



**CITY OF SOMERVILLE, MASSACHUSETTS**  
**OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT**  
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**PLANNING DIVISION**

**STAFF**

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**Case #:** ZBA 2008-01-R-0410B  
ZBA 2010-16

**Date:** June 24, 2010

**Recommendation:**

Special Permit REV- Conditional Approval  
Variance - Unable to Recommend

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**PLANNING STAFF REPORT**

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**Site: 308 BEACON STREET**

**Applicant Name:** Harris-Beacon LLC

**Applicant Address:** 111 Forest Avenue, Newton, MA 02465

**Property Owner Name:** same

**Property Owner Address:** same

**Alderman:** Heuston

Legal Notice: Applicant and Owner, Harris-Beacon LLC seeks a Revision (SZO §5.3.8) to Special Permit #2008-01 in order to make design changes to the façade, exterior stairs, windows, decks, et al., interior alterations include enclosing porches, finishing a section of basement for living space and changing the units from studios to two-bedroom units; and seeks a Variance for relief from parking requirements under §9.5 in order to not provide three (3) parking spaces as a result of the two bedroom units.

Zoning District/Ward: RC / 2

Zoning Approval Sought: Special Permit under SZO §5.3.8 and Variance from §9.5

Date of Application: 3/30/2010

Date(s) of Public Meeting/Hearing: PB 6/24/10 - ZBA 7/14/10

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**I. PROJECT**

**ZBA 2008-01:** In July 2008, the applicant Basnight, Buckingham & Partners, Inc., received special permit approval from the Zoning Board to under SZO §4.4.1 for the alteration of a non-conforming structure and under SZO §7.11.1.c to build six-units within two, three-story structures (308 Beacon Street and 31 Harris Street)



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**ZBA 2008-01-R-0410A:** In May 2010, the applicant Harris-Beacon, LLC, received a one-year time extension on the original special permit.

**SPECIAL PERMIT REVISION ZBA 2008-01-R-0410B:**

**I. PROPOSAL:**

A special permit revision application has been submitted by Harris-Beacon, LLC, in order to make alterations that would bring the building into compliance with current building code and, according to the applicant, make it financially feasible to do modular construction.

The applicant is proposing the following revisions to the proposal:

External Alterations: (numbers correspond with the hexagon numbers on proposed plans)

1. 308 Beacon Street and 31 Harris Street - Delete exterior stairs and redesign south facing porch and deck on 308 Beacon Street.
2. 31 Harris Street - Move jog-out at east façade 1 ft toward Harris Street. Jog-out to remain the same size with no change to footprint area.
3. 31 Harris Street - Enlarge egress stairwell 1.5 ft toward Harris Street and reduce the front stair landing.
4. 31 Harris Street - Reduce the dimensions of jog-out on west façade from 17 ft in length to 15 ft 8 in, which reduces the footprint area by 2.9 sf.
5. 308 Beacon St. - Change west façade to delete four full height windows and add three smaller bathroom windows, and relocate the chimney jog-out approximately 30 in toward Beacon Street.
6. 308 Beacon St. - Delete one basement window.
7. 31 Harris St. - Divide second floor window into two panes, revise entry door and sidelight
8. 31 Harris St. - Change front façade porch/deck doors on 2nd and 3rd floors from two at 6 ft to three at 7.5 ft and minor architectural detail changes at 2nd floor. Incorporate skylight on left side of roof.
9. 308 Beacon St. - Add bay window to Beacon Street façade.
10. 31 Harris St. - Reduce width of chimney by 1 ft.

Internal Alterations: (not identified on plans)

1. Modify the units from studios to two-bedroom dwellings (requires special permit revision to change conditions of approval and a variance from parking requirements)
2. Add operable glazing to make second floor porches usable for four seasons

3. Finish a 20.5 ft by 12.5 ft area within the basement of the 308 Beacon St. building and internally connect it with the ground floor unit.

#### Nature of Application:

Section 5.3.8 of the SZO states "Revisions that are not *de minimis* shall be subject to the full notice and hearing provisions of §5.3.2 of this Ordinance, but shall not be subject to review by additional boards, departments, city agencies or commissions except as requested by the SPGA or upon the recommendation of the Planning Director. Applicable findings shall be made in accordance with the type of permit(s) being revised." Notices have been mailed to abutters and the case was advertised in the newspaper.

