



CITY OF SOMERVILLE, MASSACHUSETTS
ZONING BOARD OF APPEALS
JOSEPH A. CURTATONE, MAYOR

MEMBERS

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ELAINE SEVERINO (ALT.)
JOSH SAFDIE (ALT.)

Case #: ZBA 2008-69
Site: 42 Clyde Street (Maxpak)
Date of Decision: January 7, 2009
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: January 13, 2009

ZBA DECISION

Applicant Name:	KSS Realty Partners
Applicant Address:	20 Park Plaza, Suite 467, Boston, MA 02116
Property Owner Name:	42 Clyde Street Development, LLC
Property Owner Address:	20 Park Plaza, Suite 467, Boston, MA 02116
Agent Name:	Ted Tobin
Agent Address:	20 Park Plaza, Suite 467, Boston, MA 02116

<u>Legal Notice:</u>	Applicant/Owners: 56 Clyde St Acquisition, LLC, 61 Clyde St Acquisition, LLC, and 42 Clyde St. Development, LLC, seek a special permit (§9.13.c) for a shared driveway. The driveway located at 42 Clyde Street is proposed to be accessed by development at 56-61 Clyde Street (aka "MaxPak" site) for which approval is separately sought from the Planning Board. Ward 5. RB and PUD-B1 zones.
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<u>Zoning District/Ward:</u>	RB & PUD-B1 zones/Ward 5
<u>Zoning Approval Sought:</u>	§9.13.c
<u>Date of Application:</u>	December 8, 2008
<u>Date(s) of Public Hearing:</u>	January 7, 2009
<u>Date of Decision:</u>	January 7, 2009
<u>Vote:</u>	5-0

Appeal #2008-69 was opened before the Zoning Board of Appeals at Somerville City Hall on January 7, 2009. 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(s) of deliberation, the Zoning Board of Appeals took a vote.

DESCRIPTION:

The Planning Board has granted the Applicant a Special Permit with Site Plan Review (SPSR) to construct a residential Planned Unit Development (PUD) consisting of 199 residential units located in five building areas surrounding a central public green space. Four of the five building areas would be comprised of single-building multi-unit structures and one area would contain a cluster of fifteen townhouse units in three separate buildings. Of the 199 units, 25 units would be made available to qualified buyers/tenants under the City's Inclusionary Housing Ordinance.

As approved by the Planning Board, the proposed site plan requires a Special Permit under SZO §9.13.c from the Zoning Board of Appeals, for a shared driveway over a neighboring property located outside the PUD boundary. The location of this driveway is critical to the success of the site plan, as it creates a deeper setback between existing and proposed residences, and enables the creation of additional green space within the development.

FINDINGS FOR SPECIAL PERMIT (SZO §9.13.c):

As the site plan would be dramatically improved from the original approval as a result of the shared driveway access, the Zoning Board of Appeals made the following findings as required under §5.1.4 of the SZO:

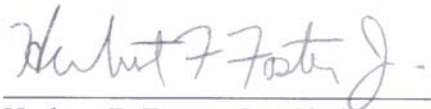
1. Information Supplied: The information provided by the Applicant is found to conform to the requirements of §5.1.2 of the SZO and allows for a comprehensive analysis of the project with respect to the required Special Permits.
2. Compliance with Standards: The Applicant is found to comply "with such criteria or standards as may be set forth in this Ordinance which refer to the granting of the requested special permit." The proposed driveway meets the standards of Article 9, and no additional relief would be required.
3. Consistency with Purposes: The project is found to be "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."
4. Site and Area Compatibility: The project is found to be "designed in a manner that is compatible with the characteristics of the built and unbuilt surrounding area, including land uses." Approval of the shared driveway would enable a reconfiguration of the buildings in the northwest corner of the site, improving their relationship to the abutting residences on Murdock Street, increasing the public open space amenities of the new neighborhood, and providing better vehicle access to the site.

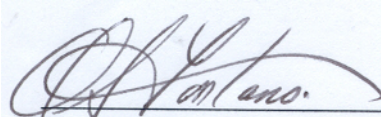
DECISION:

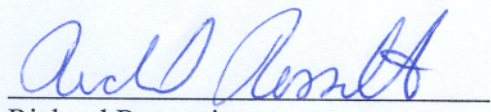
Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Scott Darling and Elaine Severino. Upon making the above findings, Susan Fontano made a motion to approve the request for a special permit. Scott Darling seconded the motion. Wherefore the Zoning Board of Appeals voted **5-0** to **APPROVE** the request. In addition the following conditions were attached:

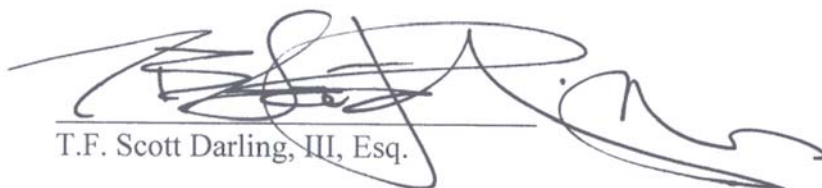
#	Condition	Timeframe for Compliance	Verified (initial)	Notes
1	Approval is for a shared driveway and is based upon the PUD-SPSR application materials approved by the Planning Board. The requested special permit shall be subject to the relevant conditions of PB2008-07.	BP/CO	PLNG	
2	An easement and clearer plans illustrating the shared access shall be furnished to the Planning and Law Offices for review and approval prior to a BP being issued for phases of the development requiring this access.	BP of relevant phases	PLNG/ LAW	

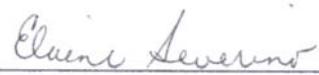
Attest, by the Zoning Board of Appeals:


Herbert F. Foster, Jr., Chairman


Orsola Susan Fontano, Clerk


Richard Rossetti


T.F. Scott Darling, III, Esq.


Elaine Severino, (Alt.)

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 _____