



CITY OF SOMERVILLE, MASSACHUSETTS
STRATEGIC PLANNING AND COMMUNITY DEVELOPMENT
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Case #: ZBA 2007-29 (new hearing)
Site: 30 College Ave
Date: June 16, 2008
Recommendation: Conditional Approval

PLANNING STAFF REPORT

Applicant Name: Domenic F. Valente
Applicant Address: 571 Main St Rear, Medford, MA 02155
Property Owner Name: Mouhab Z. Rizkallah
Property Owner Address: 30 College Ave, Somerville, MA 02144
Alderman: Gewirtz

Legal Notice: The ZBA will reopen proceedings for a special permit (#ZBA2007-29) sought by Owner M.Z. Rizkallah and Applicant D.F. Valente, in order to hold a new hearing on the applicant's request to construct a new front addition, an exterior stairway, and a third floor onto an existing building (SZO §4.4.1).

Zoning District/Ward: CBD / RB / 6

Zoning Approval Sought: Special Permit under SZO §4.4.1

Date of Application: May 23, 2007

Date(s) of NEW Public Hearing: [ZBA: May 21, 2008 (continued to June 18, 2008)]

Date of Decision: N/A

Vote: N/A

I. PROJECT DESCRIPTION

1. Subject Property: The subject property is comprised of four parcels that contain approximately 13,656 s.f. and are situated in two zoning districts. Two of these parcels lie within the Davis Square Central Business District (CBD) and two lie within the Residence B (RB) district. A 6,035 net s.f., stucco and vinyl-sided, wood-framed, two-story commercial building sits on a 3,425 s.f. CBD-zoned parcel. The remaining three parcels have frontage on Winter Street and are used for a surface parking lot, which contains approximately 30 parking spaces and is surrounded by vinyl fencing on the sides and rear and a metal fence along the street. The structure was originally constructed around 1900 but has been through many renovations and alterations.

2. Proposal: The Applicant is proposing several additions to an existing nonconforming structure, principally including a new front addition, a new third story, and a new emergency egress staircase at the rear. The purpose of the proposal is to satisfy Americans with Disabilities Act (ADA) requirements and emergency egress requirements, as well as to create additional office. More details on these are below.

Front addition for elevator: The front addition would be three stories high and would align with the existing façade along College Avenue; this addition is proposed to contain stairs and an ADA-compliant elevator, which the applicant is under orders from the Massachusetts Architectural Access Board (MAAB) to construct by July 2008.

Rear addition for egress stair: A rear stair measuring approximately 8' by 19' is proposed outside the existing building envelope, at the rear of the structure. The proposed stair is required under 780 CMR (State building code) in order for the Applicant to retain access to the existing second floor. In response to concerns about length of the stair's projection, the Applicant has revised the design by rotating it 90 degrees, so that the long side abuts the building rather than the adjoining property line. The material for the enclosure is now proposed to be glass block rather than stucco, in order to allow the passage of more sunlight to the northerly parcel.

Expansions for office space: Parts of the first and second floors would also be extended along much of the rear (west) and right side (north) property lines, in order to align with the existing first floor; one first floor bay window would be extended outward three feet and up one story, in order to align with the rear portion of the structure. These changes would accommodate existing storage space for the existing orthodontics practice (less than 40 s.f. on the first floor, and less than 200 s.f. on the second floor), as well as provide just over 2,000 s.f. of office space on the third floor.

3. Nature of Application: The Applicant requires a special permit under §4.4.1 of the Somerville Zoning Ordinance (SZO) since the existing structure is dimensionally nonconforming with respect to rear yard setback requirements. Under §4.4.1 of the SZO "Lawfully existing nonconforming structures other than one- and two-family dwellings, may be enlarged, extended, renovated or altered only by special permit authorized by the SPGA in accordance with the procedures of Article 5."



