



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

**MEMBERS**

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

Case #: ZBA 2007-48  
Site: 51 McGrath Highway  
Date of Decision: January 23, 2008

Decision: Petition Approved with Conditions  
Date Filed with City Clerk: January 30, 2008

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ZBA DECISION

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<b>Applicant Name:</b>	The Marcus Organization
<b>Applicant Address:</b>	155 Schmitt Blvd, Farmingdale, NY 11735-1403
<b>Property Owner Name:</b>	Qunatum Properties, LLC
<b>Property Owner Address:</b>	13 Charlesfield Street, Providence, RI 02906
<b>Agent Name:</b>	Richard G. DiGirolamo, Esq.
<b>Agent's Address:</b>	424 Broadway, Somerville, MA 02145

Legal Notice: Applicant: The Marcus Organization; Owner: Quantum Properties, LLC; seek Special Permit with Site Plan Review approval to construct a three-story building for a self storage facility of 28,800 s.f. and convert an existing building of factory and office use to a self storage facility of 61,760 s.f. under SZO §7.11.12.4.c. The Applicant also seeks a special permit (§4.4.1) to alter a preexisting non-conforming structure. IA zone.

<u>Zoning District/Ward:</u>	Industrial A (IA) zone/Ward 2
<u>Zoning Approval Sought:</u>	§7.11.12.4.c & §4.4.1
<u>Date of Application:</u>	September 6, 2007
<u>Date(s) of Public Hearing:</u>	10/3, 10/17, 11/7, 11/28, 12/12/07, 1/9/08 & 1/23/08
<u>Date of Decision:</u>	January 23, 2008
<u>Vote:</u>	4-0

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Appeal #ZBA 2007-48 was opened before the Zoning Board of Appeals at Somerville City Hall on October 3, 2007. 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 Marcus Organization proposes to convert the existing 61,760 g.s.f. office/factory use into a self-storage facility that will provide 49,408 n.s.f. of usable storage space, and to construct a 38,400 g.s.f. three-story (plus basement) building that will provide 28,800 n.s.f. of additional usable self-storage space.

## **FINDINGS FOR SPECIAL PERMIT (SZO §7.11.12.4.c & §4.4.1):**

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. Additional information regarding drainage systems will be necessary before any building permits are issued.
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 IA district. The IA district seeks to "establish and preserve areas for industrial and related uses which are not incompatible with commercial uses; uses which are most appropriately located as neighbors of industrial use including living and studio space for artists; and uses which are necessary to service the immediate needs of industrial establishments in those areas, and accessory uses to industrial uses such as day care centers, cafeterias, health facilities, and the like."

The project is consistent the purpose of the IA zoning district. This storage facility is a light industrial use that would be compatible with the commercial and residential uses in the area , including being a low-impact use on a less-accessible site.

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."

Since the lot has previously been developed prior natural features have been significantly altered. The appearance of the historic building on the site will not be significantly altered, while the new structure will be generally in character with the industrial and commercial buildings in the vicinity.

The Applicant has designed a site that is compatible with the surrounding neighborhood in terms of the proposed uses, with the building also compatible in terms of height, scale, massing and detailing. Additional landscaping facing the Brickbottom condominiums will further contribute to this effect.

The Applicant is advised that the site plan for this development may be complicated by the MBTA Green Line extension plan. The proposed location of the new structure is in close proximity to the existing railroad tracks and could potentially be situated in the existing Railroad right-of-way (ROW). MBTA consultant, Vanasse Hangen Brustlin, Inc., is currently undertaking a survey to locate the exact location of the ROW boundary. If the survey indicates that portions of the site are within the ROW, or if the MBTA proposes eminent domain to obtain additional ROW, the new building could be impacted. Therefore, the Planning Board would be supportive of future site plan adjustments to relocate the proposed structure away from the ROW towards McGrath Highway. This would have the added benefit of creating greater presence along McGrath Highway, should changes to that roadway make the site more visible.

In addition, the Planning Board supports changes in building design to make the structure easily convertible into a more intensive and transit-oriented use such as offices. This property sits strategically at the junction of the two commuter rail lines and two potential Green Line branches, an ideal location for more intensive land use, or even a Green Line Station.

