



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2007-11-R3-7/2015
Site: 292 Beacon Street
Date of Decision: September 16, 2015
Decision: Revision Approved
Date Filed with City Clerk: September 28, 2015

ZBA DECISION

Applicant Name:	Kenneth Spera
Applicant Address:	Box 184, Still River, MA 01467
Property Owner Name:	Kenneth Spera
Property Owner Address:	Box 184, Still River, MA 01467
Agent Name:	N/A

<u>Legal Notice:</u>	Applicant & Owner Ken Spera seeks a revision to Special Permit ZBA 2007-11, 2007-11-R0508 and 2007-50 (SZO §5.3.8) to alter the height and footprint of the rear portion of the approved structure to build an approx. 6,600 sf 4-residential unit building behind the built 2,220 sf structure.
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<u>Zoning District/Ward:</u>	RC zone/Ward 2
<u>Zoning Approval Sought:</u>	Revision to Special Permit #ZBA 2007-11
<u>Date of Application:</u>	July 2, 2015
<u>Date(s) of Public Hearing:</u>	September 16, 2015
<u>Date of Decision:</u>	September 16, 2015
<u>Vote:</u>	5-0

Appeal #ZBA 2007-11-R3-7/2015 was opened before the Zoning Board of Appeals at Somerville City Hall on September 16, 2015. 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.



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DESCRIPTION:

The proposed revisions are shown on the plans submitted to OSPCD with a date stamp of September 10, 2015 and date stamp of September 15, 2015 for the second floor floorplan.

The applicant is proposing the following revisions for Phase II of the project:

- A. Site Plan: There will be two buildings on the site instead of one. The rest of the site plan would remain largely the same although the five parallel parking that were originally approved along the driveway would be relocated. The driveway would remain open for a twenty foot width for Fire Department access. The garages in each of the townhouse units would have space for one or two cars. There is also space for one additional car between the buildings onsite. This space would provide a parking space for the residential unit in the 2 ½ story building. There would continue to be no parking for the commercial space onsite.
 - B. Modify uses: The uses on the site would change from four residential units and three commercial spaces to five residential units and one commercial space of 1,920 gross square feet. The rear building would contain four residential units and no commercial space. The units would be built as townhouses. Each townhouse would be 1,650 gross square feet including the first floor garage.
 - C. Modify the height: The building would be altered from a 2-story to a 3-story building.
 - D. Modify the front façade: The façade would continue to include man-doors. Garage doors would be added to supply parking inside of the building for each unit. The federal style of the building would remain.
3. Green Building Practices: None listed on the application form.
4. Comments:

Fire Prevention: The 20 foot wide driveway must remain clear to allow for fire truck access to the residential units at the back of the lot.

Traffic & Parking: The ability to maneuver cars out of a 14 foot wide garage door is questionable; however, the same number of parking spaces from the prior approval would remain, 5, even if each of the garages were designed for just one vehicle.

DPW: Detailed and stamped electrical and utility plans must be submitted for review and approval prior to obtaining a building permit.

Ward Alderman: Alderman Heuston has been contacted but has not yet provided comments.

FINDINGS FOR SPECIAL PERMIT (SZO §4.4.1):

The following are the findings that relate to the proposed revisions.

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. The Applicant will be required to submit detailed stamped site plans before a building permit is issued for the proposal.

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 original Special Permits allowed the Applicant to build a 2 and 3-story structure for retail/office and residential use, retaining a portion of the original structure, in order to protect its nonconforming status. The site and structure



are nonconforming with respect to parking, landscaping, and front, side, and rear yard setbacks. The changes to these nonconformities were approved as part of the prior special permit.

The Applicant is requesting a revision to special permit 2007-11 and 2007-50 under SZO §5.3.8. A revision to a special permit is allowed if the final signoff and certificates of occupancy have not yet been issued which is the case for this project that is under construction. Changes that are not de minimis must go back to the permit granting authority for approval. Staff deemed this revision to be greater than the de minimis requirements under §5.3.8 and the request is before the ZBA for a public hearing.

The following nonconforming dimensions will not change from the original approval:

- Landscaped area – 15%
- Pervious area – listed as 10% but would be at least 15%
- Front yard setback – 0 feet
- Vehicular parking requirements
- Side yard setback – 8 and 20 feet

The following zoning requirements will continue to be conforming:

- Lot area per dwelling unit – 1,500 sf
- Ground coverage – 40%
- FAR – 0.9
- Height – 3 stories / 32 feet
- Rear yard setback – 20 feet
- Bicycle parking will be available in the proposed garages

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."*

Garage fronted townhouses are not a favored building type because the first floor of the building is consumed by garage doors; however, due to the change in Fire Prevention requirements in needing the 20 foot driveway to access the last unit in the building it is difficult to build Phase II with a different layout. The current proposal has been altered to include a front door to each of the townhouse units next to the garage door to improve the pedestrian experience to the units.

