



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

MEMBERS

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

Case #: ZBA 2007-03-R0409
Site: 16 Butler Drive/100 Temple Street
Date of Decision: June 3, 2009

Decision: Revision Approved with Conditions
Date Filed with City Clerk: June 11, 2009

ZBA DECISION

Applicant Name:	Somerville Community Corporation
Applicant Address:	337 Somerville Avenue, Somerville, MA 02143
Property Owner Name:	St. Polycarp Redevelopment, LLC/ c/o Somerville Community Corp
Property Owner Address:	337 Somerville Avenue, Somerville, MA 02143
Agent Name:	N/A

<u>Legal Notice:</u>	Applicant Somerville Community Corporation & Owner St. Polycarp Redevelopment, LLC seek a revision to Special Permit ZBA 2007-03 and 2007-03-R0308 (SZO §5.3.8). The revision is to establish a phasing plan that would modify building dimensions, parking layout and landscaped areas. NB zone. Ward 4.
----------------------	---

<u>Zoning District/Ward:</u>	NB zone/Ward 4
<u>Zoning Approval Sought:</u>	Revision to Special Permit ZBA# 2007-03
<u>Date of Application:</u>	April 28, 2009
<u>Date(s) of Public Hearing:</u>	5/20 & 6/3/09
<u>Date of Decision:</u>	June 3, 2009
<u>Vote:</u>	5-0

Appeal #ZBA 2007-03-R0409 was opened before the Zoning Board of Appeals at Somerville City Hall on May 20, 2009. After two hearings of deliberation, the Zoning Board of Appeals took a vote.

DESCRIPTION:

The proposed revision description and initial staff review is in the report dated May 20, 2009. The Applicant presented the revision to the ZBA on May 20, 2009. The following is a supplementary report with findings and a recommendation.

Staff requested that the proposed changes to the site plan and elevations be presented to the Citywide Design Review Committee for their comments; however, the Committee could not reach a quorum for the May 28, 2009 meeting. Due to the time-sensitive nature of the project, with the Applicant's funding deadline at the end of June, staff will comment on the design of the project.

FINDINGS FOR SPECIAL PERMIT REVISION

There are not specific required findings for a revision to a special permit. Rather, the Board reviewed the original findings for the specific zoning relief requested and identified any findings listed below that have changed as a result of the proposed revision.

1. Site and Area Compatibility: The Applicant has to ensure that the project "[I]s designed in a manner that is compatible with the existing natural features of the site and is compatible with the characteristics of the surrounding area, and that the scale, massing and detailing of buildings are compatible with those prevalent in the surrounding area."

This project was initially permitted according to a site plan illustrating a "mixed-use village" organized around a central spine (formerly Butler Drive) and largely defined by a series of open spaces radiating outward. The original approval did not establish a phasing plan; therefore it has never been specified when each of these amenities would have to be provided, or when changes to Butler Drive would have to be implemented. In light of current financing constraints, the Board is supportive of the Applicant's efforts to establish clear phases of building so that the project can move forward and begin to generate revenues. At the same time, the Board recommends timelines and guarantees of infrastructure improvements and community amenities to go along with each construction phase in the recommended conditions.

In considering the applicant's request for a phasing plan, the Board particularly is interested in seeing the "village" aspect of the development come to fruition. The timing of the changes to Butler Drive and the installation of landscaping along that central spine is important to defining that character. Completion of this aspect of the plan is listed as a condition before certificate of occupancy could be issued for phase two.

The requested change to the site plan is compatible with the prior approval. The request is for a decrease in the total footprint of the building dimensions; which will increase the parking area of the site because some of the parking will no longer be within the footprint of Building E. The change will slightly decrease the landscaped areas in the courtyard green space around the three buildings in phase two but increase the playground area built in this phase.

