



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

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Case #: ZBA 2016-36
Site: 5-15 Holland Street
Date of Decision: April 20, 2016
Decision: Petition Approved with Conditions
Date Filed with City Clerk: May 5, 2016

ZBA DECISION

Applicant Name:	JTD Realty Trust
Applicant Address:	22 Hillside Ave, Winchester, MA 01890
Property Owner Name:	JTD Realty Trust
Property Owner Address:	22 Hillside Ave, Winchester, MA 01890
Agent Name:	Adam Dash, Esq.
Agent Address:	48 Grove Street, Suite 304, Somerville, MA 02144

<u>Legal Notice:</u>	Applicant & Owner, JTD Realty Trust, seek a Special Permit under SZO §5.1 & 4.4.1 to alter a mixed-use building to increase the lot area per dwelling unit nonconforming. This approval would allow for a minor site plan approval to subdivide a parcel for future development of the adjacent lot.
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<u>Zoning District/Ward:</u>	CBD zone/Ward 6
<u>Zoning Approval Sought:</u>	§5.1 & §4.4.1
<u>Date of Application:</u>	March 11, 2016
<u>Date(s) of Public Hearing:</u>	April 20, 2016
<u>Date of Decision:</u>	April 20, 2016
<u>Vote:</u>	4-0

Appeal #ZBA 2016-36 was opened before the Zoning Board of Appeals at Somerville City Hall on April 20, 2016. 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:

In a separate application the Applicant has applied for a subdivision of land for future development of the adjacent lot. The parcel line currently crosses the one-story commercial building where Johnny D's was located. The proposal will move the line so that the one-story building is entirely on its own lot and the abutting mixed-used building would also be on its own lot. The subdivision is a minor site plan approval and if the Special Permit request is granted, the Planning Director will sign off on the division of land because the lots otherwise meet the required dimensions of the ordinance. The dimension that needs Special Permit approval is to increase the lot area per dwelling unit nonconformity of the mixed-use building. In moving the parcel lines, the mixed-use building's parcel decreases, which decreases lot area per dwelling unit for the existing building.

FINDINGS FOR SPECIAL PERMIT (SZO §4.4.1):

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 structure is currently nonconforming with respect to the following dimensional requirements: lot area per dwelling unit, ground coverage, landscaped area, and rear yard setback.

The subdivision will impact the nonconforming lot area per dwelling unit. The current dimension is 748.25, the subdivision will bring the number to 570.75 and the requirement in the district is 875. This alteration to a nonconforming structure requires the Applicant to obtain special permits under §4.4.1 of the Somerville Zoning Ordinance (SZO).

Section 4.4.1 states that "[l]awfully existing nonconforming structures other than one- and two-family dwellings may be enlarged, extended, renovated or altered only by special permit authorized by the SPGA in accordance with the procedures of Article 5. The SPGA must find that such extension, enlargement, renovation or alteration is not substantially more detrimental to the neighborhood than the existing nonconforming building. In making the finding that the enlargement, extension, renovation or alteration will not be substantially more detrimental, the SPGA may consider, without limitation, impacts upon the following: traffic volumes, traffic congestion, adequacy of municipal water supply and sewer capacity, noise, odor, scale, on-street parking, shading, visual effects and neighborhood character."

In considering a special permit under §4.4 of the SZO, the Board finds that the decrease in lot area per dwelling unit proposed would not be substantially more detrimental to the neighborhood than the existing condition. The built form and use of the site will not change. The special permit approval will allow for more density on the abutting lot; however, without the approval and subdivision, the redevelopment of the abutting lot will be unduly complicated by the current configuration of the lot line.

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.

The proposal is consistent with the purpose of the CBD district, which is, “[t]o 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."*

The building and use will not change as a result of this application.

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

The proposal will not impact the existing housing on the site.

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. The areas in the SomerVision map that are designated as enhance and transform should most significantly contribute towards the SomerVision goals that are outlined in the table below. The areas marked as conserve are not expected to greatly increase the figures in the table since these areas are not intended for large scale change.*

The property is in an area that is to be enhanced in the SomerVision Plan. The special permit approval will facilitate the subdivision and future redevelopment of the adjacent site which will further the goal of enhancing the area.



DECISION:

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans and Elaine Severino with Josh Safdie and Anne Brockelman absent. 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 **4-0** to **APPROVE** the request.



Attest, by the Zoning Board of Appeals:

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

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 _____