#### II. FINDINGS FOR SPECIAL PERMIT (SZO §5.3.8):

There are not specific required findings for a revision to a special permit. Rather, staff review the original findings for the specific zoning relief requested and identify any findings that have changed as a result of the proposed revision. Staff have reviewed the findings and the following are affected by the revisions:

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."

Staff finds that the majority of the alterations and modifications would be beneficial for the project's compatibility as it relates to the site and area. The removal of the exterior stairs on Harris Street and the redesign of the porches on 308 Beacon to make them more usable is a visual improvement. The proposed alterations to the Harris Street building front façade increases the glass surface and with the incorporation of a new skylight, will allow for increased natural light and reduction in energy use. The alterations to the proposed Beacon Street façade create a different appearance and somewhat less traditional design while incorporating historical design components typical in Somerville, such as the bay window feature. Staff finds both designs to be visually appealing and compatible with the site and area. Other exterior modifications are minor in nature and would have no affect on the proposal to someone generally familiar with the project.

Staff finds the internal alterations incorporating a finished basement and windows on the second floor porches to be acceptable changes that would have negligible effects on the appearance of the building.

The change from studios to two-bedroom units would require a revision to the special permit conditions to allow two-bedroom units and a variance to provide relief from the additional parking requirements that would result. In general, two bedroom units would be more desirable. Two bedroom units allow more flexibility to attract different family types, which are not feasible in a studio. Nonetheless, the parking needs for two-bedroom units cannot be met on this site.

#### **VARIANCE ZBA 2010-16:**

##### I. PROPOSAL:

According to the applicant, due to modular construction methods, desired by both the applicant and the neighbors, the unit layout needs to be altered and the previously approved studio units should become two-bedrooms. This would occur because of a dividing wall that would run down the center of the building. Each floor would need to be shipped in two parts and in order to ship the components in a stable condition all walls must be constructed. Once at the site the two sections would be joined together

creating a dividing wall in the middle of the unit. The applicant claims that to remove this supporting dividing wall and create the approved studios would be financially unfeasible.

The change from studio units to two-bedroom units creates the need for an additional three parking spaces under the SZO that the applicant cannot provide. The approved plans provide seven spaces (one per unit, plus one visitor space) and this proposal would require ten parking spaces on the lot. The applicant is requesting a variance from the three additional parking spaces required under §9.5.

## II. FINDINGS FOR VARIANCE §5.5:

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.”

**Applicant justification:** *The soil conditions are a special circumstance and would cause hardship to the Applicant if the zoning requirements are literally applied because, in order to comply with the parking requirement in the SZO, Applicant would have to build underground parking. Due to the sandy soil conditions of the lot, digging down to build underground parking could undermine the foundations of the abutting residences, which are quite close due to the narrow nature of the lot.*

*The shape of the lot is a special circumstance and would cause hardship if the zoning requirements were literally applied, because the lot is quite narrow, necessitating modular construction to minimize the disturbance to the neighbors. Modular construction (which has been requested by the neighborhood to minimize construction disruption) is more expensive and is financially burdensome without making two-bedroom units. Modular construction requires that there be a marriage wall between the modular units, which creates two bedroom units instead of the previously approved studio units. The narrowness of the lot makes it impossible for the Applicant to provide the parking required for six two-bedroom units. The surrounding lots have structures of various sizes and are not as narrow as the subject Premises.*

*In addition, the lot is unusual because it fronts on two streets in two cities, namely Beacon Street in Somerville and Harris Street in Cambridge. This necessitates that the structures on the Premises each face and engage a street, leaving less room for surface parking.*

**Staff Finding:** The current proposal includes full basements to be used for storage and living space though the size of the lot would make underground parking difficult to construct and the added ground area that would need to be excavated could impact neighboring foundations.

Though Staff finds that this would be a preferable construction technique for the neighborhood, the applicant is not being required to construct this project using modular construction. In addition, the six units are allowed on this property only by special permit. The special permit is a discretionary permit that could have been denied by the Zoning Board. The applicant has been granted this special permit and is making the claim that the project they applied for and granted approval by the Zoning Board is causing them financial hardship because a condition of approval.

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.”

