



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2014-19-R1-0216
Site: 40 Pitman Street
Date of Decision: April 6, 2016
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: April 20, 2016

ZBA DECISION

Applicant Name:	40 Pitman, LLC
Applicant Address:	116 West Broadway, Boston, MA 02127
Property Owner Name:	40 Pitman, LLC
Property Owner Address:	116 West Broadway, Boston, MA 02127
Agent Name:	Richard G. DiGirolamo, Esq.
Agent Address:	424 Broadway, Somerville, MA 02145

<u>Legal Notice:</u>	Applicant and Owner, 40 Pitman, LLC, seeks a Revision to a Special Permit under SZO §5.3.8 to construct two head houses for rooftop access.
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<u>Zoning District/Ward:</u>	BA zone/Ward 3
<u>Zoning Approval Sought:</u>	§5.3.8
<u>Date of Application:</u>	February 11, 2016
<u>Date(s) of Public Hearing:</u>	3/16 & 4/6/16
<u>Date of Decision:</u>	April 6, 2016
<u>Vote:</u>	5-0

Appeal #ZBA 2014-19-R1-0216 was opened before the Zoning Board of Appeals at Somerville City Hall on March 16, 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:

The Applicant proposes to construct two head houses atop the property at 40 Pitman in order to comply with building code requirements to allow for rooftop access. Though the head houses have already been constructed per the order of ISD, the Applicant must request a revision to the special permit so that the built conditions match approved plans.

FINDINGS FOR REVISION TO SPECIAL PERMIT (SZO §5.3.8):

In order to grant a revision to a special permit, the SPGA must make certain findings and determinations as outlined in §5.3.8 of the SZO. This section of the report goes through §5.3.8 in detail.

1. Information Supplied: The Board finds that the information provided by the Applicant conforms to the requirements of §5.3.8 of the SZO and allows for a comprehensive analysis of the project with respect to the required Special Permits.

1. 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." In considering the revision to the special permit under §5.3.8 of the SZO, Staff finds that the addition of the head houses for roof access would not be substantially more detrimental to the neighborhood. The head houses are required by building code. With respect to the additional height that the head houses add to the building, §8.6.2 of the SZO exempts such structures from height requirements as follows:
2. § 8.6.2 was amended by Ordinance 2006-07 on January 26, 2006.
3. Height: The provisions of this Ordinance governing height of buildings shall not apply to church spires, belfries, cupolas, domes, monuments, observation towers, sky lights, flag poles, ventilators, and penthouses housing mechanical equipment or other architectural elements normally built above the roof and not devoted to human occupancy. [Staff emphasis added]

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 I, 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 promoting 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 lessen congestion in the streets; to prevent the overcrowding of land; to preserve the historical and architectural resources of the City; and to encourage the most appropriate use of land throughout the City.

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 Board finds that this criterion is not applicable to the construction of the head houses which are required by building code and must meet specific dimensions.



5. *Vehicular and pedestrian circulation:* *The circulation patterns for motor vehicles and pedestrians which would result from the use or structure will not result in conditions that create traffic congestion or the potential for traffic accidents on the site or in the surrounding area.*

The Board finds that this criterion is not applicable to the issue of head house construction. Questions relating to vehicular and pedestrian circulation were addressed by the Applicant, Staff and the ZBA in 2014 under the original approvals for the project.

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

Staff finds this criterion is not applicable to the revision to the special permit.

6. *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 Board finds this criterion is not applicable to the revision to the special permit.

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 Revision to a Special Permit. Elaine Severino seconded the motion. Wherefore the Zoning Board of Appeals voted **5-0** to **APPROVE** the request.



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. PereiraCopies 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 _____

