



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

PLANNING DIVISION

ZONING BOARD OF APPEALS MEMBERS

HERBERT F. FOSTER, JR., *CHAIRMAN*
ORSOLA SUSAN FONTANO, *CLERK*
RICHARD ROSSETTI
T. F. SCOTT DARLING, III, ESQ.
DANIELLE FILLIS
ELAINE SEVERINO (ALT.)
JOSH SAFDIE (ALT.)

Case #: ZBA 2009-04

Site: 9-11 Harvard Place

Date of Decision: January 6, 2010

Decision: *Petition Approved with Conditions*

Date Filed with City Clerk: January 7, 2010

ZBA DECISION

Applicant Name:	Elaine Thibault
Applicant Address:	28 Brainard Avenue, Unit 202, Medford, MA 02155
Property Owner Name:	Elaine Thibault
Property Owner Address:	28 Brainard Avenue, Unit 202, Medford, MA 02155
Agent Name:	Richard G. DiGirolamo, Esq.
Agent Address:	424 Broadway, Somerville, MA 02145

<u>Legal Notice:</u>	Applicant & Owner Elaine Thibault seeks a Special Permit with Site Plan Review approval under SZO §7.2 to construct two principal structures on the same lot and under §7.3 to develop four (4) residential units, where 12.5% are affordable housing. RA zone. Ward 3.
----------------------	---

<u>Zoning District/Ward:</u>	RA zone/Ward 3
<u>Zoning Approval Sought:</u>	§7.2 & §7.3
<u>Date of Application:</u>	February 8, 2009
<u>Date(s) of Public Hearing:</u>	4/15/08-1/6/10
<u>Date of Decision:</u>	January 6, 2010
<u>Vote:</u>	5-0

Appeal #ZBA 2009-04 was opened before the Zoning Board of Appeals at Somerville City Hall on April 15, 2009. 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 one hearing of deliberation, the Zoning Board of Appeals took a vote.



CITY HALL • 93 HIGHLAND AVENUE • SOMERVILLE, MASSACHUSETTS 02143
(617) 625-6600 EXT. 2500 • TTY: (617) 666-0001 • FAX: (617) 625-0722
www.somervillema.gov



DESCRIPTION:

The proposal is to construct a single-family dwelling and a 3-family dwelling on the site. There would be 2 parking spaces under the single-family and 6 spaces under the 3-family. There would be a new curb cut on Harvard Place.

FINDINGS FOR SPECIAL PERMIT WITH SITE PLAN REVIEW (SZO §5.2):

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

1. Information Supplied: The Board 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 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 with site plan review."

The project would comply with standards of granting a special permit with site plan review. An affordable unit would be provided and the project complies with the dimensional and parking requirements for the district.

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 RA district. The RA district seeks to "establish and preserve quiet neighborhoods of one- and two-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 RA 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 larger lot area of the subject parcel compared to surrounding properties, the breakdown of units into two distinct buildings of one and three families, and the conformity with all dimensional requirements under Article 8 and 9, the Board finds this project consistent with the purpose of the RA 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 Board finds that the project compatible with the surrounding area. The massing and scale of the buildings, as approved by the HPC, have a similar massing to the prior building on the site and houses along Harvard Place and Monmouth Street. The driveway is situated at the end of the road, where it is least visible and disruptive to the stone wall along the sidewalk and the pedestrian experience. The multifamily house is behind the single family house so that the garage doors for both structures are not visible from most of the right-of-way.

The Applicant will be taking advantage of the slope of the site by constructing the garage of the 3-family structure into the land so that the rear portion of the garage would be underground.

The applicant will be removing the trees that have survived on the site. New shrubs and grass are proposed for the site and the installation of trees will be a condition of approval.



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

The Applicant will need to confirm with the City Engineer that the drainage system is acceptable. (See conditions) A condition has been added to address the Highway Superintendent's comments regarding snow removal at the end of Harvard Place.

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 from 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. The previous structure contained five residential units so the change to four units with onsite parking would not adversely impact the street system and sidewalks. The sidewalk would be minimally interrupted by having the driveway located at the end of the street.

If the driveway at the end of Harvard Place interferes with the fire hydrant, the Applicant will be conditioned to relocate it with Fire Prevention review and approval.

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.

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."

