



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

MEMBERS

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ELAINE SEVERINO (ALT.)

Case #: ZBA 2007-11-R0508

Site: 292 Beacon Street

Date of Decision: June 4, 2008

Decision: *Revision Approved with Conditions*

Date Filed with City Clerk: June 10, 2008

ZBA DECISION

Applicant Name: Kenneth Spera
Applicant Address: Box 189, Still River, MA 01467
Property Owner Name: Kenneth Spera
Property Owner Address: Box 189, Still River, MA 01467
Agent Name: N/A

Legal Notice: Applicant and Owner, Kenneth Spera, seeks a revision to special permit ZBA2007-11 to modify an approved 2-3 story mixed-use project, which included 4 dwellings.

Zoning District/Ward: RC zone/Ward 2
Zoning Approval Sought: Revision to Special Permit ZBA #2007-11
Date of Application: May 12, 2008
Date(s) of Public Hearing: June 4, 2008
Date of Decision: June 4, 2008
Vote: 5-0

Appeal #2007-11-R0508 was opened before the Zoning Board of Appeals at Somerville City Hall on June 4, 2008. 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(s) of deliberation, the Zoning Board of Appeals took a vote.

DESCRIPTION:

The Applicant received special permits in 2007 for this redevelopment. Special Permit 2007-11 under SZO §4.4.1, §4.5.1 allowed for the construction of three ground-floor retail/office units, four two-bedroom residential units, and to change the nonconforming use of the driveway access. Special Permit

2007-50 under SZO §7.11.1.c allowed the use as a four-family dwelling as part of an approved mixed-use structure.

The proposed revisions are shown on the plans submitted to OSPCD on May 29, 2008. Notices have been mailed to abutters and the case was advertised in the newspaper.

The applicant is proposing the following revisions to the original proposal:

1. Slightly alter the building footprint: The building footprint adjustment would be to align the south eastern wall. In the previous approval the rear two sections' of the building were two feet in from the edge of the front portion of the building.
2. Modify the façade: The façade changes would include adding two doors and several windows to the south eastern side of the building. Other adjustments include moving the location and style of other doors and windows.
3. Amend the site plan to increase the landscaping: The revised site plan includes a six foot cedar fence around much of the site, a black iron fence in the front of the property, hostas and ornamental shrubs and a tree.

FINDINGS FOR REVISION TO SPECIAL PERMIT:

Planning staff does not foresee any concerns with the slight alteration of the building footprint and modifications to the façade. The landscaping plan would improve the appearance of the site and help to mitigate storm water runoff.

DECISION:

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Danielle Fillis and Scott Darling. 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 ground-floor retail/office use and four two-bedroom residential units. This approval is based upon the following application materials and the plans submitted by the Applicant and/or Agent:	Building Permit	Plng.	

	Any changes to the approved site plan, elevations and use must receive ZBA approval.			
2	Code compliant fire alarm and fire suppression systems will be required, and Fire Prevention permits will be required before all work begins.	Building Permit	Fire	
3	The Applicant must install a sign at the driveway reading "Do Not Back Out of Driveway".	CO	T&P Plng.	
4	The Applicant must supply bait prior to construction to ensure rodent control.	During Construction	ISD	
5	The Applicant, its successors and/or assigns, shall be responsible for maintenance of both the building and all on-site amenities, ensuring they are clean, well kept and in good and safe working order.	Cont.	ISD	
6	The Applicant shall at his expense replace any existing equipment (including, but not limited to street sign poles, 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.	CO	DPW	
7	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	
8	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, minimization of dust, noise, odor, and debris outfall, and sensitivity to existing landscaping on adjacent sites.	Demolition Permitting	ISD/ OSE	
9	Because of the history of the site and the intended use, the Applicant shall, prior to issuance of any foundation permit and/or any building permit for the project, provide to the Planning Department and the Inspectional Services Department: 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 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	Demolition /Building Permitting	ISD/ Plng.	

	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.			
10	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	
11	Landscaping should be installed and maintained in compliance with the American Nurserymen's Association.	Perpetual	Plng. / ISD	
12	The Applicant must contact the 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.	Final Building Permit Signoff	Plng. / ISD	
13	The Applicant shall install a sign at the driveway reading "Residence Parking Only."	CO	T&P/Plng.	

Attest, by the Zoning Board of Appeals:

Herbert Foster, *Chairman*
Orsola Susan Fontano, *Clerk*
Richard Rossetti
T.F. Scott Darling, III, Esq.
Danielle Fillis
Elaine Severino, (Alt.)

Attest, by the Zoning Board of Appeals 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 _____