



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

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Case #: ZBA # 2013-57
Site: 97 Prospect Street
Date of Decision: September 4, 2013
Decision: Petition Approved with Conditions
Date Filed with City Clerk: September 5, 2013

ZBA DECISION

Applicant Name:	Alan Peterson, Art of Building, LLC
Applicant Address:	7 Fairfield St, Medford, MA 02155
Property Owner Name:	Two Squares, LLC
Property Owner Address:	56 Regent St, Cambridge, MA 02140
Agent:	n/a

Legal Notice: Applicant, Art of Building, LLC, and Owner, Two Squares, LLC seek a Special Permit with Site Plan Review under §7.11.1.c. to construct seven residential units and a Special Permit under §4.4.1 to substantially alter a nonconforming structure. The Applicant and Owner are also seeking a Variance under §9.5.1.a for approx. six parking spaces. RC zone. Ward 2.

<u>Zoning District/Ward:</u>	RC District / Ward 2
<u>Zoning Approval Sought:</u>	SPSR under §7.11.1.c & Variance under §9.5.1.a
<u>Date of Application:</u>	July 23, 2013
<u>Dates of Public Hearing:</u>	September 4, 2013
<u>Date of Decision:</u>	September 4, 2013
<u>Vote:</u>	5-0

Appeal #ZBA 2013-57 was opened before the Zoning Board of Appeals at Somerville City Hall on August 21, 2013. 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 (1) hearing of deliberation, the Zoning Board of Appeals took a vote.



CITY HALL • 93 HIGHLAND AVENUE • SOMERVILLE, MASSACHUSETTS 02143
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DESCRIPTION:

The proposal is to demolish the existing structure and build a 3 story building with 7 residential units. The building will maintain its nonconforming left side yard setback by reusing the existing foundation for the new building. The front elevation has three points of access, the front door accessed from the front porch, a front door at grade for handicapped accessibility, and a ramp and garage door for vehicular access to the garage. The building will have 2 shades of plank siding and a wood wrap feature on the southwest corner.

In the basement there are 8 parking spaces, 7 secured storage areas, and 8 bicycle racks. The existing curbcut towards the center of the parcel will be closed to accommodate a new curbcut to access the driveway that leads to the below grade spaces.

There will be 1 – 1 bedroom, 1 – 2 bedroom, and 5 – 3 bedroom units. Six of the units have usable outdoor space in the form of balconies, decks, and roof decks. Two units have direct access to the yard. The unit without direct access, Unit #1, has a narrow balcony and access to the yard through the common corridor and side door.

As proposed, the site will go from no pervious and landscaping area to 32% and 38% respectively. The ground coverage and floor area ratio will increase but still be conforming.

FINDINGS FOR SPECIAL PERMIT with SITE PLAN REVIEW (SZO §7.2 and §7.3) and SPECIAL PERMIT (SZO §4.4.1 and §9.13.b):

In order to grant a special permit with site plan review, the SPGA must make certain findings and determinations as outlined in §5.2.5 of the SZO. This section of the report goes through §5.2.5 in detail.

1. Information Supplied: The Board finds that the information provided by the Applicant conforms to the requirements of §5.2.3 of the SZO and allows for a comprehensive analysis of the project.

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 with site plan review.”

In considering a special permit under §4.4, the Board finds that the alterations and use proposed would not be substantially more detrimental to the neighborhood than the existing structure.

3. Purpose of District: The Applicant has to ensure that the project “is consistent with the intent of the specific zoning district as specified in Article 6”.

The proposal is consistent with the purpose of the district, which is, “To establish and preserve a district for multi-family residential and other compatible uses which are of particular use and convenience to the residents of the district.”

4. Site and Area Compatibility: The Applicant has to ensure that the project “(i)s designed in a manner that is compatible with the existing natural features of the site and is compatible with the characteristics of the surrounding area, and that the scale, massing and detailing of the buildings are compatible with those prevalent in the surrounding area”.

There are no natural features remaining on the site. The proposal is a three story structure that is most compatible with the development previously approved by the Zoning Board at 96 Prospect Street (ZBA 2013-21).

5. Functional Design: The project must meet “accepted standards and criteria for the functional design of facilities, structures, and site construction.”

The building will function well as residential units. The parking is under the building to maintain the site.