In considering the applicant's request for changes to the building elevations, the Applicants have submitted more detailed elevations since the ZBA meeting on May 20, 2009. Overall the Board finds that the designs of the buildings are an improvement to those previously approved. The expansive curved canopies are no longer proposed for any of the buildings in Phase II. Building D now has more distinct entrances to the residential units. It also has an inviting transparent entryway off of Butler Drive into the community space. The roof top is flat and the windows have a better organization than the previously approved building. Building E now has balconies that line the courtyard façade to add activity to this space. There are also trellises for vines to grow along the façade to increase the greenery of the site. The parking lot side of Building E has doorways and windows along the ground floor instead of openings for parking spaces. Balconies are also being proposed for the third floor of this façade. Building F has similar design changes. The buildings have distinct features and colors but are complimentary to each other and to the phase one building. There are connections between buildings D, E, and F that form pedestrian entryways at two points between the buildings into the courtyard.

2. Emergency Access: The Applicant must ensure that "there is easy access to buildings, and the grounds adjoining them, for operations by fire, police, medical and other emergency personnel and equipment;"

Staff are working with the Applicant, Traffic & Parking, and the Fire Department on a request for an interim traffic plan between completion of the first and second phases. Approval of this plan is listed as a condition before building permits could be issued for phase two.

3. Location of Access: The Applicant must ensure that "the location of intersections of access drives with the City arterial or collector streets minimizes traffic congestion."

The plans have been reviewed by the Traffic and Parking Department, which recommended several mitigation measures to improve upon site safety and to reduce traffic congestion. Details of these measures are contained in the conditions of this report.

DESIGN GUIDELINES

2. “Differentiate building entrances from the rest of the primary street elevation, preferably by recessing the entry from the plane of the streetwall or by some other articulation of the elevation at the entrance.” The building elevations would continue to be articulated by material changes, entrances, and additional balconies to achieve this design criterion. The removal of the curved canopies that previously lined the entire façade of the building helps to differentiate the building entrances.

DECISION:

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Scott Darling and Josh Safdie. 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 phasing plan and revised master plan. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP and CO for Phase I, II, & III	Plng.																			
	<table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>January 25, 2007</td><td>Initial application submitted to the City Clerk’s Office</td></tr><tr><td>February 8, 2007</td><td>Modified plans submitted to OSPCD (site utility plan and topographic plan)</td></tr><tr><td>February 9, 2007</td><td>Modified plans submitted to OSPCD (additional elevations)</td></tr><tr><td>March 1, 2007</td><td>Modified plans submitted to OSPCD (supplemental traffic study report)</td></tr><tr><td>April 1, 2008</td><td>Modified plans submitted to OSPCD (revised site plan and letter)</td></tr><tr><td>March 28 2009 (May 15, 2009)</td><td>Plans submitted to OSPCD (Phasing Plan)</td></tr><tr><td>May 19, 2009 elevations with color and additional detail (May 29, 2009)</td><td>Modified plans submitted to OSPCD (revised elevations for buildings in phase 2)</td></tr><tr><td>April 28, 2009 (May 29, 2009)</td><td>Modified plans submitted to OSPCD (revised site plan)</td></tr></table>				Date (Stamp Date)	Submission	January 25, 2007	Initial application submitted to the City Clerk’s Office	February 8, 2007	Modified plans submitted to OSPCD (site utility plan and topographic plan)	February 9, 2007	Modified plans submitted to OSPCD (additional elevations)	March 1, 2007	Modified plans submitted to OSPCD (supplemental traffic study report)	April 1, 2008	Modified plans submitted to OSPCD (revised site plan and letter)	March 28 2009 (May 15, 2009)	Plans submitted to OSPCD (Phasing Plan)	May 19, 2009 elevations with color and additional detail (May 29, 2009)	Modified plans submitted to OSPCD (revised elevations for buildings in phase 2)	April 28, 2009 (May 29, 2009)	Modified plans submitted to OSPCD (revised site plan)
	Date (Stamp Date)				Submission																	
	January 25, 2007				Initial application submitted to the City Clerk’s Office																	
	February 8, 2007				Modified plans submitted to OSPCD (site utility plan and topographic plan)																	
	February 9, 2007				Modified plans submitted to OSPCD (additional elevations)																	
	March 1, 2007				Modified plans submitted to OSPCD (supplemental traffic study report)																	
	April 1, 2008				Modified plans submitted to OSPCD (revised site plan and letter)																	
	March 28 2009 (May 15, 2009)				Plans submitted to OSPCD (Phasing Plan)																	
	May 19, 2009 elevations with color and additional detail (May 29, 2009)				Modified plans submitted to OSPCD (revised elevations for buildings in phase 2)																	
April 28, 2009 (May 29, 2009)	Modified plans submitted to OSPCD (revised site plan)																					
Any changes to the approved site plan, elevations or use that are not <i>de minimis</i> must receive ZBA approval.																						
2	A written certification of the creation of affordable housing units, any fractional payment required, or alternative methods of compliance, must be obtained from the Housing Department.	CO for Phase I, II, & III	Housing																			

