerk's Office	October 17, 2019	Plans submitted to OSPCD (T1, P1, P2, R1, EX1-EX3, A1.1, A5.1, and A6.1)	November 14, 2019	Architectural site plan
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November 14, 2019	Architectural site plan											
Any changes to the approved elevations/use that are not <i>de minimis</i> must receive SPGA approval.												
Pre-Construction												
2	The Applicant must contact the Engineering Department to coordinate the timeline for cutting or opening the street and/or sidewalk for utility connections or other construction. There is a moratorium on opening streets from November 1st to April 1st and there is a list of streets that have additional opening restrictions.	BP	Eng									
3	The applicant must comply with the Policy for new connections to and modifications to existing connections to the municipal sewer and drainage system stormwater management and infiltration/inflow mitigation. The Applicant shall work with Engineering to meet this condition and provide the required fees/mitigation.	BP	Eng.									
Construction Impacts												
4	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.									
5	The Applicant shall at their expense replace any existing equipment (including, but not limited to street sign poles, signs, traffic signal poles, traffic signal equipment, wheel chair ramps, granite curbing, etc) and the entire sidewalk immediately abutting the subject property if damaged as a result of construction activity. All new sidewalks and driveways must be constructed to DPW standard.	CO	DPW									
6	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									

7	For the convenience of and respect for the neighborhood, during the construction phase, construction work shall not begin prior to 7:30am and shall finish no later than 5pm Monday through Friday. There shall be no construction or construction-related work performed on weekends or holidays.	During Construction	ISD	
Miscellaneous				
8	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.	
9	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	
10	Food may only be served in accordance with applicable health licenses and permits	Cont.	ISD	
Public Safety				
11	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
12	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				
13	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.	
Final Sign-Off				
14	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*
Danielle Evans, *Clerk*
Anne Brockelman
Elaine Severino
Josh Safdie
Drew Kane (Alt.)

Attest, by the Planner: _____

Melissa A. Woods

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 _____