# CITY OF SOMERVILLE, MASSACHUSETTS
## OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
**JOSEPH A. CURTATONE**
**MAYOR**

PLANNING DIVISION

***ZONING BOARD OF APPEALS MEMBERS***
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JOSH SAFDIE (ALT.)

**Case #: ZBA # 2010-65**
**Site: 6-8 Beacon Street**
**Date of Decision: March 16, 2011**
**Decision:** *Petition Approved with Conditions*
**Date Filed with City Clerk: March 24, 2011**

# ZBA DECISION

| | |
|---|---|
| **Applicant Name**: | Inman Square Lofts, LLC |
| **Applicant Address:** | 24 Crafts Road, Chestnut Hill, MA 02467 |
| **Property Owner Name**: | Inman Square Lofts, LLC |
| **Property Owner Address:** | 24 Crafts Road, Chestnut Hill, MA 02467 |
| **Agent Name**: | Robert Moriarty |
| **Agent Address:** | 221 Hampshire Street, Cambridge, MA 02139 |
| Legal Notice: | Applicant and Owner, Inman Square Lofts, LLC, and Agent, Robert Moriarty, Marsh Moriarty Ontell Golder, seek a special permit (SZO §5.1) to construct six dwelling units (§7.11.1.c), a special permit to allow the expansion of an existing nonconforming commercial structure (§4.4.1), and a variance (§5.5) from three required parking spaces (§9.5). |
| Zoning District/Ward: | RC zone. Ward 2. |
| Zoning Approval Sought: | §5.1, §7.11.1.c, §4.4.1, §5.5 & §9.5 |
| Date of Application: | October 12, 2010 |
| Date(s) of Public Hearing: | 2/2, 2/16, 3/2 & 3/16/11 |
| Date of Decision: | March 16, 2011 |
| Vote: | 5-0 |

Appeal #ZBA 2010-65 was opened before the Zoning Board of Appeals at Somerville City Hall on February 2, 2011 and was re-noticed and re-opened on March 16, 2011. 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 of deliberation, the Zoning Board of Appeals took a vote.

**DESCRIPTION:**

The Applicant proposes to demolish much of the existing structure and construct a three-story wood-frame residential building with a rooftop terrace. The proposed project will include six loft-style residential units with a total of 10,600 gross square feet. The structure will feature a unique contemporary design that responds to the site constraints and complements the more traditional buildings in the neighborhood. The project features a mix of exterior materials: fiber cement panels and metal cladding, aluminum large windows and an aluminum sun shade. The first floor garage level would be split face and ground face block. Historic Preservation Staff initially expressed concern about the loss of the garage structure, with a façade typical of early-era automobile-oriented facilities. Therefore, the Applicants have been working with the Historic Preservation Staff and the Commission to incorporate elements of the existing Beacon Street garage into the redevelopment of the site. These elements include using the yellow brick on the existing structure as pavement markers at the threshold of the driveway and locating the date plate along this band. The yellow color of the existing garage will be used for the first floor of the structure and the granite located at the base of the building will be reused.

*Residential Units*
The applicants are proposing six residential units. The conceptual floor plan for each unit includes one garage parking space, two bedrooms, two bathrooms, a kitchen, dining and living room, and access to the rooftop terrace for each unit. A popular feature of this contemporary take on townhouse living (although this is not a 'townhouse project' under the SZO) involves placing the entertaining areas of the home (living room, dining room and kitchen) on the top floor, with bedrooms below. This allows for a portion of the living area to have lofted ceilings and the windows along the rooftop terrace will provide light to the third story. There is a storage area for each unit on the first floor.

*Parking*
Six parking spaces will be located on the first floor of the building (with one space assigned to each unit) and one visitor parking space will be located in the backyard area. The roof of the parking level will be partially open to the sky. The existing curb cut will be relocated approximately ten feet from its current location to allow the parking gate to be positioned on the edge of the lot frontage. There will be a garage door/gate that will be recessed from the front wall of the building to provide for security to the ground level. The garage gate will secure access to the parking area but will be designed with openings so that light can permeate through it and pedestrians can see the parking court. A pedestrian front door will be located to the right of the garage door. Staff and the DRC worked with the applicant to improve this front façade area to make it attractive for passing pedestrians.

