



**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 #2010-45**  
**Site: 270 Cedar Street**  
**Date of Decision: October 6, 2010**  
**Decision: *Petition Approved with Conditions***  
**Date Filed with City Clerk: October 14, 2010**

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**ZBA DECISION**

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<b>Applicant Name:</b>	270 Cedar Street, LLC
<b>Applicant Address:</b>	661 Main Street, Malden, MA 02148
<b>Property Owner Name:</b>	270 Cedar Street Trust
<b>Property Owner Address:</b>	270 Cedar Street, Somerville, MA 02145
<b>Agent Name:</b>	Richard G. DiGirolamo, Esq.
<b>Agent Address:</b>	424 Broadway, Somerville, MA 02145

**Legal Notice:** Applicant 270 Cedar Street, LLC and owner 270 Cedar Street Trust seek Special Permits under SZO §7.3 to build a new structure with nine residential units and, and under SZO §9.13 to construct the required parking spaces without meeting required dimensions.

<b><u>Zoning District/Ward:</u></b>	RB zone/Ward 5
<b><u>Zoning Approval Sought:</u></b>	§7.3 & §9.13
<b><u>Date of Application:</u></b>	August 10, 2010
<b><u>Date(s) of Public Hearing:</u></b>	9/15 & 10/6/10
<b><u>Date of Decision:</u></b>	October 6, 2010
<b><u>Vote:</u></b>	5-0

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Appeal #ZBA 2010-45 was opened before the Zoning Board of Appeals at Somerville City Hall on September 15, 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 two hearings of deliberation, the Zoning Board of Appeals took a vote.



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## **DESCRIPTION:**

The applicant is proposing to demolish the two structures and build a single building with nine residential units. The new structure will be three stories tall and will occupy the northern portion of the site. The triangle of land closest to the railroad tracks will be reserved as landscape area, and the southern end of the site will provide surface parking for the project. The structure is generally set back 12.5 feet from the street, with landscaping. The project has identified a plan to include 14 parking spaces in the parking area, but separately is requesting a variance to do a 12 parking space lot that will be better designed for the neighborhood. Due to this request the applicant withdrew the request for special permit per SZO §9.13 and is only seeking the special permit with site plan review per §7.3.

## **FINDINGS FOR SPECIAL PERMIT WITH SITE PLAN REVIEW (SZO §5.2.5):**

In order to grant a special permit with site plan review, the SPGA must make certain findings and determinations as outlined in §5.2.5 of the SZO. This section of the report goes through these sections in detail.

1. Information Supplied: The Zoning Board of Appeals finds that the information provided by the Applicant conforms to the requirements of §5.2.3 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." Staff finds that the information complies with criteria and standards as set forth in the sections below.

§5.2.4 of the SZO provides design guidelines for developments within residential zones seeking a special permit with site plan review. This section of the report goes through the various design guidelines to determine the compatibility of the proposed project.

1. *"Buildings should be generally of the same size and proportions as those that exist in the neighborhood".* The new building proposed takes many design elements, including size, massing and scale, from the buildings in the area.
2. *"Use of traditional and natural materials is strongly encouraged".* The applicant will be working with Planning Staff to address the materials to be used on the facades of the buildings. Staff finds that cementitious clapboards would be acceptable should the applicant agree to this material.
3. *"Additions to existing structures should be consistent with the architecture of the existing structure in terms of window dimensions, roof lines, etc".* The development does not add to existing structures.
4. *"Additions should not clash with the existing structure, but it is desirable for new construction to be distinguishable from existing buildings."* The development does not add to existing structures.
5. *"New infill building construction should share the same orientation to the street as is common in the neighborhood."* The new building has the same orientation and similar setbacks to existing structures in the area.
6. *"Driveways should be kept to minimal width (perhaps 12 ft)".* The driveway is sized at 18 feet at the entry and opens into a 20 foot driveway to meet the minimum requirement to allow entry and exit of vehicles at the same time.
7. *"Transformers and HVAC systems should be located so they are not visible from the street or screened."* Screened HVAC units are noted on the plans. Conditions are recommended to address this topic.



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8. *"Sites and buildings should comply with any guidelines set forth in Article 6 of this Ordinance for the specific base or overlay zoning district(s) the site is located within".*

The subject property is located within a RB zoning district. Guidelines set forth under Article 6 of the Ordinance were addressed within this section of the decision (above).

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 project is located in a Residence B (RB) zoning district. The RB district seeks "to establish and preserve medium density neighborhoods of one, two and three-family homes, free from other uses except those which are both compatible with and convenient to the residents of such districts."

The Zoning Board of Appeals finds that the residential nature of the development is consistent with the predominantly residential character of the surrounding neighborhood. There are several multi-unit structures in the area. A nine-unit building at this location, next to the tracks, will serve as a benefit to the neighborhood, will fit the character of the neighborhood and will be less disruptive to the neighborhood than the existing commercial structure.