6. Impact on Public Systems: The project will “not create adverse impacts on the public services and facilities serving the development, such as the sanitary sewer system, the storm drainage system, the public water supply, the recreational system, the street system for vehicular traffic, and the sidewalks and footpaths for pedestrian traffic.”

7. 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.”

As conditioned, the Applicant will work with City Engineering Staff to comply with all regulatory requirements.

8. Consistency with Purposes: “Is consistent with: 1) the purposes of this Ordinance, particularly those set forth in Article 1 and Article 5; and 2) the purposes, provisions, and specific objectives applicable to the requested special permit with site plan review which may be set forth elsewhere in this Ordinance, such as, but not limited to, those at the beginning of the various sections.”

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 conserve the value of land and buildings; and to encourage the most appropriate use of land throughout the City.”

9. Preservation of Landform and Open Space: The Applicant has to ensure that “the existing land form is preserved in its natural state, insofar as practicable, by minimizing grading and the erosion or stripping of steep slopes, and by maintaining man-made features that enhance the land form, such as stone walls, with minimal alteration or disruption. In addition, all open spaces should be designed and planted to enhance the attractiveness of the neighborhood. Whenever possible, the development parcel should be laid out so that some of the landscaped areas are visible to the neighborhood.”

There are no natural features left of the site. The design and landscaping will enhance the attractiveness of the neighborhood.

10. Relation of Buildings to Environment: The Applicant must ensure that “buildings are: 1) located harmoniously with the land form, vegetation and other natural features of the site; 2) compatible in scale, design and use with those buildings and designs which are visually related to the development site; 3) effectively located for solar and wind orientation for energy conservation; and 4) advantageously located for views from the building while minimizing the intrusion on views from other buildings.”

The building is well placed on the lot. It is compatible with the scale in the neighborhood, most homes are 2 ½ or 3 stories. There are no notable views being obstructed.

11. Stormwater Drainage: The Applicant must demonstrate that “special attention has been given to proper site surface drainage so that removal of surface waters will not adversely affect neighboring properties or the public storm drainage system. Storm water shall be removed from all roofs, canopies, and powered area, and routed through a well-engineered system designed with appropriate storm water management techniques. Skimming devices, oil, and grease traps, and similar facilities at the collection or discharge points for paved surface runoff should be used, to retain oils, greases, and particles. Surface water on all paved areas shall be collected and/or routed so that it will not obstruct the flow of vehicular or pedestrian traffic and will not create puddles in the paved area. In larger developments, where practical, the routing of runoff through sheet flow, swales or other means increasing filtration and percolation is strongly encouraged, as is use of retention or detention ponds. In instances of below grade parking (such as garages) or low lying areas prone to flooding, installation of pumps or other devices to prevent backflow through drains or catch basins may be required.”



A condition of this report is that the Applicant will supply a drainage report prior to being issued a building permit summarizing pre and post project conditions.

12. Historic or Architectural Significance: The project must be designed “with respect to Somerville’s heritage, any action detrimental to historic structures and their architectural elements shall be discouraged insofar as is practicable, whether those structures exist on the development parcel or on adjacent properties. If there is any removal, substantial alteration or other action detrimental to buildings of historic or architectural significance, these should be minimized and new uses or the erection of new buildings should be compatible with the buildings or places of historic or architectural significance on the development parcel or on adjacent properties.”

The existing building is not part of Somerville’s historic fabric. The new building is compatible with the ‘preferably preserved’ structure at 96 Prospect street.

13. Enhancement of Appearance: The Applicant must demonstrate that “the natural character and appearance of the City is enhanced. Awareness of the existence of a development, particularly a non residential development or a higher density residential development, should be minimized by screening views of the development from nearby streets, residential neighborhoods of City property by the effective use of existing land forms, or alteration thereto, such as berms, and by existing vegetation or supplemental planting.”

The building will increase the character and appearance of the city. The site will be landscaped and provide green space where there is currently none.

14. Lighting: With respect to lighting, the Applicant must ensure that “all exterior spaces and interior public and semi-public spaces shall be adequately lit and designed as much as possible to allow for surveillance by neighbors and passersby.”

All site lighting will be directed downward without spilling onto adjacent properties and the night sky.

15. Emergency Access: The Applicant must ensure that “there is easy access to buildings, and the grounds adjoining them, for operations by fire, police, medical and other emergency personnel and equipment.”

The building is situated on the lot to allow fire access. The elevated building will help emergency personnel in the case of a medical emergency.