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

Based upon the comments received from the various City Departments, the project meets accepted standards and criteria for the functional design of facilities, structures, and site construction. Any necessary mitigation or minor design changes have been incorporated into the recommended conditions section of this report.

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."

Because of the nature of the proposed uses and the area in which it is projected to be built no adverse environmental impacts are anticipated. The area surrounding the proposed facility includes a four lane highway and active railroad tracks which together produce pollution in the form of noxious fumes, vibration, noise and illumination (from car headlights, streetlights and commercial signage). This storage facility will not produce a level of emissions that would be higher than are now experienced in the area. By nature, a storage facility will not produce an emission of noxious or hazardous materials or substances pollute water or transmit communications interference. During construction efforts will be made to mitigate dust and control air quality, and to minimize noise. The contractor will implement a waste recycling program to achieve 75% recycled material from the removed debris.

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 Purpose, Interpretation and Scope, and of Article 6, as already described, the Planning 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."

Because of the previous uses and structures on the lot, the landform has been significantly altered and is no longer in a natural state. The Applicant's development plans incorporate the landscaping requirements of the SZO for an industrial site.

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."

As previously mentioned, the natural landform has been altered. The Applicant has made efforts to ensure that the scale and massing are compatible with surrounding buildings in the neighborhood. The proposed building is a modern warehouse design with limited use of windows to maximize interior storage space. This is compatible with other buildings in the vicinity.

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. Stormwater shall be removed from all roofs, canopies, and paved area, and routed through a well-engineered system designed with appropriate stormwater 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.

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 existing structure was constructed circa 1920 and has been occupied by several light industrial tenants since that time. The current proposal would restore the building and contribute to its preservation, while complementing it with the addition of a neighboring structure and additional landscaping.

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 proposed location for the new construction is in an area that will be visible from both McGrath Highway to the south and Linwood Street, situated across the railroad tracks to the north. McGrath Highway is elevated

where it passes the subject site, which will minimize the view of the new structure. The applicant has proposed a wood trellis with English Ivy along the northern side of the proposed structure to screen views of the development from Linwood Street and residential structures across the railroad tracks.

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 fluorescent lights with local occupancy sensors for the majority of the interior lighting in this facility. Lighting controls will be integrated into a building management system for additional control and energy savings. The applicant has included an exterior site lighting plan that demonstrates sufficient lighting for public surveillance. These exterior fixtures will be controlled by a programmable time-clock with photocell override to allow the lights to activate if the outdoor conditions require light for safety. The exterior lighting intensity will have little to no effect on the properties surrounding the facility.

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;"

Both the City's Traffic and Parking Department and the Fire Prevention Bureau have commented on the plans. No outstanding concerns have been communicated to the Planning Board.

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 existing condition of the site is that it has no direct access to a public street, relying on a narrow ingress/egress drive that is part of a neighboring parcel. The proposal would not alter that condition; however Traffic and Parking recommends requiring a vehicle detection system to improve the present situation.

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;"

As previously mentioned, no negative impacts are anticipated as a result of the proposed uses.

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;"

Signage will be limited in size and location to that shown in the elevation diagrams. Lighted signs visible from Brickbottom shall be turned down or off after 10 p.m.

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."

The Applicant indicated in the plans that the dumpsters would be located in the rear corner of the lot. This location screens the dumpster with the side of the existing structure, the rear of an adjacent windowless warehouse and the railroad tracks. Approval conditions regarding dumpster screening have been included in this report. Any transformers should be located as not to impact the historic building or landscaped area, and so as to allow for full screening.

21. Screening of Parking: The layout of the parking in relation to the buildings and streets and the placement of trees will screen some of the parking.

### **DECISION:**

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, 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 (4-0) to **APPROVE** the request. In addition the following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes								
1	Approval is for a 49,408 n.s.f. building at 51 McGrath Hwy. and a 28,800 n.s.f. building at 61 McGrath Hwy., both for use as self-storage facilities. This approval is based upon the following application materials and the plans submitted by the Applicant and/or agent:	BP/CO	ISD/Plng.									
	<table><tr><th>Date</th><th>Submission</th></tr><tr><td>August 3, 2007</td><td>Informational report and description of proposal</td></tr><tr><td>September 6, 2007</td><td>Initial application and plans submitted to the City Clerk's Office</td></tr><tr><td>November 7, 2007</td><td>Traffic Impact and Access Study</td></tr></table>				Date	Submission	August 3, 2007	Informational report and description of proposal	September 6, 2007	Initial application and plans submitted to the City Clerk's Office	November 7, 2007	Traffic Impact and Access Study
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November 7, 2007	Traffic Impact and Access Study											
Any changes to the approved use, site plan or elevations must receive ZBA approval;												
2	A code compliant fire alarm and suppression system will be required. Fire Prevention permits will be required before any work begins;	BP/CO	FP									
3	A vehicle detection system shall be provided	CO	T&P									