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."

Extra attention has been paid to the design of this development as it is an important project in a very visible location on a significant street. The property is larger than most in the area and the existing structure has not been serving an economically viable purpose for the community for some time now. There is no significant landscaping on the site, and the site is dominated by its existing parking area.

The proposed project is a benefit to the neighborhood as it will significantly increase landscaping on the site. It will provide for a building that is similar in height to others in the neighborhood and is well positioned along the street with a substantial landscaped front yard. The parking area is designed to be screened from the street with an attractive pergola. The Zoning Board of Appeals is including a condition to provide pavers in the driveway that will further reduce the impact of the paved area.

5. Impact on Public Systems: The development will not create adverse impacts on the public services and facilities serving the development.

The area has adequate water and sewer service. Lot permeability and landscaping will greatly improve under this proposal, thereby reducing the stormwater impacts. Traffic for a small residential development will be less than it would be for a commercial establishment in the existing building on the site. The proposal reduces the size of the curbcut on the site. Therefore, the development will not create adverse impact on public services and facilities.

6. Environmental Impacts: The development will not create adverse environmental impacts.

The nature of this residential use would not create adverse environmental impacts.

7. Functional Design: The development meets accepted standards and criteria for the functional design of facilities, structures, and site construction.



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As conditioned the development meets functional design standards.

8. Historic or architectural significance: With respect to Somerville's heritage, any action detrimental to historic structures and their architectural elements shall be discouraged insofar as is practicable.

The structures to be demolished on this site are not historic structures. The proposed project is consistent in height with surrounding structures, and generally fits the character of the neighborhood. It is designed to be compatible with the neighborhood and support the design of neighboring properties.

9. Stormwater Drainage: The Applicant must demonstrate that "special attention has been given to proper site surface drainage so that removal of surface waters will not adversely affect neighboring properties or the public storm drainage system. Stormwater shall be removed from all roofs, canopies, and powered area, and routed through a well-engineered system designed with appropriate stormwater management techniques. Skimming devices, oil, and grease traps, and similar facilities at the collection or discharge points for paved surface runoff should be used, to retain oils, greases, and particles. Surface water on all paved areas shall be collected and/or routed so that it will not obstruct the flow of vehicular or pedestrian traffic and will not create puddles in the paved area. In larger developments, where practical, the routing of runoff through sheet flow, swales or other means increasing filtration and percolation is strongly encouraged, as is use of retention or detention ponds. In instances of below grade parking (such as garages) or low lying areas prone to flooding, installation of pumps or other devices to prevent backflow through drains or catch basins may be required."

Additional review of drainage plans is required, and the special permit with site plan review is conditional upon the City Engineer's approval of such plans and determination that no adverse impact will result to the drainage system from the project's design. The Zoning Board of Appeals also has included a condition that the project to require permeable pavers in the driveway area. The completed site will be 44% landscaping, far more than the existing situation, further assisting with stormwater impact.

10. Enhancement of Appearance: The Applicant must demonstrate that "the natural character and appearance of the City is enhanced. Awareness of the existence of a development, particularly a non residential development or a higher density residential development, should be minimized by screening views of the development from nearby streets, residential neighborhoods of City property by the effective use of existing land forms, or alteration thereto, such as berms, and by existing vegetation or supplemental planting;"

Currently, a neglected vacant commercial building is located on the site. The proposal as designed will enhance the appearance of the area by infilling the site of this vacant building and replacing it with a structure that is comparable to its neighbors. The applicant has proposed a landscaping plan that will use a combination of trees and shrubs to screen the proposed structure from the neighbors and the railroad tracks. Conditions will be attached to this report in effort to minimize impacts on abutters.

11. 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;"

The Fire Prevention Bureau is reviewing the proposal.

12. Utility Service: The Applicant must ensure that "Electric, telephone, cable TV and other such lines and equipment are placed underground from the source or connection, or are effectively screened from public view."

The Applicant is proposing to tie into the existing services for electric, telephone and cable. Any new lines would be placed underground in accordance with the SZO and the policies of the Superintendent of Lights and Lines.

13. Prevention of Adverse Impacts: The Applicant must demonstrate that "provisions have been made to prevent or minimize any detrimental effect on adjoining premises, and the general neighborhood, including, (1) minimizing any adverse impact from new hard surface ground cover, or machinery which emits heat,



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vapor, light or fumes; and (2) preventing adverse impacts to light, air and noise, wind and temperature levels in the immediate vicinity of the proposed development;"

The Zoning Board of Appeals finds that the project, as conditioned, will minimize effect on adjoining premises and the neighborhood. Landscaping is increased. Conditions will address equipment and machinery. Lighting will be directed so that it does not impact off-site properties. The project is a residential use, much like surrounding properties.

