



CITY OF SOMERVILLE, MASSACHUSETTS  
STRATEGIC PLANNING AND COMMUNITY DEVELOPMENT  
JOSEPH A. CURTATONE, MAYOR

**STAFF**

CHRISTOPHER DI IORIO, *PLANNER/ZONING ADMINISTRATOR*  
LORI MASSA, *PLANNER/ZONING ADMINISTRATOR*  
DAWN PEREIRA, *ADMINISTRATIVE ASSISTANT*  
FREDERICK J. LUND, *SENIOR DRAFTSMAN*

**Case #:** ZBA 2007-11-R0609  
**Date:** June 18, 2009  
**Recommendation:** Conditional Approval

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**PLANNING STAFF REPORT**

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**Site:** 292 Beacon Street

**Applicant Name:** Kenneth Spera

**Applicant Address:** Box 189 Still River, MA 01467

**Property Owner Name:** same

**Agent Name:** none

**Alderman:** Heuston

Legal Notice: Applicant & Owner seeks a revision to Special Permit ZBA 2007-11 and 2007-11-R0508 (SZO §5.3.8). The revision is to alter the appearance of the front portion of the approved structure.

Zoning District/Ward: Residence C / 2

Zoning Approval Sought: Revision to Special Permit

Date of Application: June 2, 2009

Date(s) of Public Hearing: ZBA: June 24, 2009

Date of Decision: N/A

Vote: N/A

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**I. PROJECT DESCRIPTION**

1. Subject Property: 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 Applicant received a revision in 2008 (2007-11-R0508), which allowed for alterations to the building footprint, modification of façade and landscaping.

2. Proposal: 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:

- A. Modify the height/roofline: The building would be altered from a 3-story, flat roof to a 2 ½ story gable roof.
- B. Modify the front façade: The façade changes would include changing the materials and trim details.
- C. Possibly phase the development: Phase 1 would include constructing the front portion (1/3<sup>rd</sup>) of the building and the entire site plan. The rear façade of the front portion of the building would be constructed as an exterior wall. It would be brick with recessed panels and no windows. The foundation and first floor deck of the rear (2/3<sup>rd</sup>) portion of the building would be constructed and waterproofed. Phase II would include constructing the rest of the building as approved in case # ZBA 2007-11-R0508.

3. Nature of Application: The Applicant is requesting a revision to special permit 2007-11 under SZO §5.3.8. The original Special Permit allowed the Applicant to build a 2 and 3-story structure for retail/office and residential use, retaining a portion of the original structure, in order to protect its nonconforming status. The site and structure are nonconforming with respect to parking, landscaping, and front, side, and rear yard setbacks. The changes to these nonconformities were approved as part of the prior special permit.

4. Surrounding Neighborhood: The subject property is located in an RC district. The site is surrounded by a mix of commercial and residential uses.

5. Green Building Practices: None.

6. Comments:

*Inspectional Services Division* - will require certified stamped engineering drawings. If the project is phased, the drawings will have to show the electrical, plumbing, etc. of each phase.

## **II. FINDINGS FOR REVISION TO SPECIAL PERMITS (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. Below, staff have reviewed the findings that are affected by the revisions.

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 project as proposed would increase the site's compatibility with its surroundings, both visually and by facilitating new conforming uses at the site. The building with the change in the materials and roofline would continue to be compatible with the surrounding area. There are several 2 ½ story structures along this portion of Beacon Street. There are potential negative impacts if the project is phased and the second portion of the project is not constructed. Recommended conditions of approval address concerns related to the treatment of the back portion of the building and construction of the site plan before certificate of occupancy are issued for phase 1.

### III. RECOMMENDATION (Revision to Permit under SZO §5.3.8)

Based on the above findings and subject to the following conditions, the Planning Staff recommends **CONDITIONAL APPROVAL** of the requested **REVISIONS TO PRIOR PERMITS**. Changes from the existing condition are shown below, with additions marked in underline, deletions in ~~striketrough~~.

#	Condition	Timeframe for Compliance	Verified (initial)	Notes								
1	Approval is for to reconstruct a nonconforming one-story commercial structure into a 2 ½ and 2 story commercial and residential structure, and to reconfigure the nonconforming driveway access. This approval is based upon the following application materials and the plans submitted by the Applicant and/or Agent:	Building Permit	Plng.									
	<table><tr><th>Date</th><th>Submission</th></tr><tr><td>June 26, 2007</td><td>Initial application submitted to the City Clerk’s Office</td></tr><tr><td>May 29, 2008</td><td>Modified plans submitted to OSPCD</td></tr><tr><td><u>April 30, 2009</u> <u>(June 19, 2009)</u></td><td><u>Modified plans submitted to OSPCD (front elevation, left elevation phase 1, right elevation phase 1)</u></td></tr></table>				Date	Submission	June 26, 2007	Initial application submitted to the City Clerk’s Office	May 29, 2008	Modified plans submitted to OSPCD	<u>April 30, 2009</u> <u>(June 19, 2009)</u>	<u>Modified plans submitted to OSPCD (front elevation, left elevation phase 1, right elevation phase 1)</u>
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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	During Construction	T&P									

	the Manual on Uniform Traffic Control Devices and the prior approval of the Traffic and Parking Department must be obtained.			
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 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.	Demolition /Building Permitting	ISD/ Plng.	
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.	
	<u>If the Applicant constructs the project in phases, the following conditions shall apply:</u>			
14	<u>Phase 1:</u> <u>The Applicant shall submit proper plans to ISD regarding</u>	<u>BP/CO for phase 1</u>	<u>Plng. / ISD</u>	

	<u>phasing the engineering aspects of the development.</u> <u>The Applicant shall construct the rear wall of the front portion of the building as an exterior wall with brick and no windows.</u> <u>The Applicant shall construct the foundation for the rear portion of the building, cap it and weatherproof it.</u> <u>The Applicant shall construct the site plan, including a 6' cedar fence on the sides and rear of the property.</u>			
15	<u>Phase 2:</u> <u>The Applicant shall construct the remaining portion of the building as previously approved.</u>	<u>BP/CO for</u> <u>phase 1</u>	<u>Plng. /</u> <u>ISD</u>	