Special Circumstances/New Hearing: In July 2007 the Applicant received approval from the Board for this proposal. Notice for that hearing process was published and mailed to some abutters, but the notice was defective: a number of abutters who were entitled notice were omitted from the list. Therefore, a new hearing is required so that abutters may provide testimony on the proposal.

4. Surrounding Neighborhood: Nearly half of the subject property, including all of the existing structure, lies within in the Davis Square Central Business District facing College Avenue; slightly over half of the site (the area used for parking, where the proposed stair would be located) lies within the RB district and faces

Winter Street. Reflecting this location, the site is surrounded by a mix of different uses including housing, offices, restaurants, and retail establishments. The lot lines of the subject property and those adjoining it are rarely at right angles, resulting in peculiar relationships between structures and lot lines. Two adjoining properties that are zoned CBD are occupied residentially; one of these also contains a commercial office and has a common breezeway with the subject structure, and the other's garden appears to cross over onto a portion of the subject property.

5. Impacts on Abutting Properties: Staff have met with neighboring residents and received numerous concerns about expansion of the building where it adjoins residentially used property. Overall, it appears that the principal impacts of the proposal would be to properties that, though wholly or partially dedicated to residential use, are zoned CBD and therefore afforded certain benefits and fewer protections under the SZO than residentially zoned property. More details are below.

Front addition for elevator: Staff have heard no concerns about the expansion of the building on the College Avenue side; in fact, expansion on this side of the structure has been viewed favorably.

Rear addition for egress stair: The revised design of the egress stair would halve the proposed horizontal extension alongside the abutting property owner to the rear by extending it eight feet, rather than 19, to the west. The glass block construction would permit more sunlight to pass through to neighboring properties than a solid addition would, and concerns about potential glare during the day and brightness



during the night could be mitigated (see conditions). While it is acknowledged that this expansion would have some impact on the neighboring property, the stair is recognized to be required by the State building code (780 CMR) for the *existing* structure (not just the proposed third floor addition). Staff note that the abutting property, while used residentially, is zoned CBD. Staff and the Applicant's architect, in concert with the Ward Alderman, have investigated alternative locations and configurations of the stair. According to the Applicant's architect, this stair is required to be independent of the existing structure in order to satisfy egress requirements, and therefore cannot be located internally to the building (it is also

larger than the interior space). As noted below, Alderman Gewirtz is strongly in favor of relocating the proposed stair so that no part of it would adjoin the property to the northwest (4 Park Avenue), *e.g.*, by siting it on the Winter Street side of the structure. This relocation would impact the landscaping and circulation of the proposal; the applicant has chosen not to pursue that option, and no formal plans illustrate it. *Should the Board wish to require relocation of the stair, a revised site plan and building plans would be required in order to properly review and place conditions on them.*

Expansions north for office space: The proposed extension of the first and second floors up to the northerly property line (adjacent to 32 College Avenue, the mixed use structure located in the CBD) has raised concern from that abutting property owner. Again, staff note the CBD zoning of both properties and their current conjunction via a breezeway. It appears that much consternation derives from this breezeway, a portion of which the abutter wishes to remove. The Applicant has indicated that he would have no objection to the abutter's removal of the portion of the breezeway on the abutter's property, and the architect has revised plans to illustrate the eventual reconstruction of the 30 College Avenue exterior wall in the event of the breezeway's partial demolition. Staff are hopeful that with this understanding, the impacts of the relatively minor horizontal extension on this side (three feet on the first floor and five feet on the second floor) will be less keenly felt.

Expansions to rear for office space: Abutters to the rear have expressed concerns about the expansion of the second floor and the addition of the third floor along adjoining property lines. Some concerns appeared to be based on a misapprehension of the proposal; some of these comments abated after it was explained that the rear portion of the structure would be roughly align with the front portion of the structure, as opposed to adding a full story above the highest point of the building. Regarding effects on sunlight, the extension of the third floor through to the back of the structure would introduce a modest increase in the structure's overall height (three feet overall, for the cornice) and would not appear to dramatically impact the light to abutting properties. However, no shadow study has been performed for the site; staff note that the portion of the structure proposed to be raised is located to the south and east of residentially used properties, so some impact can be expected, although it is not clear exactly to what degree.