The increase in height by one-story will have an impact to the neighbors; however, no neighbors voiced concerns to the Board. Also, the additional story is allowed in the district and the side yard setback that abuts the residential neighbors is only proposed to be two feet less than that required for a three-story building. The change in use of the rear building to all residential may be a welcomed change for the rear portion of the site that has residential abutters.



DECISION:

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans, Elaine Severino and Josh Safdie. 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 **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 construction of a 3-story approx. 6600 gsf building with 4-residential units behind the 2 ½ story structure. 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>July 2, 2015</td><td>Initial application submitted to the City Clerk’s Office</td></tr><tr><td>(September 10, 2015)</td><td>Modified plans submitted to OSPCD (Floor plans, elevations, site plan)</td></tr><tr><td>(September 15, 2015)</td><td>Modified plans submitted to OSPCD (2nd Floor plan)</td></tr></table>				Date (Stamp Date)	Submission	July 2, 2015	Initial application submitted to the City Clerk’s Office	(September 10, 2015)	Modified plans submitted to OSPCD (Floor plans, elevations, site plan)	(September 15, 2015)	Modified plans submitted to OSPCD (2 nd Floor plan)
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(September 15, 2015)	Modified plans submitted to OSPCD (2 nd Floor plan)											
Any changes to the approved site plan, elevations or use that are not <i>de minimis</i> must receive SPGA approval.												
2	Code compliant fire alarm and fire suppression systems will be required, and Fire Prevention permits will be required before all work begins.	Building Permit	Fire									
3	The Applicant must install a sign at the driveway reading “Do Not Back Out of Driveway”.	CO	T&P Plng.									
4	The Applicant must supply bait prior to construction to ensure rodent control.	During Construction	ISD									
5	The Applicant, its successors and/or assigns, shall be responsible for maintenance of both the building and all on-site amenities, ensuring they are clean, well kept and in good and safe working order.	Cont.	ISD									
6	The Applicant shall at his expense replace any existing equipment (including, but not limited to street sign poles, 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 of concrete.	CO	DPW									
7	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	During Construction	T&P									



	prior approval of the Traffic and Parking Department must be obtained.			
8	The applicant shall develop a demolition plan in consultation with the City of Somerville Inspectional Services Department. Full compliance with proper demolition procedures shall be required, including timely advance notification to abutters of demolition date and timing, minimization of dust, noise, odor, and debris outfall, and sensitivity to existing landscaping on adjacent sites.	Demolition Permitting	ISD/ OSE	
9	Because of the history of the site and the intended use, the Applicant shall, prior to issuance of any foundation permit and/or any building permit for the project, provide to the Planning Department and the Inspectional Services Department: A) a copy of the Response Action Outcome (RAO) Statement, signed by a Licensed Site Professional (LSP) and filed with DEP, verifying that a level of no significant risk for the proposed residential use has been achieved at the site; or B) if remediation has not reached the RAO stage, a statement signed by an LSP describing (i) the management of oil and hazardous materials/waste at the site, including release abatement measures intended to achieve a level of no significant risk for residential use at the site, treatment and storage on site, transportation off-site, and disposal at authorized facilities, (ii) a plan for protecting the health and safety of workers at the site, and (iii) a plan for monitoring air quality in the immediate neighborhood.	Demolition /Building Permitting	ISD/ Plng.	
10	Notification must be made, within the time period required under applicable regulations, to the Massachusetts Department of Environmental Protection (DEP) if there is any release of oil, hazardous materials, or regulated hazardous substances at the site. The City's OSE office and the Board of Health shall also be notified.	CO	OSE /BOH	
11	Landscaping should be installed and maintained in compliance with the American Nurserymen's Association.	Perpetual	Plng. / ISD	
12	The Applicant must contact the Planning Staff at least five working days in advance of a request for a final sign-off on the building permit to ensure the proposal was constructed in accordance with the plans and information submitted and the conditions attached to this approval.	Final Building Permit Signoff	Plng. / ISD	
13	The Applicant shall install a sign at the driveway reading "Residence Parking Only."	CO	T&P/Plng.	
14	Phase 1: The Applicant shall submit proper plans to ISD regarding phasing the engineering aspects of the development. The Applicant shall construct the rear wall of the front portion of the building as an exterior wall with brick and no	BP/CO for phase 1	Plng. / ISD	



	windows. The Applicant shall construct the foundation for the rear portion of the building, cap it and weatherproof it. The Applicant shall construct the site plan, including a 6' cedar fence on the sides and rear of the property.			
15	Phase 2: The Applicant shall construct the remaining portion of the building as previously approved.	BP/CO for phase 1	Plng. / ISD	
16	The Applicant shall install no parking signs along at the driveway to ensure that the driveway is not blocked to emergency vehicle access.	Continuous	Fire Prevention	

Attest, by the Zoning Board of Appeals:

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

Attest, by the Administrative Assistant:

Dawn M. Pereira

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.
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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 _____

