



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

PLANNING DIVISION

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Case #: ZBA #2010-29
Site: 272 Broadway
Date of Decision: December 1, 2010
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: December 15, 2010

ZBA DECISION

Applicant Name:	Anne M. Bates & Christopher Kokoras
Applicant Address:	187 Westminster Avenue, Watertown, MA 02472
Property Owner Name:	Christopher Kokoras
Property Owner Address:	187 Westminster Avenue, Watertown, MA 02472
Agent Name:	Anne M. Bates & Christopher Kokoras
Agent Address:	187 Westminster Avenue, Watertown, MA 02472

<u>Legal Notice:</u>	Applicant, Anne Bates and Christopher Kokoras and Owner, Christopher Kokoras, seek a Variance under SZO §5.5 from lot size requirements under SZO §8.5.A in order to construct a single-story commercial building. RC zone. Ward 4
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<u>Zoning District/Ward:</u>	RC zone/Ward 4
<u>Zoning Approval Sought:</u>	§5.5 & §8.5.A
<u>Date of Application:</u>	May 27, 2010
<u>Date(s) of Public Hearing:</u>	December 1, 2010
<u>Date of Decision:</u>	December 1, 2010
<u>Vote:</u>	4-0

Appeal #ZBA 2010-29 was opened before the Zoning Board of Appeals at Somerville City Hall on December 1, 2010. 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 one-story, 1923 sf insurance office on the site. The hours of operation will be Monday through Friday from 9am to 6pm and the office will be closed on the weekends. Two to three employees will work at this location. The average number of clients visiting the office in an 8 hour day will be 6 to 10. There will be 4 parking spaces in the rear that have access off of Kenneson Road, a one-way private street. The proposal includes creating a sidewalk with a granite curb from Broadway to the edge of the property on Kenneson Road.

Trash will be kept in an enclosed dumpster area and be picked up once a week by a private waste disposal company.

The owner of the property will grant the City of Somerville an easement on the property to enter the premises for maintenance and repair of the adjacent Fire Station. This agreement will also allow for egress from the fire station door, and access to repair the electrical equipment which sits on the property line. The applicant has been working with the fire department to meet their unique needs created by the adjacency to the station.

FINDINGS FOR VARIANCE (SZO §5.5.3):

In order to grant a variance from the lot area requirement (§8.5.A) the SPGA 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."

Applicant justification: The lot size is smaller than most other lots in the area and its shape is long and thinner than other lots in the area. The owner has no ability to merge with any adjacent lot since Kenneson Road is on one side, the fire station is on the other side, townhouses are in the rear and Broadway is in front of the lot. The owner has designed the proposal to account for the Fire Departments requests, which addresses the unique location of the site.

Board Finding: The proposed project is on a lot that is narrow and small, with no opportunity to consolidate with adjacent parcels due to its location on the corner of two streets, adjacency to the fire station and a developed parcel containing townhouses behind the site. The dimensions of the site are unique in the neighborhood and it is also unique in that it is a vacant site. Other undersized lots in the neighborhood have structures that can be expanded or converted by special permit. The site presents a hardship because any structure proposed on the site would require a variance from the lot area requirement and uses allowed on the site without construction of a structure are limited to uses that do not provide any financial return or benefit to the applicant or the community.

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."

Applicant justification: The proposal is the minimum approval necessary to grant relief from section 8.5.a. The owner is applying for relief to build a small, one-story building that has a simple design and complies with parking requirements. If the building was larger, not all of the parking spaces would fit on the site. Also, the Fire Department do not want a taller building in this location as it would interfere with the 911 communications. The building will be a pleasing addition to the neighborhood and it will only create minimal activity.

Board Finding: The site is currently vacant with no use. In order to have some use on the site, a variance is required. The owner proposed a small building with only one-story and 1923sf. This is the minimum size that would allow the office to be successful, satisfy the required number of parking spaces and conform to the other dimensional requirements. This structure is smaller than many existing buildings in close proximity, including the



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adjacent fire station. There are many businesses along Broadway and a small office would be a reasonable use that is compatible with the surrounding land uses.

