



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

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ELAINE SEVERINO (ALT.)
JOSH SAFDIE (ALT.)

Case #: ZBA 2008-36
Site: 12-14 Marshall Street
Date of Decision: October 1, 2008
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: October 7, 2008

ZBA DECISION

Applicant Name:	Collin Green
Applicant Address:	59 Edson Street, Dorchester, MA 02124
Property Owner Name:	Collin Green
Property Owner Address:	59 Edson Street, Dorchester, MA 02124
Agent Name:	N/A

<u>Legal Notice:</u>	Applicant & Owner: Collin Green seeks Special Permits under SZO §9.4 to modify parking requirements (4 parking spaces) and §4.4.1 to alter a nonconforming structure in order to convert an auto body shop into a religious institution. RB zone. Ward 4.
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<u>Zoning District/Ward:</u>	RB zone/Ward 4
<u>Zoning Approval Sought:</u>	§9.4 & §4.4.1
<u>Date of Application:</u>	July 17, 2008
<u>Date(s) of Public Hearing:</u>	9/17 & 10/1/08
<u>Date of Decision:</u>	October 1, 2008
<u>Vote:</u>	5-0

Appeal #ZBA 2008-36 was opened before the Zoning Board of Appeals at Somerville City Hall on September 17, 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 two (2) hearing(s) of deliberation, the Zoning Board of Appeals took a vote.

DESCRIPTION:

The Applicant would like to use the structure for religious purposes, which is a protected and allowed use. There would be 80 seats in the assembly area. The proposal is to renovate the exterior façade by filling in the current and existing windows and openings with masonry glass block and replacing the main entrance. The proposal is also to provide parking for the four required parking spaces on a separate lot that is shared with the Cambridge Health

Alliance. The Cambridge Health Alliance hours of operation are Monday-Thursday 8:30am-6:30pm and Friday 8:30am-5:00pm. The hours of primary use of 12-14 Marshall Street are anticipated to be on Tuesdays, Thursdays, Fridays, and Sundays from 7 pm to 9:30 pm and on Sunday from 10 am to 2 pm according to the applicant. The congregation was previously located in Somerville and many of the members still live in the area and will travel by the organization's van or public transportation.

FINDINGS FOR SPECIAL PERMIT (SZO §9.13 & 4.4.1):

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 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."

In considering a special permit under §9.13 of the SZO "the SPGA may grant such a special permit only when consistent with the purposes set forth in Section 9.1, and upon reaching the findings and determinations set forth in Section 5.1.4". The Applicant must be able to demonstrate that granting the requested special permit would not cause detriment to the surrounding neighborhood through any of the criteria as set forth under SZO §9.13, which are as follows:

- 1) increase in traffic volumes;
- 2) increased traffic congestion or queuing of vehicles;
- 3) change in the type(s) of traffic;
- 4) change in traffic patterns and access to the site;
- 5) reduction in on-street parking;
- 6) unsafe conflict of motor vehicle and pedestrian traffic.

The Board finds that shared parking on a separate lot would not cause detriment related to the above criteria. The parking lease agreement would allow the number required parking spaces to be located on a separate lot during the proposed event times on Sundays and Tuesday, Thursday and Friday evenings. The Health Center is not opened during these times, allowing shared parking to be possible. The parking lot is approximately 250 feet from the proposed religious institution's entrance and the lots are connected by sidewalks. The religious institution's van service would also limit the impact of on-street parking. Additionally, the parking study results show that spaces are available.

The Board finds that, as conditioned, granting the requested special permit would not create a situation that would be a nuisance or hazard to pedestrians and adjacent properties, nor would it decrease the traffic carrying capacity of the adjacent streets or significantly compromise the on-street parking available in Winter Hill.

The Applicant also requires a special permit under §4.4.1 of the SZO. Under §4.4.1, "The SPGA must find that such extension, enlargement, renovation or alteration is not substantially more detrimental to the neighborhood than the existing nonconforming building ... the SPGA may consider, without limitation, impacts upon the following: traffic volumes, traffic congestion, adequacy of municipal water supply and sewer capacity, noise, odor, scale, on-street parking, shading, visual effects and neighborhood character."

The alteration of the structure would include repairing and improving the appearance of the building while retaining the form of this historic garage.

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 proposal is consistent with the general purposes of the Ordinance as set forth under §1.2, which includes, but is not limited to "conserve the value of land and buildings," to "provide for and maintain the uniquely integrated structure of uses in the City", to "preserve the historical and architectural resources of the City", and to "encourage the most appropriate use of land throughout the City."

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."

The off-site parking lot is an existing lot that is compatible for shared parking for the religious institution's use. The alterations to the structure would be compatible with the prior use and historic shape that mimics those of early churches.

5. Vehicular and Pedestrian Circulation: The Applicant must ensure that "the circulation patterns for motor vehicles and pedestrians which would result from the use or structure will not result in conditions that create traffic congestion or the potential for traffic accidents on the site or in the surrounding area."

The City's Department of Traffic and Parking has reviewed this proposal. The proposed parking would be located in an existing parking lot. Parking in this lot for the religious institution would not create significant traffic congestion or the potential for traffic accidents.

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	Approval is for a Special Permit for parking on a separate lot, shared parking, and alteration to a nonconforming structure in order to convert an auto body shop into a religious institution. This approval is based upon the following application materials and the plans submitted by the Applicant and/or Agent:	BP/CO	Plng.									
	<table><tr><th>Date</th><th>Submission</th></tr><tr><td>July 17, 2008</td><td>Initial application submitted to the City Clerk's Office</td></tr><tr><td>August 28, 2008</td><td>Van shuttle service letter</td></tr><tr><td>August 29, 2008</td><td>Parking License Agreement (signed)</td></tr></table>				Date	Submission	July 17, 2008	Initial application submitted to the City Clerk's Office	August 28, 2008	Van shuttle service letter	August 29, 2008	Parking License Agreement (signed)
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Any changes to the approved elevations that are not <i>de minimis</i> must receive ZBA approval.												
2	The size and location of the existing openings as shown in dashed and solid lines on the Marshall Street elevation (A-3) shall remain with infill of glass block or other glazing material.	BP/CO	ISD / Plng.									
3	A code compliant fire alarm system shall be installed.	CO	FP									
4	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									
5	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.									
6	The Applicant shall not remove the tree on the rear property line without ZBA approval.	Perpetual	Plng.									
7	The Applicant must maintain offsite parking in the event they lose their current parking spaces.	Perpetual	Plng. / T&P									
8	The Applicant shall work with Planning Staff to develop a landscape plan for the northern side of the property.	CO	Plng.									

9	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.	Final sign off	PIng.	
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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 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 _____