



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

MEMBERS

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ELAINE SEVERINO (ALT.)

Case #: ZBA 2008-09
Site: 42 Craigie Street
Date of Decision: July 9, 2008
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: July 15, 2008

ZBA DECISION

Applicant Name:	Felix Consilvio, Trustee
Applicant Address:	c/o Craigie Street, LLC, 92 High Street, Medford, MA 02155
Property Owner Name:	Craigie Street, LLC
Property Owner Address:	92 High Street, Suite 27, Medford, MA 02155
Agent Name:	Richard G. DiGirolamo, Esq.
Agent Address:	424 Broadway, Somerville, MA 02145
 <u>Legal Notice:</u>	 Applicant Felix Consilvio Jr. & Owner Craigie Street, LLC seek Special Permit with Site Plan Review approval under SZO §7.2 to construct two principal structures on the same lot as an existing principal structure. The applicant seeks Special Permit with Site Plan Review approval under SZO §7.3 to develop eight (8) residential units containing 12.5% affordable in a RB zone. Ward 3.
 <u>Zoning District/Ward:</u>	 RB zone/Ward 3
<u>Zoning Approval Sought:</u>	§7.2 & §7.3
<u>Date of Application:</u>	February 14, 2008
<u>Date(s) of Public Hearing:</u>	4/2, 5/7, 5/21, 6/4, 6/18 & 7/9/08
<u>Date of Decision:</u>	July 9, 2008
<u>Vote:</u>	5-0

Appeal #ZBA 2008-09 was opened before the Zoning Board of Appeals at Somerville City Hall on April 2, 2008. 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 three (3) hearing(s) of deliberation, the Zoning Board of Appeals took a vote.

DESCRIPTION:

The applicant sought approval to construct two new buildings containing five (5) new units behind the existing residential structure. Together there will be eight (8) units total of housing. The proposal includes one unit of affordable housing which is required to conform to the Inclusionary Housing and affordability requirements under Article 13 of the SZO. The existing curb cut will be relocated in order to construct an 18' wide driveway that provides access and separates the two buildings.

"Building 1" on the north side of the property is shown containing three units and six parking spaces under the units. The building is constructed into the hillside with the basement/parking level accessible from the front side while completely underground in the rear. From parking level to the roof peak, the building is proposed to be 32' 4" in height.

"Building 2" on the south side of the property is shown containing 2 units and four parking spaces under the units. From parking level to the roof peak, the building is proposed to be 32' 4" in height.

"Building 3" (existing building) will be renovated and continue to provide three units.

All new development meets dimensional requirements and the proposed parking scenario meets the SZO requirements for parking. Patios for all units will be located in the side yards.

FINDINGS FOR SPECIAL PERMIT WITH SITE PLAN REVIEW (SZO §7.2 & §7.3):

As required by SZO §5.2.5, the Board found that:

1. Information Supplied: The Applicant must comply "with the information requirements in Section §5.2.3;"

The information provided by the Applicant allows for a comprehensive review of the proposed development and is in general compliance with the requirements set forth under §5.2.3 of the SZO.

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 with site plan review".

As conditioned, the proposal will comply with these standards.

3. Purpose of the District: The Applicant has to ensure that the project "is consistent with the intent of the specific zoning district as specified in Article 6". The project site is located within an RB 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."

SZO §7.3 states that in RB districts, where developments include a minimum of 12.5% affordable housing units on-site, the maximum dwelling units per lot can be waived through SPSR application. In all cases minimum lot size, minimum lot area per dwelling unit and other dimensional and parking requirements of Article 8 and Article 9 shall be met.

Due to the inclusion of an affordable housing component, the unusually large size of the subject parcel compared to surrounding properties, the breakdown of units into three distinct buildings of three families or less, and the conformity with all dimensional requirements under Article 8 and 9, The Board finds this project consistent with the purpose of the RB zoning district.

4. Site and Area Compatibility: The Applicant has to ensure that the project "Is 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."

The land behind the existing structure is currently overgrown and poorly maintained with scattered debris and cracked pavement. The slope of the terrain causes storm runoff to negatively affect the neighbors towards the bottom of the hill. While the applicant will be removing several existing trees that have grown on the site, new trees, shrubs and other natural elements will be added to the landscape. The proposed landscaping and pervious surfaces used for vehicular and pedestrian access will work in conjunction with the proposed water retention system to limit storm runoff currently affecting the neighbors down slope.