Site Plan: Comments have also been received about the location of the existing dumpster at the far west end of the parking lot, where it adjoins a residentially used and zoned property. Although it apparently does not contain odorous household trash, its servicing creates a noise nuisance for adjoining neighbors. While this dumpster is not a part of the present proposal, Staff recommend as a condition of any approval that it be relocated away from residentially used property and screened from public view. This may require the reallocation of a parking space.

5. Green Building Practices: None stated.

6. Comments:

Fire Prevention Bureau: "Any modifications to the fire alarm system and sprinkler system due to this renovation will require plans to be submitted for approval. A new Certificate of Compliance will be required for occupancy."

Alderman Gewirtz: Alderman Gewirtz organized a community meeting around the proposal and has been very engaged with staff in seeking to identify alternate proposals that might satisfy the neighborhood. At a recent meeting, Alderman Gewirtz stated that she was not opposed to the project *per se*, but that she would only support it if the stair were relocated to further reduce anticipated impacts to the properties to the north, west, and east (*e.g.*, to the Winter Street side of the building).

II. FINDINGS FOR SPECIAL PERMIT (SZO §4.4.1):

Staff Note: This project is comprised of several component parts, some of which are severable. Overall, staff find the project defensible in its various parts and note that the Board has voted favorably for an

almost identical proposal in the past. However, while the Board may agree with Staff that some aspects of the project are critical in order to comply with mandates from the State—particularly, the front addition for the elevator and the rear addition for the egress stair—the Board may wish to consider other aspects distinctly.

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 Staff 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 Permit.
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." The Applicant requires a special permit under §4.4.1 of the SZO. Under §4.4.1, "the SPGA, as a condition of granting a special permit under this Section must find that such extension, enlargement, renovation or alteration is not substantially more detrimental to the neighborhood than the existing nonconforming structure."

While nonconforming structures by definition do not comply with the zoning standards, the structure is meets most standards for the CBD, the district in which the structure is almost entirely located (excluding the proposed rear stair). The nonconformity results from its deficient rear yard setback and its adjacency and height to the nearest property located in the RB district (*i.e.*, 6 Park Avenue). The rear stair and the proposed third floor addition in the rear would increase the nonconformity with SZO §8.6.12 and §8.6.20, which, respectively, govern setbacks and height limits near residential districts. The height and tight construction on a small lot is typical of development within Central Business Districts, and its impacts, such as they are, would principally be to other CBD-zoned properties. As such, while some impacts are anticipated, the proposal would **not** appear to be **substantially** more detrimental than the existing close condition.

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 development site is located almost entirely within a Central Business District (CBD) and would extend partially into the Residence B (RB) zoned parking lot. The CBD seeks to "preserve and enhance central business areas for retail, business services, housing, and office uses and to promote a strong pedestrian character and scale in those areas." The RB district seeks to "establish and preserve a district for multi-family residential and other compatible uses which are of particular use and convenience to the residents of the district." The proposal would not change the use of the site and these purposes would still be satisfied by the expanded office use.

The proposal is also consistent with the general purposes of the Ordinance as set forth under §1.2, which includes "conserv[ing] the value of land and buildings." The elevator and stair are required under State codes in order for the property owner to have use of the *existing* upper floors of the structure. He has requested additional office space in order to support his existing orthodontics practice as well as to offset the added maintenance expenses for the new facilities.

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."

Overall the proposal may be viewed as compatible with surrounding development. Considered separately, various parts of the proposal may be seen as more or less compatible.

Regarding the proposed front addition, Staff find that the addition is necessary and compatible with surrounding CBD development.