3	That the granting of this permit subject to the building being completed in accordance with plans filed and in accordance with the requirements of the Fire Prevention Bureau and fire safety code, and as evidenced by a Certificate of Compliance being granted prior to the issuance of an Occupancy Permit.	CO for Phase I, II, & III	Fire Prevention	
4	The Applicant shall add an additional 3 off street parking spaces and submit a revised site plan reflecting these changes to the ZBA, as shown on Traffic Solutions plans dated February 6, 2007.	(removed with revision ZBA 2007-03-R0308)		
5	The Applicant shall install audible warning devices at all signalized intersections (Temple at Mystic, Temple at Jacques, Temple at Broadway, and Broadway at School) and replace older audible devices with newer, updated versions.	CO for Phase II	T&P	
6	The Applicant shall reapply with thermoplastic, all pavement markings (including, but not limited to the following: double yellow center lines, stop lines, edge lines, only's, arrow's, etc.) along the Temple Street corridor from Mystic Avenue to Broadway at School Street.	CO for Phase III	T&P	
7	The Applicant shall replace all City installed warning, regular, and guide signs (approximately 15 'street cleaning', 12 street name blades, 11 'no parking anytime', 3 'no turn on red', 2 'loading zone', 1 'pedestrian crossing', 1 'no u turn') with similar signs with high intensity prismatic sheeting.	Where applicable for CO for Phase I, II, & III	T&P	
8	The Applicant shall provide three pedestrian impact recovery systems along or adjacent to the Temple Street corridor to be installed by Traffic and Parking at the discretion of the Ward Alderman.	BP for Phase II	T&P	
9	That 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	
10	That 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 of concrete.	CO for Phase I, II, & III	ISD	
11	To the extent possible, all exterior lighting must be confined to the subject property and must not intrude, interfere or spill onto neighboring properties.	CO for Phase I, II, & III	ISD	
12	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.	Construction of Phase I, II & III	ISD / T&P	

13	<u>Interim plan for Butler drive shall be developed, subject to Plng and T&P staff approval and implemented as outlined below.</u>	BP for Phase II	Plng / T&P	
14	<u>The following site improvements shall be completed before final COs are issued for Phase 1:</u> a. <u>parking, landscaping within boundaries of phase 1 as shown on phasing plan dated 3.28.09 and stamped into the OSPCD on May 15, 2009</u>	Final COs for Phase 1	Plng / T&P	
15	<u>The following site improvements shall be completed before building permits are issued for Phase 2:</u> a. <u>interim Butler Drive Plan</u>	BP for Phase II	T&P	
16	<u>The following site improvements shall be completed before final COs are issued for Phase 2:</u> a. <u>parking, landscaping within boundaries of phase 2 as shown on plan dated 3.28.09 and stamped into the OSPCD on May 15, 2009</u> b. <u>improvements to the intersection of Temple Street and Memorial Road as outlined in original permit</u> c. <u>completion of all Butler Drive work as shown on the Master Plan site plan dated 4.28.09</u> d. <u>completion of access way onto Memorial Road</u>	CO for Phase II	Plng / T&P	
17	<u>The following site improvements shall be completed before final COs are issued for Phase 3:</u> a. <u>parking, landscaping within boundaries of phase 3 as shown on phasing plan dated 3.28.09 and stamped into the OSPCD on May 15, 2009</u>	CO for Phase III	Plng / T&P	
18	<u>Applicant will screen the dumpster with fencing that blocks view of the dumpster itself.</u>	CO	Plng.	
19	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
Richard Rossetti
T.F. Scott Darling, III, Esq.
Josh Safdie (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
ZBA 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 _____