"Building 1" will be built into the slope limiting the visual scale as viewed from the street and neighboring apartment building. "Building 2" will generally be screened from public view on Craigie Street by the existing building on the lot. All three buildings proposed for the lot will be consistent with the height and scale of surrounding two and three family buildings in the neighborhood and will be considerably lesser in height than the four story apartment building up the slope to the north. To address community concerns the applicant has reduced the ridge line of the gable roof tops by six (6) feet in building one, and five and a half (5.5) feet in building two. Building 1 has been shifted two (2) feet further away from the apartment building adjacent to the property to provide more light and air.

5. Functional Design: The project must meet "accepted standards and criteria for the functional design of facilities, structures, and site construction."

As required by Condition #14, based upon the comments received from the City Engineer the applicant will need to address the drainage system and verify with DEP that the plan is acceptable and up to the state standards prior to the issuance of the CO.

6. Impact on Public Systems: The project will "not create adverse impacts on the public services and facilities serving the development, such as the sanitary sewer system, the storm drainage system, the public water supply, the recreational system, the street system for vehicular traffic, and the sidewalks and footpaths for pedestrian traffic."

Additional review is still required for the proposed drainage systems. However, this can be completed subsequent to the zoning review, with a condition of approval requiring provision of a drainage plan satisfactory to the City Engineer prior to the issuance of any permits. The approval of the SPSR shall be contingent upon the City Engineer's determination that no adverse impacts on public systems will result from the development.

7. Environmental Impacts: "The proposed use, structure or activity will not constitute an adverse impact on the surrounding area resulting from: 1) excessive noise, level of illumination, glare, dust, smoke, or vibration which are higher than levels now experienced from uses permitted in the surrounding

area; 2) emission of noxious or hazardous materials or substances; 3) pollution of water ways or ground water; or 4) transmission of signals that interfere with radio or television reception.”

Due to the residential nature of the proposed structure no environmental impacts are foreseen as a direct result of this development. The community has voiced concern regarding the noise and dust that will be created by the construction of the buildings and this will be addressed in the conditions of approval for this SPSR. To reduce automobile noise and air pollution and because of the close proximity to Porter and Davis Squares, condition # 4 requires the applicant to provide additional bicycle parking spaces than required under the SZO.

8. Consistency with Purposes: "Is consistent with: 1) the purposes of this Ordinance, particularly those set forth in Article 1 and Article 5; and 2) the purposes, provisions, and specific objectives applicable to the requested special permit with site plan review which may be set forth elsewhere in this Ordinance, such as, but not limited to, those at the beginning of the various sections."

As the required findings of Article 5 have been made, and the proposal satisfies the purposes of Article 1, including “to encourage the most appropriate use of land” and “to encourage housing for persons of all income levels” and of Article 6, as already described, The Board find the proposal to be consistent with the purposes of the SZO.

9. Preservation of Landform and Open Space: The Applicant has to ensure that "the existing land form is preserved in its natural state, insofar as practicable, by minimizing grading and the erosion or stripping of steep slopes, and by maintaining man-made features that enhance the land form, such as stone walls, with minimal alteration or disruption. In addition, all open spaces should be designed and planted to enhance the attractiveness of the neighborhood. Whenever possible, the development parcel should be laid out so that some of the landscaped areas are visible to the neighborhood."

The project site features a relatively steep slope with a 16' elevation difference between the highest and lowest points of the property. The location of the buildings on the site, proposed improvements to the landscaping, inclusion of pervious surfaces and a water retention system will limit erosion on the slope. The Applicant's development plans incorporate the landscaping requirements of the SZO for a residential use. A significant portion of the landscaping is located along Craigie Street and in the side yard adjacent to the apartment building, which will enhance the attractiveness of the neighborhood.

10. Relation of Buildings to Environment: The Applicant must ensure that "buildings are: 1) located harmoniously with the land form, vegetation and other natural features of the site; 2) compatible in scale, design and use with those buildings and designs which are visually related to the development site; 3) effectively located for solar and wind orientation for energy conservation; and 4) advantageously located for views from the building while minimizing the intrusion on views from other buildings."

The natural landform of the slope in this area will generally be incorporated into the development. While some excavation and leveling is proposed, the natural landform will be maintained along the driveway, front and rear yards. The proposed landscaping plan will be a general improvement to the overgrown and under-maintained vacant land behind the existing structure. The proposed buildings are consistent with the heights of other buildings in the area and do not extend to the height of the adjacent apartment building. The mass of the buildings is considerably less than the adjacent

apartment building, and the location of the new buildings behind the existing structure limits any visual impact the buildings would have on the street. The larger size of the subject lot accommodates the buildings while remaining in relative scale with other structures in the neighborhood.

