



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

PLANNING DIVISION

ZONING BOARD OF APPEALS MEMBERS

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JOSH SAFDIE (ALT.)

Case #: ZBA #2010-47
Site: 162 Highland Avenue
Date of Decision: September 15, 2010
Decision: Petition Denied
Date Filed with City Clerk: September 29, 2010

ZBA DECISION

Applicant Name:	Somerville Community Corporation
Applicant Address:	337 Somerville Avenue, 2 nd Floor, Somerville, MA 02143
Property Owner Name:	CASPAR
Property Owner Address:	315 Highland Avenue, Somerville, MA 02144
Agent Name:	N/A

<u>Legal Notice:</u>	Applicant, Somerville Community Corporation and Owner, CASPAR, seek a Special Permit under SZO §7.11.1.c to establish a six unit dwelling within an existing structure and a Special Permit under SZO §4.4.1 to make alterations to the façade in the required side yard.
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<u>Zoning District/Ward:</u>	RC zone/Ward 3
<u>Zoning Approval Sought:</u>	§7.11.1.c & §4.4.1
<u>Date of Application:</u>	June 1, 2010
<u>Date(s) of Public Hearing:</u>	September 15, 2010
<u>Date of Decision:</u>	September 15, 2010
<u>Vote:</u>	3-2

Appeal #ZBA 2010-47 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 one hearing of deliberation, the Zoning Board of Appeals took a vote.



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II. FINDINGS FOR SPECIAL PERMIT (SZO §7.11.1.C AND §4.4.1):

In order to grant a special permit with site plan review, 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 Board finds that the information provided by the Applicant conforms to the requirements of §5.2.3 of the SZO and allows for a comprehensive analysis of the project.
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 application complies with applicable standards, although two members of the Board expressed that the nature of the project involved too many housing units for this particular site.
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 in both an RC district. The purpose of the RC district is "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."

This proposal, is for a multi-family residential use that will replace an existing office. The existing structure contains over 6,000 nsf (8,000 gsf). This building is in need of rehabilitation and the SCC has committed to efforts to maintain and restore the historic nature of the building, including preservation and restoration of as much of the original detailing as possible, and restoration of the stained glass windows and front porch. A historic consultant that works with Historic New England has volunteered to help select an appropriate historic paint scheme. This building is not currently within a local historic district but would be restored to the high standards typically required by Historic Preservation.

Three members of the Board agreed that a six-unit development was appropriate at this site. Two members of the Board felt that, to be compliant with the intent of the RC district, a smaller number of units would be necessary. When the applicant indicated an inability to develop the project as affordable housing with less than six units, the Board was unable to determine that the project, as a six unit project, could meet this finding.

4. Site and Area Compatibility: The Applicant has to ensure that the project “(i)s 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 the buildings are compatible with those prevalent in the surrounding area”.

The Board generally supported the idea that a conversion to a residential use on this site would be consistent with the character of the surrounding area. Three members of the Board were able to support a finding that the development could meet this finding, while two members of the Board were unable to support this finding.

Exterior changes would be limited to the installation, removal and relocation of several windows and small changes to doorways. Other exterior work will focus on restoration of the building to the historical standards of the area. Any potential privacy issues as a result of the additional windows would be negligible.

Though no additional parking is required, the site would provide less than one parking space per unit. After extensive discussion, the applicant submitted a parking plan that would only use the parking area for three residents and that would provide an adequate turnaround area. While the Board generally supported these changes, the full Board was unable to support the idea that the six unit development was appropriate for this design. Three members of the Board were comfortable that this situation adequately addressed the parking requirements. Two members of the Board expressed that the site had too many units for this small parking area.



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Three members of the Board concluded that the proposed use would have less impact on the neighborhood than many potential by-right projects could have and that the restoration of the building would be the best outcome for maintaining the character of the neighborhood and the quality historic structures in the city. Two members of the Board were unable to find that the project, with six units, would not have negative impacts on the neighborhood quality of life.

DECISION:

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans, Scott Darling and Elaine Severino with Herbert Foster recused. Danielle Evans made a motion to approve the request of the Applicant to accept the staff report and incorporate the amended conditions provided by the Planning Staff and to approve the special permit requested by the applicant. Scott Darling seconded the motion. Wherefore the Zoning Board of Appeals voted 3-2 for the special permit, with members Orsola Susan Fontano and Richard Rossetti voting in the negative. MGL Chapter 40A requires four affirmative votes to approve a special permit, therefore as the Board did not vote with four members in the affirmative, the Special Permit is Denied.



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Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Acting Chairman*
Richard Rossetti, *Acting Clerk*
Danielle Evans
T.F. Scott Darling, III, Esq.
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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