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 the purpose of Article 5 by making positive findings within this section of the report, the Board finds 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 14 ft elevation difference between the highest and lowest points of the property. The site slopes down toward the street. The stone wall along Harvard Place would remain except for the portion of the wall where the driveway would be installed. Landscaping is proposed along the wall and the front of the house, which will be visible from the neighborhood. Portions of the site would be regarded to account for the driveway. There would be retaining walls along the eastern edge of the site and the front portion of the driveway.



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 front and rear of the building. The proposed buildings are consistent with the heights of other buildings in the area. The massing of the buildings is also consistent with the other buildings in the area. These historic houses are quite large so a three-family dwelling would not appear larger than some of the one- and two-families in the area. The location of the rear, larger building behind the single-family structure limits the visual impact of having two buildings on the site. 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 dry wells from roof drains.

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 HPC has done a thorough review of the proposal to ensure that the design is compatible with the historic district. The building is part of a larger district, not a single building district as are many in Somerville. Its loss is a major one to the fabric of the District. 9-11 Harvard Place is part of the Chestnut Court Historic District as well as being adjacent to designated properties on Spring Street and Summer Street. Historic Preservation Staff are also in the process of designating the two mansard cottages on Harvard Place as part of a larger Monmouth St/Harvard St/Harvard Place District. All of these structures are also within the Spring Hill National Register Historic District. Spring Hill is one of the older and more important Historic Districts in the City. The HPC report on 9-11 Harvard Place is not yet finalized; however, the Commission is supportive of the proposed plans.

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."



CITY HALL • 93 HIGHLAND AVENUE • SOMERVILLE, MASSACHUSETTS 02143
(617) 625-6600 EXT. 2500 • TTY: (617) 666-0001 • FAX: (617) 625-0722

www.somervillema.gov



The applicant has proposed a site plan that would be minimally impactful. The larger building is proposed behind the smaller building, where the original building once sat. The smaller building will generally screen the larger one. The garage doors of both buildings would only be visible from the end of Harvard Place. The slope of the site would be used to bury much of the garage in the rear 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 lighting will be residential in nature and conditioned to not interfere with neighboring properties.

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;"

The Fire Prevention Bureau has reviewed the plans and provided comments that the driveway width should be wide enough so that when vehicles are parked in the driveway there is room to run hose lines and carry ladders up the driveway, especially to the rear building. The site plan appears to provide sufficient space if cars are parked in the driveway; however, typically, cars will not be parked in the driveway because they would interfere with access to the parking spaces underneath the buildings. Additional comments from Fire Prevention are forthcoming.

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. Cars would enter the driveway on Harvard Place, park on-site, and be able to exit in the forward direction. The driveway location at the end of the street would not create traffic congestion.

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."

Minimal negative impacts are anticipated as a result of the proposed residential use. The headlights that would be directed toward the neighbors to the east when cars are pulling into the garages would be blocked by a six foot wood fence.

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, signage is not anticipated on the site. Any signage in the future would have to conform to the sign standards for residential districts.



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."

Transformers and dumpsters are not proposed for the site. Trash shall be stored inside the building, in garages, or screened by plantings so that they are not directly visible from either the proposed development or the surrounding properties. (See conditions)

21. Screening of Parking: The eight onsite parking spaces would be within the structures and out of sight from the street.