11. 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. Storm water shall be removed from all roofs, canopies, and paved area, and routed through a well-engineered system designed with appropriate storm water 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."

While additional review is required of drainage plans, any approval of the SPSR should be 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 applicant is proposing to control storm water and erosion through a network of dry wells, infiltration pipes, vegetated swale, permeable pavers and an infiltration pond/garden. The Board finds this to be an inventive and environmentally notable means of accomplishing storm water control for this site.

12. Historic or Architectural Significance: The project must be designed "with respect to Somerville's heritage, any action detrimental to historic structures and their architectural elements shall be discouraged insofar as is practicable, whether those structures exist on the development parcel or on adjacent properties. If there is any removal, substantial alteration or other action detrimental to buildings of historic or architectural significance, these should be minimized and new uses or the erection of new buildings should be compatible with the buildings or places of historic or architectural significance on the development parcel or on adjacent properties;"

The applicant is proposing to rehabilitate the existing structure on the lot and for new construction to incorporate design elements of Somerville's architectural heritage such as bay windows, gables and clapboard siding. The most recent design features a cupola on "Building 1" that references historic carriage houses found in Somerville.

13. 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;"

The applicant has proposed a site plan that when combined with the landscaping plan will minimally impact the neighborhood. The new construction is proposed to be located behind the existing structure and also down the existing slope, below sidewalk grade. The existing building will

generally screen "Building 2" and the slope will generally screen the garages of "Building 1", making only two stories visible from Craigie Street. The buildings will also act to reinforce the predominant architecture patterns, which are broken by the 33 unit adjacent apartment building.

14. Lighting: With respect to lighting, the Applicant must ensure that "all exterior spaces and interior public and semi-public spaces shall be adequately lit and designed as much as possible to allow for surveillance by neighbors and passersby."

The applicant is proposing to install lighting that meets the standards of the SZO and building code.

15. 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;"

Conditions #2 and #3 have been incorporated to address concerns of the Fire Prevention Bureau.

16. 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 proposal meets all requirements of the zoning regarding parking and driveway dimensions. All traffic will enter and exit from a single 18' wide driveway and curb cut on Craigie Street. The curb cut is the minimum size allowed under the SZO and its location provides good visibility and sight lines which will serve to minimize traffic conflicts.

17. 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 City 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.

18. 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, 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;"

No negative impacts are anticipated as a result of the proposed residential use, which will maximize use of pervious surface materials and improve conditions for adjacent homeowners down slope.

19. Signage: The Applicant must ensure that "the size, location, design, color, texture, lighting and materials of all permanent signs and outdoor advertising structures or features shall reflect the scale and character of the proposed buildings;"

Due to the residential nature of the building, any signage will be minimal.

20. 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 so as to allow for full screening. (See conditions)

21. Screening of Parking: Thirteen (13) parking spaces will be provided on the property located either under the second floor of the new structures in a garage or screened with landscaping from the street. The original plan featured eighteen parking spaces and the applicant has agreed to remove five parking spaces from the proposal. The three spaces nearest to Craigie Street have been removed in an attempt to preserve a large number of existing trees and help screen the structures from Craigie Street and Dickerson Park across the street. The two rear yard spaces have also been removed to provide more usable open space and landscaped area to the development.

DECISION:

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Danielle Fillis and Scott Darling. 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	<p>Approval is for the construction of two (2) new residential buildings creating three (3) buildings on one lot with a combined eight (8) units including one affordable unit. This approval is based upon the following application materials and the plans submitted by the Applicant and/or contractor:</p> <table><tr><th>Date</th><th>Submission</th></tr><tr><td>February 14, 2008</td><td>Initial application submitted to the City Clerk's Office</td></tr><tr><td>July 3, 2008</td><td>Revised elevations and site plans submitted to OSPCD</td></tr></table> <p>Any changes to the approved site plan or elevations that are not <i>de minimis</i> must receive ZBA approval.</p>	Date	Submission	February 14, 2008	Initial application submitted to the City Clerk's Office	July 3, 2008	Revised elevations and site plans submitted to OSPCD		Plng.	
Date	Submission									
February 14, 2008	Initial application submitted to the City Clerk's Office									
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2	All units shall have code compliant fire alarm/detection systems and code compliant sprinkler systems.	CO	FP							
3	There shall be no parking in the auto-court area between the two new structures. Sufficient "fire lane" signage shall be placed at the site.	CO	FP							
4	Landscaping shall be installed and maintained in compliance with the American Nurserymen's Association.	Perpetual	Plng./ISD							

