



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

PLANNING DIVISION

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Case #: ZBA #2010-46
Site: 270 Cedar Street
Date of Decision: October 6, 2010
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: October 14, 2010

ZBA DECISION

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

Legal Notice: Applicant 270 Cedar Street, LLC and owner 270 Cedar Street Trust seek a Variance from SZO § 9.5 to construct a structure with nine residential units with 12 parking spaces of conforming size, instead of 14 parking spaces as otherwise required.

<u>Zoning District/Ward:</u>	RB zone. Ward 5
<u>Zoning Approval Sought:</u>	§9.5
<u>Date of Application:</u>	August 10, 2010
<u>Date(s) of Public Hearing:</u>	9/15 & 10/6/10
<u>Date of Decision:</u>	October 6, 2010
<u>Vote:</u>	5-0

Appeal #ZBA 2010-46 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.

FINDINGS FOR VARIANCE (SZO §9.5):

In order to grant a variance for parking (§9.5) 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.”

Zoning Board of Appeals Finding: The proposed project is on a lot that is narrow and awkwardly shaped. To provide a viable project on the site that is priced reasonably and offers amenities including 2-bedroom units that will be viable for use of new residents, the application requires the applicant to use the entire width of the lot. This site layout and lot impacts the structure such that it allows only for the single parking area on one side of the site. The site topography limits the ability to provide parking on the other side of the building. As a whole, this design lends itself to a system that only would allow for 12 conforming parking spaces. This situation is unique to the site and does not impact the zoning district as a whole.

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.”

Zoning Board of Appeals Finding: The site includes vacant structures that have been unused for many years. The applicant has proposed a project that provides a viable building with parking. The parking area in question is as large as it can be and still allow for landscape and snow storage areas. The applicant was seeking an option to do smaller parking spaces by special permit, but this option is not customarily granted in Somerville. Therefore, to allow for a structure that can work on this site, the applicant needs this minimal variance. Submittal of a special permit application for narrower spaces has not met a finding for an affirmative recommendation from the Traffic & Parking Director. Therefore, this option is not available to the applicant, and the applicant must receive this variance for the project to be viable.

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.”

Zoning Board of Appeals Finding: The Planning Board finds that this project is in harmony with the ordinance. The ordinance specifically allows for a reduction of 20% of parking spaces in locations within close proximity to rail stations, and use of this reduction instead of the 10% reduction otherwise allowed for proximity to city parking would lead to a total parking requirement of 12 spaces. The coming green line station would allow for this reduction if it was in place today. Despite not having rail service at this time, the location is within close proximity to the community path, allows for walking connection to amenities at Ball Square and provides opportunities for residents without access to a vehicle or second vehicle. This building can operate and operate effectively with less than the required 14 parking spaces. Traffic and Parking provided the following comments regarding this case:



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Traffic and parking does not object to (the variance). It should be noted that the MaxPac development will be constructing 199 residential units in the vicinity of this proposed project. MaxPac sought and received parking space relief supplemented by traffic mitigation by submitting parking space utilization statistics from developments in the immediate vicinity of mass transit stops known as Transit Oriented Development (TOD). These locations were Kendall Square, Cambridge, Mass Ave, Arlington, Commonwealth Ave, Brighton and Alewife Station, Cambridge. This development in the same area should receive the same consideration. Traffic and Parking has no objections that 12 parking spaces will be sufficient for this proposed development.

Thus provided traffic mitigation is provided in the form of \$1000.00 being provided to the City to be placed in an account for the future purchase of pedestrian safety traffic control devices in the vicinity of 270 Cedar St, Traffic and Parking has no objections to the (variance) option.



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 variance. Richard Rossetti seconded the motion. Wherefore the Zoning Board of Appeals voted **5-0** to **APPROVE** the variance. In addition the following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes						
1	Approval is to establish two principal structures on a lot, and for the construction of a five-unit building. 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) Variance Appl.</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) Variance Appl.
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Any changes to the approved use or elevations that are not <i>de minimis</i> must receive ZBA approval.										
2	All conditions attached to the associated special permit shall be attached to this variance and included in the final decision. (see attached conditions).									
3	Traffic mitigation is provided in the form of \$1000.00 being provided to the City to be placed in an account for the future purchase of pedestrian safety traffic control devices in the vicinity of 270 Cedar St	T&P	BP							



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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Approved Conditions from the 270 Cedar Street SPSR (Case #ZBA 2010-45) approved on October 6, 2010.

#	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.
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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	
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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