**14. Screening of Service Facilities:** The Applicant must ensure that "exposed transformers and other machinery, storage, service and truck loading areas, dumpsters, utility buildings, and similar structures shall be effectively screened by plantings or other screening methods so that they are not directly visible from either the proposed development or the surrounding properties."

Any exposed dumpster or transformer must be located in areas that are not visible from the street and surrounding structures or will be fully screened.

### **DECISION:**

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Danielle Evans and Elaine Severino with Scott Darling absent. Upon making the above findings, Susan Fontano made a motion to approve the request for a special permit with site plan review. Richard Rossetti seconded the motion. Wherefore the Zoning Board of Appeals voted **5-0** to **APPROVE** the special permit with site plan review under §7.3. The applicant withdrew the special permit under under §9.13.

At the Zoning Board of Appeals meeting on September 15, 2010, the Zoning Board of Appeals voted to allow the applicant to withdraw §9.13 special permit without prejudice.

In addition the following conditions were attached to the approved special permit with site plan review:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes						
1	Approval is to establish a single structure on the site with nine residential units, along with associated landscaping and parking. 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>8/14/10</td><td>Initial application submitted to the City Clerk's Office</td></tr><tr><td>8/19/10</td><td>Plans submitted to OSPCD (A-1, Z-1), SP REV 2.</td></tr></table>				Date (Stamp Date)	Submission	8/14/10	Initial application submitted to the City Clerk's Office	8/19/10	Plans submitted to OSPCD (A-1, Z-1), SP REV 2.
	Date (Stamp Date)				Submission					
	8/14/10				Initial application submitted to the City Clerk's Office					
	8/19/10				Plans submitted to OSPCD (A-1, Z-1), SP REV 2.					
Any changes to the approved use or elevations that are not <i>de minimis</i> must receive ZBA approval.										



2	Applicant shall provide final material and color samples for siding, trim, windows and doors to the Planning Staff for review and approval prior to construction	BP	Plng.	
3	Applicant shall provide a landscape plan identifying type and location of all trees and plants to the Planning Staff for review and approval prior to construction.	BP	Plng.	
4	At least 50% of the parking area shall consist of a pervious material such as pervious pavers or asphalt. The applicant shall submit the paving materials to Planning Staff for review and approval prior to construction.	BP	Eng.	
5	Applicant shall update the plan, indicating the location of any dumpster and/or recycling storage. The applicant shall provide adequate location for storage of trash and separated recycling. The applicant shall screen any outdoor dumpster with wood fencing that blocks any view of the dumpster itself. The dumpster location and fencing shall be subject to review and approval of Planning staff.	BP	Plng.	
6	Any exposed transformers or HVAC equipment should be located in areas that are not visible from the street or are surrounded with landscaping so as to not be visible from the street	Electrical permits & CO	Plng.	
7	Any fencing installed shall not be chain link or vinyl.	CO	Plng.	
8	A code compliant fire alarm and/or sprinkler system must be installed.	CO	FP	
9	Applicant shall supply four bicycle parking spaces, which could be satisfied with two u-type bicycle racks. These should be located within the structure if possible.	CO	Plng.	
10	Applicant shall abide by the AHIP signed with the Housing Director, meet further legal requirements of the Housing Director and provide necessary application information to the Housing Director as required to proceed with the affordable housing development. As required, applicant shall provide one on-site residential unit and an appropriate cash payout for the fractional unit.	BP	Housing	
11	The Applicant, its successors and/or assigns, shall be responsible for maintenance of the building and all on-site amenities, including landscaping, fencing, lighting, parking areas, parking lot entrance pergola and storm water systems, ensuring they are clean, well kept and in good and safe working order.	Cont.	ISD	
12	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 meet DPW standards.	CO	DPW	



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13	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	
14	The applicant shall provide notice of intent to strictly comply with applicable State and Federal regulations regarding air quality including without limitation continuous dust control during demolition and construction.	CO	Plng/OS E	
15	Notification must be made, within the time period required under applicable regulations, to the Massachusetts Department of Environmental Protection (DEP) if there is any discovery of hazardous materials, or regulated hazardous substances at the site. The City's OSE office and the Board of Health shall also be notified.	CO	Housing	
16	To the maximum extent feasible applicant will utilize strategies during construction to mitigate dust and control air quality, to minimize noise and to implement a waste recycling program for the removed debris.	During Construction	OSE/IS D	
17	Heavy construction activities shall be limited to Monday through Friday and conclude by 5:00 p.m. during those days.	Until construction completed	ISD	
18	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.	CO	Plng.	



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Attest, by the Zoning Board of Appeals:

Herbert Foster, *Chairman*  
Orsola Susan Fontano, *Clerk*  
Richard Rossetti  
Danielle Evans  
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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