**Applicant justification:** *"As for the second criterion, the fact that other uses can be made of the Premises is not a ground for denial of a variance. If that were the case, then no variances would ever be granted because there is always a less-intensive use possible for any lot. The relief being sought is just for three spaces (seven are provided, but ten are required), being the fewest number of parking spaces required for six two-bedroom units and is the minimum necessary for the proposed changes. The Applicant is providing as many parking spaces as it can within the narrow confines of the Premises.*

*For a buyer to obtain a mortgage in the current lending climate, it is necessary to have an appraisal based on comparable properties in the area. Due to the lack of other studio developments, such "comps" will be difficult to come by, thereby making the units which were previously approved difficult to finance and, therefore, to sell. This is a hardship".*

**Staff Finding:** In the original special permit approval the Zoning Board found that six units were a reasonable use of the property. Staff finds that the applicant's prior difficulties in obtaining financing and the probable difficulties potential buyers could have obtaining financing due to the nature of the approved project creates a hardship. The alteration from studios to two bedroom units and subsequent variance from parking requirements would be the minimum necessary to relieve this hardship as there is no increase in the number of units and the floor area and design would generally remain consistent.

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."

**Applicant justification:** *"As for the third criterion, the basic concept of the project to remove most of a 'vacant, dilapidated two-family dwelling which faces Beacon Street in Somerville and which has a large parking lot in the rear facing Harris Street in Cambridge, and to replace it with two three-family dwellings, one facing Beacon Street in Somerville using a new curb cut and the other facing Harris Street in Cambridge using the existing curb cut, is a benefit to the neighborhood and the public welfare. Essentially, the project will be like having two triple-deckers back-to-back. As such, the project will not be substantially more detrimental to the neighborhood, but will actually be like much of the neighborhood. Due to the poor structural condition of the existing structure, only a small portion of it can be practically retained. The structure will end up being narrower than the existing structure, thereby providing more space between it and its direct side abutters and also benefiting the neighborhood."*

**Staff Finding:** The parking requirements of the SZO are based upon the theory that occupants of one or two-bedroom units will be more likely to have additional vehicles than owners of studios, and that the parking demand created by those additional vehicles should be met on-site. However, this neighborhood is well served by public transportation including bus, subway and commuter rail options. There are also commercial and retail options close by which together with public transportation options reduces the necessity for auto ownership and therefore parking. The addition of bedrooms without the addition of parking spaces on this site would not be detrimental, may provide some benefits to the public welfare, and should be able to be mitigated by the pedestrian and public transportation options available and would not be detrimental to the neighborhood.

## **II. RECOMMENDATION**

The Planning Staff is **UNABLE TO RECOMMEND** the requested **VARIANCE** due to finding 1 and the options the applicant has regarding construction techniques. If modular construction was required, or found to be necessary by the Board, a positive finding and recommendation could be made on this variance to mitigate potential impacts on neighboring foundations. Negative impacts could be a result of

the construction of underground parking within existing soil conditions and the close proximity of surrounding foundations to this site.

The Planning Staff recommends **CONDITIONAL APPROVAL** of the requested **SPECIAL PERMIT REVISIONS** (with the exception of the studio to two-bedroom request unless the variance is approved) with the following conditions. Changes from the existing conditions are shown below, with additions marked in underline, deletions in ~~striketrough~~.

(These conditions supersede all prior conditions of approval)

#	Condition	Timeframe for Compliance	Verified (initial)	Notes										
1	Approval is for the alteration of a non-conforming structure at 308 Beacon Street and to build six (6) studio units, in two, three-story residential buildings, on the lot. This approval is based upon the following application materials and the plans submitted by the applicant and/or contractor:		Plng.											
	<table><tr><th>Date (OSPCD stamp)</th><th>Submission</th></tr><tr><td>1/7/2008 (clerk stamp)</td><td>Initial application submitted to the City Clerk's Office</td></tr><tr><td>3/30/2010 (clerk stamp)</td><td>Application for revision submitted to the City Clerk's Office</td></tr><tr><td>11/23/09 (6/16/2010)</td><td>Revised plans submitted to OSPCD (A1.10, A1.20, A1.00, A1.10A, A1.20A, A1.30A, A1.01B, A1.10B, A1.20B, A1.30B)</td></tr><tr><td>2/22/2010 (6/16/2010)</td><td>Revised plans submitted to OSPCD (A2.10, A2.20, A2.30, A2.40, A2.50, )</td></tr></table>				Date (OSPCD stamp)	Submission	1/7/2008 (clerk stamp)	Initial application submitted to the City Clerk's Office	3/30/2010 (clerk stamp)	Application for revision submitted to the City Clerk's Office	11/23/09 (6/16/2010)	Revised plans submitted to OSPCD (A1.10, A1.20, A1.00, A1.10A, A1.20A, A1.30A, A1.01B, A1.10B, A1.20B, A1.30B)	2/22/2010 (6/16/2010)	Revised plans submitted to OSPCD (A2.10, A2.20, A2.30, A2.40, A2.50, )
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Any changes to the approved site plan or elevations that are not de minimis must receive ZBA approval.														
2	Landscaping shall be installed and maintained in compliance with the American Nurserymen's Association.	Perpetual	Plng. / ISD											
3	Applicant must design and construct each unit as a studio as defined by the SZO, or a parking variance will be required.	Building Permit	ISD											
4	Applicant will submit a detailed landscaping plan depicting the components of the landscaping to be approved by the Planning Staff.	Building Permit	Plng.											
5	The applicant shall provide a fire alarm detection system and automatic fire suppression system compliant with all applicable codes, standards, laws, etc.	CO	FP											