*Landscaping*
In the rear yard there is currently minimal landscaping. The proposal includes creating a patio area made of pavers surrounded by vegetation including the existing tree. Part of the patio area will be available for use as a parking space for a visitor car; however, when there is not a car parked there, the space will function as usable open space. Another space where landscaping will be located is along the CMU wall in the garage area which will be open to the sky. Using attractive pavers in the parking court area will complete the landscape look, and downplay the impact of the parking court, making it all part of an attractive landscape.

*Environmental Cleanup*
The site was previously a garage and during this time there was a release of petroleum into the soil. The environmental cleanup began in 2009 and continues today. The License Site Professional (LSP) status report states that the release abatement measures are being implemented in accordance with the revised Plan.

*Construction / Utilities*
The Applicant is anticipating receiving all of the appropriate local, state, and federal permits to commence construction during the second quarter of 2011, weather permitting. The residences will be connected to the City's sanitary sewer system.

**FINDINGS FOR SPECIAL PERMIT (SZO §5.1, §4.4.1, & §7.11.1.c):**

In order to grant a special permit, the SPGA must make certain findings and determinations as outlined in §5.1.4 of the SZO. This section of the report goes through §5.1.4 in detail.

1. Information Supplied: The Board finds that the information provided by the Applicant conforms 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 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."

In considering a special permit under §4.4 of the SZO, the Board finds that the alterations proposed would not be substantially more detrimental to the neighborhood than the existing structure. The new structure will become more conforming in terms of dimensional requirements. The 22 foot tall walls along the sides of the property will be reduced to 9 feet and the additional stories will be more conforming as they will be setback 10 feet from the left side and 5 feet from the right side. The ground coverage will become conforming and the quality and accessibility of the landscaped area will improve greatly.

The use will also become conforming. A garage is a nonconforming use in the RC district and 6 residential units is conforming by special permit. The residential structure will comply with City Standards.

3. Consistency with Purposes: The Applicant has to ensure that the project "is 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."

The proposal is consistent with the general purposes of the Ordinance as set forth under §1.2, which includes, but is not limited to conserving the value of land and buildings and encouraging the most appropriate use of land throughout the City. The property is located in a Residence C (RC) zoning district. The purpose of the district 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."

The six residential units complies with the intent of having multi-family residential uses in the area and replaces a garage which has been vacant and is not an appropriate use in this otherwise vibrant residential and pedestrian-friendly neighborhood.

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 is compatible with the characteristics of the surrounding area. The building has a contemporary design but the massing of the building is similar to the triple-decker homes in the area. The second and third stories are designed to have a conforming setback to provide more light to the abutting residential neighbor. The amount of landscaping and pervious surface on the site has been maximized by providing vegetation along the eastern wall of the garage and pavers in portions of the garage area and backyard. The visitors parking space in the backyard can function as usable open space when it is not needed as a parking space. The front façade will present an attractive face to the street, and where the entry to the parking court is required to cross the sidewalk, an attractive gate that allows views into a well-designed parking court will be provided.

5. Adverse 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.

There was a release of petroleum at the site for the garage use at the property. The site is being remediated to the level that is acceptable for residential occupancy. The residential use will have less of an impact in terms of emissions of hazardous material or impacts to the ground water than the existing garage.

6. Vehicular and pedestrian circulation: The circulation patterns for motor vehicles and pedestrians which would result from the use or structure will not result in conditions that create traffic congestion or the potential for traffic accidents on the site or in the surrounding area.

The site will continue to have one curb cut, which pedestrians will have to negotiate. The vehicular data indicates that there will be fewer trips generated by the residential use than the commercial garage. Cars will be able to enter and exit in a forward direction, allowing drivers visibility of pedestrians walking by. Also, the garage gate is setback from the sidewalk so that pedestrians will be able to see the car before it is on the sidewalk.

