



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

PLANNING DIVISION

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Case #: ZBA #2007-29-R1-6/2012

Site: 30 College Avenue

Date of Decision: July 11, 2012

Decision: *Petition Approved with Conditions*

Date Filed with City Clerk: July 23, 2012

ZBA DECISION

Applicant Name:	D.F. Valente
Applicant Address:	571 Main Street, Medford, MA 02155
Property Owner Name:	Mouhab Rizkallah
Property Owner Address:	30 College Avenue, Somerville, MA 02144
Agent Name:	N/A

<u>Legal Notice:</u>	Applicant D.F. Valente and Owner Mouhab Rizkallah, seek a revision to a Special Permit (ZBA 2007-29) under SZO §5.3.8 in order to remove Condition # 17 attached to the Special Permit which references the removal of a connection between 30 College Avenue and 32 College Avenue and to make design modifications to the facades on the approved plans. The Applicant and Owner are also seeking a Special Permit to alter a nonconforming structure under SZO §4.4.1 to slightly expand the proposed connection between the two buildings. CBD zone. Ward 6.
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<u>Zoning District/Ward:</u>	CBD zone/Ward 6
<u>Zoning Approval Sought:</u>	§5.1, §5.3.8 & §4.4.1
<u>Date of Application:</u>	June 8, 2012
<u>Date(s) of Public Hearing:</u>	July 11, 2012
<u>Date of Decision:</u>	July 11, 2012
<u>Vote:</u>	5-0

Appeal #ZBA 2007-29-R1-6/2012 was opened before the Zoning Board of Appeals at Somerville City Hall on July 11, 2012. Notice of the Public Hearing was given to persons affected and was published and posted,



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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.

DESCRIPTION:

The Applicant is proposing to revise the originally awarded Special Permit (ZBA 2007-29) to remove Condition # 17 to reconnect the buildings at 30 and 32 College Avenue. At the time of the original application back in 2007, 30 and 32 College Avenue had separate owners but the two buildings were connected via a shared breezeway over the property line between the two lots. As part of the original Special Permit, Condition # 17 was included which states that "the Applicant shall consent to the removal of the portion of the shared breezeway that is not on his property, and shall repair his common wall according to the attached plans, in the event of such partial demolition." As part of conforming to the conditions for the original Special Permit, the Applicant removed the connection between the two structures. The two properties now have the same owner and the Applicant would like to reconnect the two structures via an enclosed hallway to expand his personal office space into the building at 32 College Avenue. The two existing dwelling units in this structure are proposed to be retained. The removal of this particular condition would allow the Applicant to reestablish the connection over the parcel line between the two buildings. The connection would be 5.5 feet wide, 17 feet deep, and one story high.

The Applicant is also proposing to make some design modifications to the facades on the approved plans. On the front façade, the Applicant has reworked the main entryway to install an arch-transom over the main doors instead of implementing the four large windows on the approved plans. Above the front entryway, the original plans called for six windows in a three over three pattern, but the Applicant would like to obtain approval for the installation of only four windows in a two over two pattern. Further, the Applicant would like to remove some of the horizontal façade detailing in favor of a simpler, streamlined look. On the left side elevation, the Applicant has implemented a finish detail that displays six window forms with the top three windows in an arch style. The originally approved plans call for a simple blank stucco wall with some horizontal detailing. On the left side of the third floor of the left elevation, the Applicant has also installed one large window that matches those on the second floor as opposed to installing the two smaller windows on the approved plans. On the right side elevation the Applicant has added a door and two small basement windows in the lower left corner of the elevation. There is also one extra window on the second and third floor and the glass block windows on the first floor would not be installed in order to reestablish the connection between the two buildings. Lastly, on the rear façade, while the number of window openings, eight, is the same, the style of the windows on the second and third floors is slightly different from what is shown on the approved plans.