6	Any transformers shall be located as not to impact the building or landscaped area, and shall be fully screened.	Electrical permits & CO	Plng.	
7	Applicant will supply one bicycle parking space, which can be satisfied with a "U" type bicycle rack.	CO	Plng.	
8	The Applicant, 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	
9	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 of concrete subject to DPW approval.	CO	DPW	
10	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	
11	To the maximum extent feasible applicant will utilize strategies during demolition and construction to mitigate dust and control air quality, to minimize noise and to implement a waste recycling program for the removed debris.	During Demolition & Construction	OSE/ISD	
12	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, 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/OSE	
13	Before demolition/building permits are issued, soil tests must be conducted. If soil contamination is found through soil test results, the Applicant shall, prior to issuance of any foundation permit and/or any building permit for the project, provide to the Planning and the Inspectional Services Divisions: 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	Demolition /Building Permitting	ISD/Plng.	

	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.			
14	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	
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.	
16	A lattice-style fence with gates and plantings shall be constructed along the west property line boundary with 312 Beacon Street, starting from the end of the existing stockade fence up to Beacon Street.	CO	Plng.	
17	Parking shall be screened from Harris Street by an 18' landscape fence, which shall be positioned starting at the west end of the lot line fronting Harris Street. Ivy or other climbing plant shall be planted to grow on the Harris Street side of the fence.	CO	Plng.	
18	A landscape fence shall be constructed along the east property line.	CO	Plng.	
19	The third level deck of 308 Beacon Street shall have no permanent roof.	CO	Plng.	
20	Exterior siding materials shall consist of wood products or cementitious clapboard.	CO	Plng.	
21	Refuse shall be stored in the basement trash rooms, which shall be accessed for collection through exterior areaways.	Cont.	ISD	
22	Foundations and deep retaining walls, if any, adjacent to interior lot boundary lines shall be constructed to protect abutters' foundations. Existing foundation conditions shall be documented and monitored as construction proceeds.	During construction	ISD	
23	The finished buildings will be Energy Star Compliant.	CO	ISD	
24	Municipal utilities for both buildings shall be accessed from Beacon Street.	CO	ISD	
25	AC compressors shall be located on the roof and screened with widow's walk style fencing.	CO	Plng.	
26	During construction, temporary fire and intrusion detection devices shall be installed, the site shall be secured with a lockable fence and lit at night, temporary protection shall	During Construction	ISD	



	be placed on top of dumpsters and debris when high winds are forecast, and debris removal shall occur at regular intervals not to exceed one week.			
27	Access to Harris Street by emergency vehicles shall be maintained at all times. Construction equipment, materials, personnel or vehicles must be used, placed or operated in such a manner that the street is not blocked.	During Construction	ISD	
28	Neighbors and abutters access to their driveways and the streets shall be maintained at all times and shall not be blocked by construction equipment, materials, personnel or vehicles.	During construction	ISD	
29	A construction schedule shall be submitted detailing the planned phasing of construction, staging proposal, movement of construction equipment and rodent control measures. Schedule updates shall be provided two-weeks prior to the start of noisy, dusty or equipment intensive operations.	Building permit and during construction	ISD	
30	All fencing shall be made of wood	CO	Plng.	
31	Landscaping shall not include the following trees:  Walnuts (Walnut trees) Cashews (Cashew trees) Pecans (Pecan trees) Pine nuts (Pine trees), Hazelnuts (Hazelnut shrub) Hickory nuts (Hickory trees) Beech nut (Beech trees) Butternut (Butternut trees) Chestnut (Chestnut trees) Ginko nut (Ginko trees) Macadamia nuts (Macadamia trees) Almonds (Almond trees) Pistachios (Pistachio trees) Brazil nuts (Brazil nut trees) Lichee nut Pili nut Shea nut	CO	Plng.	