Regarding the proposed rear stair, Staff find that the addition is necessary and that the revised design would mitigate anticipated impacts to a significant degree. The construction of the facility in glass block is a positive design element, which will permit greater passage of light, provide for quality and continuity of material in the building design, and break up the visual mass of the wall.

Regarding the extensions to the first and second floors on the North side, staff find the expansion relatively modest and of limited impact, particularly considering the shared CBD zoning of both properties and the existing connection between them. Development to the property line between CBD-zoned properties is commonplace throughout the district, the neighborhood and the City in general.

Regarding the addition of the third floor, Staff find the expansion to be reasonably compatible with the surrounding CBD, but somewhat less so with the neighboring RB districts. The approximate ten-foot distance between the edge of the proposed new roofline and the nearest RB property off-site is nonconforming with modern standards. However, it is not atypical of interfaces between commercial and residential districts throughout the City. In fact, there are examples in the site's immediate neighborhood of taller buildings located less than ten feet from residential district lines.

III. RECOMMENDATION

Special Permit under §4.4.1

Staff finds that this application complies with the requirements for granting a special permit as set forth under §5.1.4 and that the alterations proposed would **not** be **substantially** more detrimental to the neighborhood than the existing structure.

Based on the above findings, the Planning Staff recommends **CONDITIONAL APPROVAL** of the requested **SPECIAL PERMIT** for the following, as shown on the revised plans:

- Front addition for the elevator shaft;
- Rear addition for the egress stair;
- Northerly expansion for first and second floor office space; and
- Addition of third floor on rear of structure.

Should the Board choose to alter or not approve any of the above elements, revised plans must be submitted to Planning Staff illustrating the final approved configuration prior to application for Building Permits.

Although the Planning Staff is recommending approval of the requested Special Permit, the following conditions should be added to the permits:

| # | Condition | Timeframe for Compliance | Verified (initial) | Notes | | | | |
|---|--|---|--------------------|-----------------------------|---|------------------------|---------------|--|
| 1 | Approval is for the construction of: <ul style="list-style-type: none">▪ Front addition for the elevator shaft;▪ Rear addition for the egress stair;▪ Northerly expansion for first and second floor office space; and▪ Addition of third floor on rear of structure. <p>This approval is based upon the following application materials and the plans submitted by the Applicant and/or the Agent:</p> <table><tr><th>Date</th><th>Submission</th></tr><tr><td>May 10, 2008 (plan date)</td><td>Plans D1 and D2, stamped revised, showing relocated rear stair.</td></tr></table> <p>Any non <i>de minimis</i> changes to the approved elevations and plans must receive ZBA approval.</p> | Date | Submission | May 10, 2008 (plan date) | Plans D1 and D2, stamped revised, showing relocated rear stair. | Building Permit and CO | ISD and Plng. | If the ZBA requires the Applicant to alter or remove any element of the proposed plans, revised plans must be submitted to Planning Staff prior to application for building permits. |
| | Date | Submission | | | | | | |
| | May 10, 2008 (plan date) | Plans D1 and D2, stamped revised, showing relocated rear stair. | | | | | | |
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| 2 | The existing dumpster shall be relocated away from residentially used properties and screened from public view. | CO | Plng. | | | | | |
| 3 | The rear stair shall be constructed with low-glare glass block (to be confirmed by architect or contractor). | BP | ISD | | | | | |
| 4 | Interior lights in the rear stairwell shall be turned off after 9pm. | Continuous | ISD | | | | | |
| 5 | Any modifications to the fire alarm system and sprinkler system due to this renovation will require plans to be submitted for Fire Prevention approval. A new Certificate of Compliance will be required for occupancy. | CO | FP | | | | | |
| 6 | Subject to appropriate weather conditions, the Applicant shall consent to the removal of the portion of the shared breezeway that is not on his property, and shall repair his common wall according to the attached plans, in the event of such partial demolition. | As applicable | ISD | | | | | |
| 7 | 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. / ISD | | | | | |

Map of 30 College Avenue