	along the bi-directional one lane access approach and configured so that vehicles exiting the rear parking area are required to stop and allow vehicles approaching the rear parking area to proceed;			
4	Applicant will screen the dumpster with fencing that blocks any view of the dumpster itself	CO	Plng.	
5	Any transformers should be located as not to impact the historic building or landscaped area, and shall be fully screened.	Electrical permits & CO	Plng.	
6	Applicant will supply two bicycle parking spaces, which can be satisfied with one U-type bicycle rack.	CO	Plng.	
7	Signage will be limited in size and location to that shown in the elevation diagrams and lighting after 10p.m. facing residential property will be turned down or off.	CO/Cont.	Plng.	
8	Landscaping and ivy will be grown on side of building facing Brickbottom Condominiums.	Cont.	Plng.	
9	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 stormwater systems, ensuring they are clean, well kept and in good and safe working order;	Cont.	ISD	
10	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 of concrete;	CO	DPW	
11	To the extent possible, all exterior lighting must be confined to the subject property and must not intrude, interfere or spill onto neighboring properties.	CO/Cont.	ISD	
12	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	
13	To the maximum extent feasible applicant will	During	OSE/ISD	

	adhere to statements made in the application report to utilize strategies during construction to mitigate dust and control air quality, to minimize noise and to implement a waste recycling program to recycle 75% of the material from the removed debris.	Construction		
14	Linkage payments will be required to be paid to the Somerville Housing Trust Fund before a CO is issued.	CO	Housing	
15	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.	
16	The Applicant shall obtain the approval of the MBTA to change the existing site grading or hydrology as proposed in plans dated September 6, 2007.	Building Permit	Plng.	
17	The Applicant prior to the construction process shall meet the MBTA regulations for new construction within 50' of the railroad right-of-way.	Building Permit	Plng.	
18	The ZBA delegates authority to the Planning Staff to review and approve changes to the site plan facilitating the building's being further removed from the railroad right of way, as well as design details of the new building, provided that all dimensional, landscaping, and parking requirements continue to be met.	Building Permit	Plng.	
19	The Applicant shall develop an excavation plan in consultation with the City of Somerville Inspectional Services Department. Full compliance with proper procedures shall be required, including rodent control measures, minimization of dust, noise, odor, and debris outfall, and sensitivity to existing landscaping on adjacent sites.	Building Permit	Plng.	
20	During excavation, if soil contamination is observed, the Applicant shall identify the Licensed Site Professional (LSP) responsible for the removal of any soil contamination at the site. The LSP shall submit to ISD and the Office of Sustainability and Environment (OSE) evidence showing that the site cleanup has been carried out and has met the standards and requirements of the Massachusetts	Building Permit	Plng.	



	Department of Environmental Protection (DEP) OR a professional opinion by the LSP justifying the safety of the site in terms of health and safety of the workforce and occupants after submittal of Immediate Response Completion (IRAC) report to DEP but prior to filing Response Action Outcome (RAO) or Activity and Use Limitation (AUL).			
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 and the Board of Health shall also be notified.	Building Permit	Plng.	

Attest, by the Zoning Board of Appeals:

Herbert Foster, Chairman  
Orsola Susan Fontano, Clerk  
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  
ZBA proceedings are filed in the Somerville Planning Dept.

### **CLERK'S CERTIFICATE**

Any appeal of this decision must be filed within twenty (20) 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 special permit, or any extension, modification or renewal thereof, 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. The owner or applicant shall pay the fee for recording or registering. Furthermore, a permit from the Division of Inspectional Services is 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 either

\_\_\_\_\_ 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.

Signed \_\_\_\_\_

City Clerk Date \_\_\_\_\_