



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

PLANNING DIVISION

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JOSH SAFDIE (ALT.)

**Case #: ZBA #2009-47**  
**Site: 1366 Broadway**  
**Date of Decision: November 18, 2009**  
**Decision: *Petition Approved with Conditions***  
**Date Filed with City Clerk: November 20, 2009**

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**ZBA DECISION**

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<b>Applicant Name:</b>	Clarendon Hill Somerville, LP
<b>Applicant Address:</b>	8 Faneuil Hall Market Place, Boston, MA 02109
<b>Property Owner Name:</b>	Clarendon Hill Towers Tenants Association, Inc.
<b>Property Owner Address:</b>	1307 Broadway, Somerville, MA 02144
<b>Agent Name:</b>	Nicholas Iannuzzi, Esq.
<b>Agent Address:</b>	Orsi, Arone, Rothenberg, Iannuzzi & Turner, LLP 160 Gould Street, Suite 320, Needham, MA 02494

Legal Notice: Applicant Clarendon Hill Somerville, LP & Owner Clarendon Hill Towers Tenant Association, Inc. seeks a Special Permit (SZO §5.1) to construct a 3,800 sf structure for by-right offices and community gathering space on a lot with nonconforming structures (§4.4.1) and a Special Permit for shared parking (§9.13.e). RC zone. Ward 7.

<u>Zoning District/Ward:</u>	RC zone/Ward 7
<u>Zoning Approval Sought:</u>	§5.1, §4.4.1 & §9.13.e
<u>Date of Application:</u>	September 17, 2009
<u>Date(s) of Public Hearing:</u>	11/4 & 11/18/09
<u>Date of Decision:</u>	November 18, 2009
<u>Vote:</u>	5-0

Appeal #ZBA 2009-47 was opened before the Zoning Board of Appeals at Somerville City Hall on November 4, 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 of deliberation, the Zoning Board of Appeals took a vote.



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## **DESCRIPTION:**

The proposal is to construct a 3,800 square foot, one-story structure in the landscaped courtyard. The program for the space is tenant offices (350 nsf), management offices (1075 nsf), a small kitchen, bathrooms and a multipurpose room (~600 nsf) with a main lobby. The structure would be used by management, tenant management and tenants only. The offices would be moving from the residential buildings to the new space. The old offices would revert back to four apartments.

The new structure would be clad in metal "Rheinzink" and glazing. There would be aluminum shade devices on the south, east and west and three covered canopies and recessed areas at the entries. Sixty percent of the courtyard would be redesigned and remain as landscaped space. There would be minimal driveway modifications and the number of parking spaces and location would not change.

The new structure would have a green roof; however, this would not count towards the landscape requirement. In order to add additional landscaping 1,210 square feet of landscaping would be added to paved areas by the ramp to the lower level parking and on newly created traffic control islands around the site. The Applicants stated that they cannot find more space to add landscaping without eliminating required parking, fire lanes and maneuvering area.

## **FINDINGS FOR SPECIAL PERMIT (SZO §5.1, §4.4.1 & §9.13.e):**

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 structures. The decreased landscaping is the only foreseen negative impact; however, people looking out onto the courtyard would still see a green area with the green roof on the new structure. There is also another landscaped area for people to utilize in the northern section of the property.

In considering a special permit under §9.13 of the SZO the Applicant must be able to demonstrate that granting the requested special permit would not cause detriment to the surrounding neighborhood through any of the criteria as set forth under SZO §9.13, which are as follows:

- 1) increase in traffic volumes;
- 2) increased traffic congestion or queuing of vehicles;
- 3) change in the type(s) of traffic;
- 4) change in traffic patterns and access to the site;
- 5) reduction in on-street parking;
- 6) unsafe conflict of motor vehicle and pedestrian traffic.

Based on the number of designated parking spaces for each use at the site and the demand for parking, there is sufficient parking for the existing and proposed uses on the site. The required spaces could be shared spaces if the demand for the parking spaces increased in the future. Times when staff park at the site, during office hours, is opposite when residents, that typically drive to work, would park at the site. The Traffic and Parking Department has no objections to the shared parking at the site based on data submitted by a traffic engineer.



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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 encouraging the most appropriate use of land throughout the City and preserving and increasing the amenities of the municipality. The proposal is consistent with the purpose of the district, which is to establish and preserve a district for multi-family residential and other compatible uses which are of particular use and convenient to the residents of the district. The community space would be convenient to the residents and the office space would provide needed space from which to run the apartments.

In considering a special permit under §9.13 of the SZO the SPGA may grant such a special permit only when consistent with the purposes set forth in Section 9.1. The Board finds that the proposal is consistent with the purpose of the section. Shared parking would be an efficient use of parking. Also, it would not increase hazards to pedestrians and it would prevent more of an expanse of pavement and a reduction in landscaping.

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 building would be a LEED certified building with metal siding. It would be small and add an interesting structure to the brick building complex built in 1968. The structure would not disrupt the flow of pedestrian or vehicular travel. The use of the space as offices and a community space would be compatible with the dense residential buildings surrounding it.



**DECISION:**

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Danielle Fillis, Scott Darling and Elaine Severino with Richard Rossetti and Josh Safdie 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. In addition the following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes										
1	Approval is for the construction of a 3,800 sf structure for by-right offices and community gathering space and shared parking for 4 spaces. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	Plng.											
	<table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>Sep 17, 2009</td><td>Initial application submitted to the City Clerk's Office</td></tr><tr><td>Apr 29, 2008 (Oct 16, 2009)</td><td>Plans submitted to OSPCD (existing site plan)</td></tr><tr><td>2/23/09: L-0.2 3/4/09: L2.1, C-2, C-3, A1.0, A2.0 (Oct 16, 2009)</td><td>Plans submitted to OSPCD (Perimeter Planting: L-0.2, Garden Grading &amp; Planting: L2.1, Site Layout: C-2, First floor &amp; Roof: A1.0, Elevations: A2.0)</td></tr><tr><td>(Oct 16, 2009)</td><td>Renderings of Elevations</td></tr></table>				Date (Stamp Date)	Submission	Sep 17, 2009	Initial application submitted to the City Clerk's Office	Apr 29, 2008 (Oct 16, 2009)	Plans submitted to OSPCD (existing site plan)	2/23/09: L-0.2 3/4/09: L2.1, C-2, C-3, A1.0, A2.0 (Oct 16, 2009)	Plans submitted to OSPCD (Perimeter Planting: L-0.2, Garden Grading & Planting: L2.1, Site Layout: C-2, First floor & Roof: A1.0, Elevations: A2.0)	(Oct 16, 2009)	Renderings of Elevations
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	(Oct 16, 2009)				Renderings of Elevations									
Any changes to the approved site plan or elevations that are not <i>de minimis</i> must receive ZBA approval.														
2	The Applicant shall submit a landscape plan showing the location of the additional landscaping.	BP	Plng.											
3	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP											
4	Applicant will screen the dumpster with fencing that blocks any view of the dumpster itself.	CO	Plng.											
5	Applicant will supply at least 1 bicycle parking space, which can be satisfied with a U-type bicycle rack.	CO	Plng.											



6	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.	Cont.	ISD	
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 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.	Final sign off	Plng.	



Attest, by the Zoning Board of Appeals:

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

Attest, by the 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 \_\_\_\_\_



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