16. Location of Access: The Applicant must ensure that “the location of intersections of access drives with the City arterial or collector streets minimizes traffic congestion.”

The existing curbcut will be closed. A new but smaller curbcut will be opened to access the driveway/garage. This will not change on street parking because there is no parking allowed on the odd side of Prospect Street.

17. Utility Service: The Applicant must ensure that “electric, telephone, cable TV and other such lines and equipment are placed underground from the source or connection, or are effectively screened from public view.”

There is no transformer shown on the site. A standard condition is that any transformer should be located as not to impact the landscaped area, and shall be fully screened.

18. Prevention of Adverse Impacts: The Applicant must demonstrate that “provisions have been made to prevent or minimize any detrimental effect on adjoining premises, and the general neighborhood, including, (1) minimizing any adverse impact from new hard surface ground cover, or machinery which emits heat, vapor, light or fumes; and (2) preventing adverse impacts to light, air and noise, wind and temperature levels in the immediate vicinity of the proposed development;”



The proposal meets the minimum landscaping requirement. The proposed residential building will not result in any adverse impacts beyond activities that are typically associated with residential units. The trash room is in the basement and will not be visible from a public view

19. Signage: The Applicant must ensure that “the size, location, design, color, texture, lighting and materials of all permanent signs and outdoor advertising structures or features shall reflect the scale and character of the proposed buildings.”

There is no signage as part of this proposal.

20. Screening of Service Facilities: The Applicant must ensure that “exposed transformers and other machinery, storage, service and truck loading areas, dumpsters, utility buildings, and similar structures shall be effectively screened by plantings or other screening methods so that they are not directly visible from either the proposed development or the surrounding properties.”

A condition of this report is that transformers and other utility service be fully screened.

21. Screening of Parking:

The parking will be located underneath the building.

FINDINGS FOR VARIANCE (SZO §9.5.1.a):

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.”

The building is providing below grade parking to maintain a lawn for the residential units. Requiring a second level of below grade parking to accommodate 14 spaces versus 8 spaces would create a financial burden.

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.”

The Applicant is providing 5 new family units which require a higher parking requirement than 1 and 2 bedroom units. By providing one space per unit and putting parking underground relieving the project of the 6 spaces is the minimum amount of relief. While the lot area would support 10 units, the Applicant proposes 7 units. Due to these circumstances, the 6 parking spaces are the minimum relief necessary for reasonable use of this site.

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.”

In accordance with the submitted Parking Memorandum, the request for a Variance would not be injurious to the neighborhood or otherwise detrimental given the low impact that the development would have on the primarily residential neighborhood. Given the RC zoning district, the proposed use is more appropriate for the neighborhood and would be less of a traffic impact than the existing auto use.

The project is located approximately one mile from four T-stations (Harvard Square, Central Square, Lechmere and Sullivan Square stations) and has good access to MBTA bus routes. Several routes are located within ¼ mile of the project site while three routes are within 500 feet. Additionally, the Green Line extension would provide one station within 750 feet and another less than one mile away. While proximity to transit is one of many factors that



contribute to a reduced number of necessary parking spaces, other factors could include density and proximity to a variety of neighborhood services.

DECISION:

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Danielle Evans, Elaine Severino, and Josh Safdie with Richard Rossetti absent. Upon making the above findings, Orsola Susan Fontano made a motion to approve the request to approve the request for a Variance. Elaine Severino seconded the motion. Wherefore the Zoning Board of Appeals voted **(5-0)** to **APPROVE** the request for a Variance.