**FINDINGS FOR VARIANCE (SZO §5.5 & 9.5):**

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."

The Applicant stated, "The existing site and building are long and narrow making the incorporation of required vehicular access and the location of parking spaces very challenging. The project proposes one parking space within the unit plus one shared outdoor space; 7 parking spaces provided versus10 required by the Ordinance. Because we are re-using a portion of the existing building, this reduction in parking spaces will allow us to increase the percentage of open space currently available on the site and landscape an area visible from abutting properties. An analysis of the site without the existing building would allow for only a 2-300 sf footprint after meeting all of the open space, parking and setback requirements making it unusable. By modifying and removing a portion of the existing building we can add light and air to neighboring properties and meet all of the Ordinance requirements governing height, stories and FAR."

The site is long and narrow, contains contaminated soil, and is largely covered by the existing structure. These characteristics are unique in the Residence C zoning district. The Board finds that the applicants have designed a building that is more conforming on the site than the existing structure. The layout of the site provides limited opportunity for parking spaces as well as landscaping. The soil is currently contaminated due to the existing nonconforming use and is being remediated. The costs associated with the cleanup and redevelopment of the site necessitate building square footage that is larger than what the applicant's architect calculated to be possible on the site without needing a parking variance. Therefore, the shape and soil conditions on the lot create a unique situation whereby no project with compliant parking could be designed in such a way to be financially viable and meet the expectations of quality design set out by the required findings for development in the SZO.

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 stated, "The existing building currently covers 80% of the approximately 50' x 129' site. We are looking to re-use a portion of the existing non-conforming structure and make our best attempt to meet the requirements of the ordinance. We are faced with a choice of creating additional open space which will benefit the view of the immediate abutters or locate parking beyond the 1.15/unit we are

proposing. By providing fewer parking spaces than required by the Ordinance the site can have an increased area dedicated to open space. We believe that the on-street parking that exists on both sides of Beacon Street and the easy access to numerous bus lines that pass through adjacent Inman Square will serve to mitigate parking requirements. We believe the proportions of the structure will fit into the neighborhood context of wood frame multi story residential buildings."

The Board finds that the proposal brings the building more into compliance with dimensions and use than the existing structure and use. The proposal is not seeking the maximum number of dwelling units that are allowed based on the lot area per dwelling unit, which is seven. Six residential units is a reasonable use for this site which is in a zoning district that encourages multi-family developments. Each unit will have a dedicated parking space and there will be one visitor space onsite. This is a reasonable number of parking spaces for this type of development in this area of the City. This neighborhood has adequate bus access, sufficient on-street parking, a location on a busy arterial street and a site on the Cambridge line. Similar development just 100 feet away in Cambridge would only require 6 parking spaces. Any less of a variance in this area would require significant destruction of the landscape areas that serve as a benefit to this project and it's neighbors.

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."

The Applicant stated, "The proposal attempts to improve upon the existing non-conforming building and site arrangement by constructing a project in keeping with the general massing and scale of its surroundings. Locating the required parking within the residences screens our cars from the view by neighbors and relief in the total number will allow us to create landscaped open space visible from adjacent residential units. We believe that Ordinance seeks a balance of parking and open space. We believe this proposal will meet the requirements of the 6 residential units and provide a landscaped court shared by all adjacent properties."

The Board finds that the proposal is in harmony with the intent of the Ordinance and it would not be injurious to the neighborhood. The proposal provides one parking space per unit, which will likely be sufficient for the residents that move to this area that is pedestrian, transit and bike-friendly. Also, sufficient parking spaces have been shown to exist on Beacon Street if the tenants or their visitors needed an additional parking spaces. Providing additional off-street parking encourages buyers with extra vehicles, and encourages owners to buy and keep extra vehicles. In an area with adequate pedestrian and transit access, the parking being provided is adequate and reasonable. As noted above, a similar project in nearby Cambridge would require only 6 parking spaces, and the applicant is providing 7. As the Applicant stated, the parking is hidden from view and a nicely landscaped area will be visible in the backyard, improving the site from its current state. Approving the variance will facilitate a redevelopment that meets or exceeds the expectations of the SZO and the needs of the neighborhood in this particular area.