FINDINGS FOR SPECIAL PERMIT REVISION (SZO §5.1, §5.3.8 & §4.4.1):

In order to grant a Revision to a Special Permit and 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 proposal complies with the standards for issuing a revision to the originally awarded Special Permit. The final Certificate of Occupancy has not yet been issued, the proposal otherwise is in accordance with the originally approved plans and conditions, and notice has been given for the public hearing.

In considering a Special Permit under §4.4.1 of the SZO, the Board finds that the modifications to the existing structure would not be substantially more detrimental to the neighborhood than the existing structure. The design modifications to the approved plans would not appear to be detrimental to the abutters or the



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surrounding neighborhood. The total square footage amount of window openings on each façade is roughly the same as on the approved plans. The style of the windows for the proposed design modifications is also in keeping with the overall design of the building.

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 providing for and maintaining "the uniquely integrated structure of uses in the City; to secure safety from fire, panic and other dangers; to provide adequate light and air; 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 proposal is consistent with the purpose of the CBD district (6.1.5. CBD - Central Business Districts), 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."

The proposal is also consistent with the purpose of the RB district (6.1.2. RB - Residence Districts) where a portion of the subject property is located. The purpose of the RB district is "To establish and preserve medium density neighborhoods of one-, two- and three-family homes, free from other uses except those which are both compatible with and convenient to the residents of such districts."

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."

The proposed project is compatible with the characteristics of the surrounding residential neighborhood. The design modifications to the approved plans would not appear to be detrimental to the abutters or the surrounding neighborhood. The total square footage amount of window openings on each façade is roughly the same as on the approved plans. The style of the windows for the proposed design modifications is also in keeping with the overall design of the building and in the context of the surrounding neighborhood. The proposed reconnection of the buildings would also not appear to be detrimental to the surrounding neighborhood. The size of the connection is quite small at approximately 93 square feet and the buildings had been connected as recently as 2008. The proposed revision to the Special Permit would simply reestablish this connection with a slightly larger footprint. There is some landscaping at the site in front of this 5.5 foot gap between the buildings which also helps to obscure this connection. At one story in height, the proposed reconnection would not create any shadow impacts on neighbors, nor would it greatly impact the stormwater runoff situation at the property. Each of the properties will retain their existing uses as a dental professional building and as a mixed-use office and residential structure.

5. Adverse Environmental Impacts: The proposed use, structure or activity will not constitute an adverse impact on the surrounding area resulting from: 1) excessive noise, level of illumination, glare, dust, smoke, or vibration which are higher than levels now experienced from uses permitted in the surrounding area; 2) emission of noxious or hazardous materials or substances; 3) pollution of water ways or ground water; or 4) transmission of signals that interfere with radio or television reception.

No adverse environmental impacts are anticipated from this proposed new signage. No new noise, glare, smoke, vibration, nor emissions of noxious materials nor pollution of water ways or ground water nor transmission of signals that interfere with radio or television reception are anticipated as part of the proposal. The proposed reconnected space between the two buildings at 30 and 32 College Avenue and the proposed façade alterations on the building at 30 College Avenue would not appear to have any significant environmental impacts.



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While the landscaped area at the site, which is currently nonconforming, will be reduced by just under 100 square feet, this should not greatly alter the stormwater runoff situation at the property.

DECISION:

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Scott Darling and Josh Safdie with Danielle Evans and Elaine Severino absent. Upon making the above findings, Susan Fontano made a motion to approve the request for a Special Permit. Scott Darling 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	<p>Approval is for the construction of:</p> <ul style="list-style-type: none">▪ Front addition for the elevator shaft;▪ Rear addition for the egress stair;▪ Northerly expansion for first floor office space; and▪ Addition of third floor on rear of structure. <p>This approval is based upon the following application materials and the plans submitted by the Applicant and/or the Agent:</p> <table><tr><th>Plan Date (Stamp Date)</th><th>Submission</th></tr><tr><td>November 10, 2008 (11/26/08)</td><td>Plans A1 and A2, stamped revised, showing relocated rear stair.</td></tr><tr><td>April 26, 2012 (June 28, 2012)</td><td>Elevations Revised</td></tr><tr><td>(June 28, 2012)</td><td>Existing and Replaced Connection Diagrams</td></tr></table> <p>Any non <i>de minimis</i> changes to the approved elevations and plans of exterior walls must receive ZBA approval.</p>	Plan Date (Stamp Date)	Submission	November 10, 2008 (11/26/08)	Plans A1 and A2, stamped revised, showing relocated rear stair.	April 26, 2012 (June 28, 2012)	Elevations Revised	(June 28, 2012)	Existing and Replaced Connection Diagrams	Building Permit and CO	ISD and Plng.	
Plan Date (Stamp Date)	Submission											
November 10, 2008 (11/26/08)	Plans A1 and A2, stamped revised, showing relocated rear stair.											
April 26, 2012 (June 28, 2012)	Elevations Revised											
(June 28, 2012)	Existing and Replaced Connection Diagrams											
2	The existing dumpster shall be relocated away from residentially used properties and screened from public view.	CO	ISD / Plng.									
3	As provided in Condition 1, the work on the portion of the building along College Avenue will proceed in accordance with the submitted plans.	BP/ CO	ISD / Plng.									
4	As provided in Condition 1, the new third floor will be constructed directly above the footprint of the current second floor, with no projections outside that footprint.	BP/ CO	ISD / Plng.									
5	As provided in Condition 1, the new rear egress stair will be made of matching stucco rather than glass block; would be moved away from the common property line at least three feet (plus or minus one inch); and would be constructed with scaffolding configured so as not to use the neighboring property for construction or maintenance.	BP/ CO	ISD / Plng.									
6	Any new construction requires a plan and construction of a new drainage system that will prevent run-off onto abutters' property.	BP/ CO	ISD / Plng.									

#	Condition	Timeframe for Compliance	Verified (initial)	Notes
7	The Chief or Deputy Chief of the Fire Department must provide written assurance that he has reviewed and approved the proposal of the new addition with regard to potential fire hazards before construction begins, in accordance with his letter of May 21, 2008.	BP	FP	
8	New constructed must include a plan, and must be conducted, so as to mitigate dust, noise, and any hazardous materials (e.g., asbestos) encountered during construction.	BP / During Construction	ISD	
9	Every effort must be made to ensure that construction materials, construction debris, and extraneous materials (e.g., coffee cups, cigarette butts, etc.) will be properly disposed of and not permitted to fall into abutters' yards.	During Construction	ISD	
10	The exterior parts of the new construction shall be completed, from start to finish, within a six-month timeframe. Construction may only be performed on weekdays between 7:30 a.m. and 7:00 p.m.	During Construction	ISD	
11	No construction materials, tools or apparatus of any kind, including ladders, staging, etc., may be placed on the property of the abutters at 4 Park Ave.	During Construction	ISD	
12	In the event that there is any damage to abutters' property, including landscaping or structures, the applicant will be responsible for the reasonable costs of restoration.	During Construction		
13	All construction will be performed from the applicant's own property and not from abutting properties.	During Construction	ISD	
14	Any modifications to the fire alarm system and sprinkler system due to this renovation will require plans to be submitted for Fire Prevention approval. A new Certificate of Compliance will be required for occupancy.	CO	FP	
15	The Applicant shall contact 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.	CO	Plng. / ISD	
16	The Applicant will permit the abutter at 4 Park Ave to plant ivy along walls abutting their property.	Cont.		
17	Upon reconstruction of the connection, the two buildings will become one building and therefore there shall only be one electrical service for the entire structure.	CO	Wiring Inspector	
18	New siding type and color, roofing, trim, and materials of the reestablished connection shall match or be complimentary to the rest of the existing structure.	CO	Plng.	



Attest, by the Zoning Board of Appeals:

Herbert Foster, *Chairman*
Orsola Susan Fontano, *Clerk*
Richard Rossetti
T.F. Scott Darling, III, Esq.
Josh Safdie (Alt.)

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.

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 _____



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