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 with Site Plan Review. Scott Darling seconded the motion. Wherefore the Zoning Board of Appeals voted **5-0** to **APPROVE** the request. In addition the following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes								
1	Approval is for the construction of four residential units including one affordable unit in two structures. 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>Feb 9, 2009 Complete Dec 10, 2009</td><td>Initial application submitted to the City Clerk’s Office</td></tr><tr><td>Nov 25, 2009 (Dec 15, 2009)</td><td>Modified plans submitted to OSPCD (Landscape/Site Plan)</td></tr><tr><td>(Dec 15, 2009)</td><td>Modified plans submitted to OSPCD (Front building elevations: front SK-1, side SK-2, SK-8, rear SK-12, Rear building elevations: front SK-3, side SK-10, SK-11, rear) (Front building floor plans: 1st fl A-1, 2nd fl A-2, rear building floor plans: basement A-1, 1st fl A-2, 2nd fl A-3)</td></tr></table>				Date (Stamp Date)	Submission	Feb 9, 2009 Complete Dec 10, 2009	Initial application submitted to the City Clerk’s Office	Nov 25, 2009 (Dec 15, 2009)	Modified plans submitted to OSPCD (Landscape/Site Plan)	(Dec 15, 2009)	Modified plans submitted to OSPCD (Front building elevations: front SK-1, side SK-2, SK-8, rear SK-12, Rear building elevations: front SK-3, side SK-10, SK-11, rear) (Front building floor plans: 1 st fl A-1, 2 nd fl A-2, rear building floor plans: basement A-1, 1 st fl A-2, 2 nd fl A-3)
	Date (Stamp Date)				Submission							
	Feb 9, 2009 Complete Dec 10, 2009				Initial application submitted to the City Clerk’s Office							
	Nov 25, 2009 (Dec 15, 2009)				Modified plans submitted to OSPCD (Landscape/Site Plan)							
(Dec 15, 2009)	Modified plans submitted to OSPCD (Front building elevations: front SK-1, side SK-2, SK-8, rear SK-12, Rear building elevations: front SK-3, side SK-10, SK-11, rear) (Front building floor plans: 1 st fl A-1, 2 nd fl A-2, rear building floor plans: basement A-1, 1 st fl A-2, 2 nd fl A-3)											
Any changes to the approved site plan or elevations that are not <i>de minimis</i> must receive ZBA approval.												
2	The Applicant shall sign the Affordable Housing Implementation Plan (AHIP).	Prior to vote by PB	PB / Housing	Complete								
3	The Applicant shall supply a snow removal plan.	Prior to Building Permit	Plng.									
4	The Applicant shall receive approval from the City Engineer regarding the proposed drainage system.	BP	Engineer ing									
5	The electrical, phone and cable service shall be installed underground to both of these structures.	BP/CO	Electrica l									
6	If a transformer is necessary, it should be fully screened with vegetative materials.	Electrical permits &CO	Plng.									



CITY HALL • 93 HIGHLAND AVENUE • SOMERVILLE, MASSACHUSETTS 02143
(617) 625-6600 EXT. 2500 • TTY: (617) 666-0001 • FAX: (617) 625-0722

www.somervillema.gov



7	If the driveway at the end of Harvard Place interferes with the fire hydrant, the Owner shall be responsible for relocating the hydrant with Fire Prevention review and approval.	BP/CO	Fire	
8	The Applicant shall conduct a survey of the houses of the abutting property owners prior to excavation of the site, and document their findings. These findings shall be submitted to the Planning Department as public record. The Applicant then shall survey any damage to the abutting property owner's houses after excavation and reimburse the property owners for any damages.	Prior to BP	ISD / Plng.	
9	If excavation is required, the Applicant shall excavate the site through hydraulic rock splitting rather than blasting.	During Construction	ISD	
10	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	
11	There shall be a minimum of 3 trees installed on the site of at least a 3 inch caliper as required under SZO §10.3.	CO	Plng.	
12	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
13	No certificate of occupancy shall be issued until the OSPCD Housing Division has confirmed that the Condominium Documents have been approved and the Developer has agreed to a form of Deed Rider for the Affordable Unit(s).	CO	Housing	
14	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 DPW standard.	CO	DPW	
15	To the extent possible, all exterior lighting must be confined to the subject property, cast light downward and must not intrude, interfere or spill onto neighboring properties.	CO	Plng.	
16	The Owner(s) shall remove the snow on the street to ensure access to the driveway.	Cont.	ISD	
17	Trash shall be stored inside the building, in garages, or screened by plantings so that it is not directly visible from either the proposed development or the surrounding properties.	Cont.	ISD	
18	The Applicant, its successors and/or assigns, shall be responsible for maintenance of both the building and all on-site amenities, including landscaping, fencing, lighting, parking areas and storm water systems, ensuring they are clean, well kept and in good and safe working order.	Cont.	ISD	
19	Landscaping should be installed and maintained in compliance with the American Nurserymen's Association Standards.	Perpetual	Plng. / ISD	



20	The Applicant shall contact Planning Staff at least five working days in advance of a request for a final inspection by Inspectional Services to ensure the proposal was constructed in accordance with the plans and information submitted and the conditions attached to this approval.	Final sign off	Plng.	
----	---	----------------	-------	--



Attest, by the Zoning Board of Appeals:

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

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 _____



CITY HALL • 93 HIGHLAND AVENUE • SOMERVILLE, MASSACHUSETTS 02143
(617) 625-6600 EXT. 2500 • TTY: (617) 666-0001 • FAX: (617) 625-0722

www.somervillema.gov