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Danielle Evans, Elaine Severino, and Josh Safdie. Upon making the above findings, Orsola Susan Fontano made a motion to approve the request for a Special Permit and Special Permit with Site Plan Review. Elaine Severino seconded the motion. Wherefore the Zoning Board of Appeals voted **(5-0)** to **APPROVE** the request for a Special Permit and a Special Permit with Site Plan Review. In addition the following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes
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1	Approval is for a Special Permit with Site Plan Review under §7.11.1.c. to construct seven residential units, a Special Permit under §4.4.1 to substantially alter a nonconforming structure, and a Variance under §9.5.1.a for approx. six parking spaces. This approval is based upon the following application materials and the plans submitted by the Applicant:	CO / BP	ISD/Plng.															
	<table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>July 23, 2013</td><td>Initial application submitted to the City Clerk’s Office</td></tr><tr><td>August 26, 2013</td><td>Modified plans submitted to OSPCD (Plot Plan)</td></tr><tr><td>August 28, 2013</td><td>Modified plans submitted to OSPCD (Civil Site Plan)</td></tr><tr><td>August 27, 2013</td><td>Modified plans submitted to OSPCD (Site Plan, Landscape Plan, Basement Plan, First Floor Plan, Second Floor Plan, Third Floor Plan, Roof Plan,)</td></tr><tr><td>August 7, 2013</td><td>Modified plans submitted to OSPCD (Front Elevation)</td></tr><tr><td>August 27, 2013</td><td>Modified plans submitted to OSPCD (South Elevation, Rear Elevation, North Elevation, Section 1, Section 2, Front View, Front View with Context, Rear View with Context)</td></tr></table>				Date (Stamp Date)	Submission	July 23, 2013	Initial application submitted to the City Clerk’s Office	August 26, 2013	Modified plans submitted to OSPCD (Plot Plan)	August 28, 2013	Modified plans submitted to OSPCD (Civil Site Plan)	August 27, 2013	Modified plans submitted to OSPCD (Site Plan, Landscape Plan, Basement Plan, First Floor Plan, Second Floor Plan, Third Floor Plan, Roof Plan,)	August 7, 2013	Modified plans submitted to OSPCD (Front Elevation)	August 27, 2013	Modified plans submitted to OSPCD (South Elevation, Rear Elevation, North Elevation, Section 1, Section 2, Front View, Front View with Context, Rear View with Context)
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Any changes to the approved site plan or elevations that are not <i>de minimis</i> must receive SPGA approval.																		
Pre-Construction																		
2	The Applicant will be required to demonstrate that the updated project plans meet the current City of Somerville stormwater policy. Utility, grading, and drainage plans must be submitted to the Engineering Department for review and approval.	BP	Eng.															
3	The Applicant shall develop a demolition plan in consultation with the City of Somerville Inspectional Services Division. Full compliance with proper demolition procedures shall be required, including timely advance notification to abutters of demolition date and timing, good rodent control measures (i.e. rodent baiting), minimization of dust, noise, odor, and debris outfall, and sensitivity to existing landscaping on adjacent sites.	Demolition Permitting	ISD															
Construction Impacts																		



4	The Applicant shall at his 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	
5	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	
Design				
6	Applicant shall provide final material samples for siding, trim, windows, and doors to the Design Review Committee for review and comment and to Planning Staff for review and approval prior to construction.	BP	Plng.	
7	An exterior light and electrical receptacle is required for the first (or all) level of the porch and an electrical receptacle is required for the second level (if there is no access to the ground).	Final sign off	Wiring Inspector	
Site				
8	Landscaping should be installed and maintained in compliance with the American Nurserymen's Association Standards;	Perpetual	Plng. / ISD	
9	The electric, telephone, cable TV and other such lines and equipment shall be placed underground from the source or connection. The utilities plan shall be supplied to the Wiring Inspector before installation.	Installation of Utilities	Wiring Inspector	
10	All new sidewalks will be installed by the Applicant in accordance with the specifications of the Highway Superintendent. Specifically, all driveway aprons shall be concrete;	CO	Plng.	
11	Applicant will supply and install 2 U-shaped bicycle racks (that accommodate 2 bicycles each) on the Prospect Street sidewalk.	CO	Plng.	
Traffic & Parking				
12	The Applicant will repaint all pavement markings from the Cambridge/Somerville line to the Prospect/Webster Ave intersection with thermoplastic.	CO	T&P	
13	The Applicant will replace all traffic control signs from the Cambridge/Somerville line to the Prospect/Webster Ave intersection with thermoplastic.	CO	T&P	
Miscellaneous				
14	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	
Public Safety				



15	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
16	Any transformers should be located as not to impact the historic building or landscaped area, and shall be fully screened.	Electrical permits & CO	ISD	
17	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.	
Final Sign-Off				
18	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.	
19	All railings and privacy screens on the roof decks and walkways shall be 48" or higher.	CO	Plng.	

Attest, by the Zoning Board of Appeals:

Herbert Foster, *Chairman*
Orsola Susan Fontano
Danielle Evans
Elaine Severino
Josh Safdie (Alt.)

Attest, by the Senior Planner:

Lori Massa, Senior Planner

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 _____