#	Condition	Timeframe for Compliance	Verified (initial)	Notes
5	<p>The applicant shall submit a landscape plan showing existing trees above 8" caliper. The trees to be removed shall be documented on the plan and replaced with mature trees of the same or better quality. (Caliper would not have to be matched at time of planting.)</p> <p>Best efforts shall be made to preserve the existing ninety± year old Elm tree in the northwest corner of the property.</p> <p>A covenant or similar agreement shall state that the applicant (or successors/assigns) shall maintain the Elm tree in the northwest corner of the property if preserved during construction.</p>	BP/CO	ISD/Plng.	
6	All new sidewalks will be installed by the Applicant in accordance with the specifications of the Highway Superintendent. Specifically, all driveway aprons shall be concrete subject to DPW approval.	CO	DPW/Plng.	
8	A covenant to the condominium agreement shall state that the property shall never combine with the adjacent lot abutting the rear of the property and/or provide access/egress between Craigie and Porter Streets. If the project becomes rental units a deed restriction or other enforceable measure shall be undertaken to ensure compliance.	Cont.	Plng./ISD	
9	Applicant shall screen the dumpster with fencing that blocks any view of the dumpster itself.	CO	Plng.	
10	Any transformers shall be located as not to impact the landscaped area, and shall be fully screened.	Electrical permits & CO	ISD	
11	Applicant shall supply four (4) bicycle parking spaces.	CO	Plng.	
12	Fire Flow tests must be run in the area with coordination with the Somerville Water Department.	CO	Eng.	
13	The permit to connect the sewer line must be taken out by a licensed drain-layer.	CO	Eng.	
14	The applicant must provide an "Inspection and Maintenance" plan for the drainage system. The report must be prepared and stamped by a registered professional civil engineer.	CO	Eng.	
15	Building #1 will be assigned numbers 46A, 46B and 46C. Building #2 will be assigned numbers 42R and 44R.	CO	ISD	
16	The Applicant, 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	
17	The Applicant shall at his expense replace any existing	CO	DPW	

#	Condition	Timeframe for Compliance	Verified (initial)	Notes
	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 subject to DPW approval.			
18	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	
19	All exterior lighting must be confined to the subject property and must not intrude, interfere or spill onto neighboring properties.	CO	Plng.	
20	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 excavation and construction.	CO	Plng/OSE	
21	Notification must be made, within the time period required under applicable regulations, to the Massachusetts Department of Environmental Protection (DEP) if there is any release of oil, hazardous materials, or regulated hazardous substances at the site. The City's OSE office, Fire Department and the Board of Health shall also be notified.	CO	OSE/FP /BOH	
22	Heavy construction activities shall be limited to Monday through Friday and conclude by 5:00 p.m. during those days.	Until construction completed	ISD	
23	A covenant to the condominium agreement shall state that the garages shall not become living spaces. If the project becomes rental units a deed restriction or other enforceable measure shall be undertaken to ensure compliance.	Cont	ISD	
24	The applicant shall designate a person the neighborhood can contact during construction to ensure project is built as designed and permitted.	Cont	Plng.	
25	There shall be no more than two (2) bedrooms per unit.	Cont.	ISD	
26	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.	
27	The applicant shall develop a demolition plan in	Demo Permit	ISD	

#	Condition	Timeframe for Compliance	Verified (initial)	Notes
	consultation with the City of Somerville Inspectional Services Department. Full compliance with proper demolition procedures shall be required, including timely advance notification to abutters of demolition date and timing, good rodent control measures (i.e. rodent baiting), minimization of dust, noise, odor, and debris outfall, and sensitivity to existing landscaping on adjacent sites.			
28	Porches, decks and stairways shall be made with wood railing systems painted or oiled.	CO	Plng.	
29	Exterior building materials shall be Hardiplank, cedar clapboard, or of equal quality, with painted wood trim, based on drawings A3 and A4.	CO	Plng.	
30	The applicant shall install clad windows with divided light, not snap-in type.	CO	Plng.	
31	HVAC shall be screened with the same material used for fencing and for the arbor. This will be architecturally reviewed by Planning Staff once developer selects the location.	During Construction	Plng.	
32	The roof shall be constructed of architectural shingles or metal.	CO	Plng.	
33	Fencing shall be made of wood	CO	Plng.	
34	The driveway, parking and patios areas shall be finished with pavers	CO	Plng.	
35	The applicant shall submit a more detailed landscaping plan to be approved by Planning Staff	During Construction	Plng.	

Attest, by the Zoning Board of Appeals:

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

Attest, by the Zoning Board of Appeals 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 _____