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.”

Applicant justification: The proposal will not be injurious to the neighborhood or detrimental to the public welfare because it will blend in with the neighborhood. The proposal will develop vacant land, provide a commercial first floor with a small footprint, and locate the parking in the rear of the building; all of which were goals of the rezoning that occurred near the site in 2009. The landscaping and the building will be attractive. The applicants claim that they will make great neighbors for the surrounding residential properties.

Board Finding: The Board finds that this project is in harmony with the ordinance. The parcel is a preexisting lot and the proposal complies with all but one dimensional requirement. A goal of the Ordinance is to encourage the most appropriate use of land throughout the City and a small office filling a void along the Broadway corridor is an appropriate use. The proposed landscaping and building will improve the appearance of the site. The building will be brick and contain large windows to provide an interesting façade for pedestrians. The parking spaces will be in the rear and will not be visible from Broadway. The applicants will also extend the sidewalk along the site on Kenneson Road and provide an easement for the Fire Department as part of this proposal. This is a significant improvement of a site that would otherwise remain a vacant dirt lot with no viable use.

DECISION:

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans and Scott Darling with Herbert Foster, Elaine Severino and Josh Safdie absent. Upon making the above findings, Richard Rossetti made a motion to approve the request for a variance. Scott Darling seconded the motion. Wherefore the Zoning Board of Appeals voted **4-0** to **APPROVE** the request. In addition the following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes								
Application and Plans												
1	<p>Approval is for an approximately 1923 sf office on the 4779 sf lot. This approval is based upon the following application materials and the plans submitted by the Applicant:</p> <table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>May 27, 2010 Oct 28, 2010 completed</td><td>Initial application submitted to the City Clerk's Office</td></tr><tr><td>Aug 18, 2010 (10/28/10)</td><td>Plans submitted to OSPCD (A-1.0 site plan, A-1.1 floor plan, A-1.2 roof plan, A-2.1 elevations)</td></tr><tr><td>Sept 9, 2010</td><td>Plans submitted to OSPCD (Site Plan)</td></tr></table> <p>Any changes to the approved site plan or elevations that are not <i>de minimis</i> must receive SPGA approval.</p>	Date (Stamp Date)	Submission	May 27, 2010 Oct 28, 2010 completed	Initial application submitted to the City Clerk's Office	Aug 18, 2010 (10/28/10)	Plans submitted to OSPCD (A-1.0 site plan, A-1.1 floor plan, A-1.2 roof plan, A-2.1 elevations)	Sept 9, 2010	Plans submitted to OSPCD (Site Plan)	BP/CO	Plng.	
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Impacts of Completed Project				
2	The landscaping in the front yard shall be no higher than 4 feet to not block views for fire trucks leaving the station.	Perpetual	Fire Prev	
3	The applicant shall install a sprinkler system to the interior of the building and dry head exterior sprinklers to suppress the southeast elevation.	CO	Fire Prev	
4	The applicants shall provide the City with an easement on the property to enter the premises for maintenance and repair of the adjacent Fire House, access and egress to the exit from the adjacent Fire House, and use, access and repair of equipment on the property line.	BP	FP / Plng.	
5	Landscaping should be installed and maintained in compliance with the American Nurserymen's Association Standards.	Perpetual	Plng. / ISD	
6	Applicant will screen the dumpster with fencing that blocks any view of the dumpster itself.	CO	Plng.	
7	Any transformers that are required should be fully screened.	Electrical permits & CO	Plng.	
8	Applicant will supply 1 bicycle parking space, which can be satisfied with a "U" type bicycle rack.	CO	Plng.	
9	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	
Construction Impacts				
10	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	
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	
Final Review				
10	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.	



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Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Acting Chairman*
Richard Rossetti, *Acting Clerk*
T.F. Scott Darling, III, Esq.
Danielle Evans

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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