**DECISION:**

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Scott Darling and Josh Safdie with Danielle Evans and Elaine Severino absent. 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. Upon making the above findings, Susan Fontano made a motion to approve the request for a Variance. 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:

<table>
<tr><th>#</th><th>Condition</th><th>Timeframe for Compliance</th><th>Verified (initial)</th><th>Notes</th></tr>
<tr><td>1</td><td>Approval is to alter a nonconforming structure to create an approx 10,600 sf structure for 6 residential units with 7 parking spaces. This approval is based upon the following application materials and the plans submitted by the Applicant:<br><table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>Oct 12, 2010</td><td>Initial application submitted to the City Clerk’s Office</td></tr><tr><td>Dec 14, 2010</td><td>Modified plans submitted to OSPCD (floor plans and building elevations)</td></tr></table>Any changes to the approved site plan, or elevations that are not de minimis must receive SPGA approval.</td><td>BP/CO</td><td>Plng.</td><td></td></tr>
<tr><td>2</td><td>Any transformers should be located as not to impact landscaped areas and shall be fully screened.</td><td>Electrical permits &CO</td><td></td><td></td></tr>
<tr><td>3</td><td>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;</td><td>Demolition Permitting</td><td>ISD</td><td></td></tr>
<tr><td>4</td><td>The garage door/gate along Beacon St shall have openings in it to provide pedestrians a view into the site. Design of this door/gate shall be subject to review and approval of the Planning Staff.</td><td>Building Permit</td><td>Plng.</td><td></td></tr>
<tr><td>5</td><td>Applicant shall submit material samples for the pavers to be used in the parking court area to Planning Staff for review and approval</td><td>Prior to installation</td><td>Plng.</td><td></td></tr>
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| 6 | Unless deemed by the HPC to not be salvageable, the applicant shall retain and reuse granite from the original façade, and the date block from the original structure and incorporate them into the new design. Applicant shall retain brick from the original structure to use at the entry point to the parking area, and shall make best efforts to retain additional brick to be used in the landscape area as appropriate. | Building Permit | Plng. | |
| 7 | The color of the first floor of the structure shall match the façade of the building to be removed. The applicant shall submit color and material samples to Planning Staff for review and approval | Building Permit | Plng. | |
| 8 | Prior to any work that requires excavation the Applicant shall submit to the Planning Staff a letter from a LSP indicating that all work is in compliance with the RAM Plan and applicable DEP regulations. Any amendment with site design to meet regulations shall be reviewed and approved by Planning Staff. The Response Action Outcome (RAO) as submitted to Mass DEP shall be submitted to Planning Staff, ISD and Board of Health. | During Construction | Plng/ISD | |
| 9 | 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 | |
| 10 | 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. | |
| 11 | 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 | |
| 12 | The Applicant shall close the portion of the existing curbcut that is not needed for the garage entrance. 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. | |
| 13 | The Applicant or Owner shall meet the Fire Prevention Bureau's requirements. | CO | FP | |
| 14 | Landscaping should be installed and maintained in compliance with the American Nurserymen's Association Standards. | Perpetual | Plng. / ISD | |
| 15 | 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. | Perpetual | ISD | |

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| 16 | 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. | |

Date: March 24, 2011
Case #: ZBA 2010-65
Site: 6-8 Beacon Street

Attest, by the Zoning Board of Appeals:

Herbert F. Foster, Jr., Chairman

Orsola Susan Fontano, Clerk

Richard Rossetti

T.F. Scott Darling, III, Esq.

Josh Safdie (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.

Date: March 24, 2011
Case #: ZBA 2010-65
Site: 6-8 Beacon Street

**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_____