



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.
Elaine Severino (Alt.)

Case #: ZBA 2007-61
Site: 100 Properzi Way
Date of Decision: January 9, 2008
Decision: Petition Approved with Conditions
Date Filed with City Clerk: January 18, 2008

ZBA DECISION

Applicant Name: Moshe Safdie & Associates
Applicant Address: 100 Properzi Way, Somerville, MA 02143
Property Owner Name: Moshe Safdie & Associates
Property Owner Address: 100 Properzi Way, Somerville, MA 02143
Agent Name: Paul Gross
Agent Address: 100 Properzi Way, Somerville, MA 02143

Legal Notice: Applicant-Owner Moshe Safdie seeks Special Permit approval (SZO §4.5.3) for the expansion of a non-conforming use to build a two-story front addition and a two-story rear addition with basement and mezzanine. The Applicant seeks Special Permit approval (SZO §4.4.1) for the front addition that extends 14'1" into the required side yard. NB & RB zone.

Zoning District/Ward: Neighborhood Business (NB) zone & Residence B (RB) zone
Ward 2
Zoning Approval Sought: §4.5.3 & §4.4.1
Date of Application: November 15, 2007
Date(s) of Public Hearing: 12/12/07 & 1/9/08
Date of Decision: January 9, 2008
Vote: 5-0

Appeal #2007-61 was opened before the Zoning Board of Appeals at Somerville City Hall on December 12, 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 Applicant seeks Special Permit approval under SZO §4.5.3 for the expansion of a non-conforming use to build a two-story front addition and a two-story rear addition with basement and mezzanine. The two-story front addition is 942 g.s.f. and will extend 9'6" from the front of the building. The two-story, plus basement and mezzanine rear addition will contain 5806 g.s.f and extend 31' from the rear of the building at a height of 39'. The existing building contains 9,557 n.s.f. and the proposed building with the addition contains 14,955 n.s.f..

The Applicant seeks Special Permit approval under SZO §4.4.1 for the front addition that extends 14'1" into the required side yard. The existing structure currently has the same side yard nonconformity as the proposed front addition.

FINDINGS FOR SPECIAL PERMIT (SZO §4.5.3 & §4.4.1):

1) **Information Supplied:** The Planning 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."

The Applicant requires a special permit under §4.5.3 to expand the nonconforming use. Under §4.5.3 "Expansion, alteration, enlargement or extension of a lawfully existing nonconforming use shall be permitted only by the granting of a special permit authorized by the SPGA in accordance with the procedures of Article 5, provided that the SPGA finds that such change is not substantially more detrimental to the neighborhood than the existing degree of nonconformity. In judging detriment, the SPGA may consider, without limitation, impacts upon the following: traffic volumes, traffic congestion, type of traffic, change in traffic patterns and access to the site, adequacy of municipal water supply and sewer capacity, noise, odor, glare, scale, on-street parking, shading, visual effects and neighborhood character."

The Board finds that, as proposed, the expansion **would not be substantially more detrimental** to the surrounding neighborhood than the existing nonconforming use, as required under §4.5.3 of the SZO. The proposal is not substantially more detrimental in all relevant categories, including traffic volumes, traffic congestion and neighborhood character. Enabling the architectural firm to centralize their operations in Somerville is a benefit to the community and the operation appears to be compatible with its quiet surroundings. The proposal includes the addition of nine off-street parking spaces, and the Applicant has described several transportation demand management approaches that the firm has taken to encourage alternative means of commuting to work, including providing bicycle racks and showers to encourage walking and cycling, and subsidizing transit passes.

The Applicant requires a special permit under SZO §4.4.1 to expand the nonconforming use. Under §4.4.1 "Lawfully existing nonconforming structures other than one- and two- family dwellings may be

enlarged, extended, renovated or altered only by special permit authorized by the SPGA in accordance with the procedures of Article 5. The SPGA must find that such extension, enlargement, renovation or alteration is not substantially more detrimental to the neighborhood than the existing nonconforming building. In making the finding that the enlargement, extension, renovation or alteration will not be substantially more detrimental, 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 Board finds that the Applicant’s proposal **would not be substantially more detrimental** to the surrounding neighborhood than the existing structure, as required under §4.4.1 of the SZO. The proposal is not substantially more detrimental in all relevant categories, including visual effects and neighborhood character. This enlargement is in character with the existing building and will not further reduce the depth of the side yard.

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 Board finds that the proposal **is consistent** with the purposes set forth in Article 1 of the Zoning Ordinance; and, to the extent possible for a lawful pre-existing nonconforming structure, with those purposes established for the Neighborhood Business (NB) and Residential B (RB) zoning districts in which the property is located, namely “(t)o 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” in the RB zones and “(t)o establish and preserve areas for small-scale retail stores, services and offices which are located in close proximity to residential areas and which do not have undesirable impacts on the surrounding neighborhoods” in the NB zones.

The Board finds that the proposal **is consistent** with the purposes set forth in Article 7 of the Zoning Ordinance regarding lots in two zoning districts. Under §7.4 the SZO “Land in a more restrictive zoning district may supply space for a use permitted in a less restricted zoning district if the use of the land in the more restrictive district satisfies space and passive use requirements (such as setbacks, landscaping or parking) that are not prohibited in the more restrictive district.

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 Board finds that the proposal **is compatible** with the site and area. The proposed enlargement on the first two stories is designed to maintain the architectural style of the existing structure. The mezzanine will feature a more modern design that will complement the appearance of the structure, which was itself originally a “modern” industrial design.

5) Parking: Two editions of the site plan and parking proposal have been submitted.

The original site plan and parking proposal (Site Plan A0.1) dated November 15, 2007 was an effort by the applicant to maximize parking on the lot and provided 26 parking spaces, 4 more than required under the SZO. This plan produced a large reduction in landscaping and a traffic flow strategy that was unacceptable to the Traffic and Parking department. The plan required four (4) parallel spaces along the

south side of the building to proceed to the rear parking lot to turn around in order for the cars to exit the lot frontwards. The Board also found the plan unacceptable, believing that this arrangement would lead to cars backing out of the driveway and onto Properzi Way creating a traffic safety issue. The applicant agreed to alter the parking proposal and the Planning Board recommended approval of the project with the anticipated changes to the parking plan.

The second site plan and parking proposal (Site Plan A0.2) dated January 3, 2008, implicitly recommended by the Board, provides for nine (9) additional spaces and remains compatible with the parking requirements under SZO §9.5. The four (4) parallel spaces have been removed. However, Traffic and Parking has expressed concern that the maneuvering space for the two spaces closest to Skehan Street is not adequate and that the 12 foot width of the driveway would not enable cars to pass each other.

Regarding the parking in the rear, this proposal will formalize an existing informal parking arrangement without creating any new non-conformity. Planning Staff has worked closely with the applicant to develop a proposal that has addressed several other concerns that Traffic and Parking previously had.

Given that the 12 foot wide driveway is the existing means of access/egress to the rear parking area and that it will not be further reduced, The Board finds the nine (9) additional cars proposed to use the driveway not to be an impediment to the development. The applicant has submitted a memorandum dated 12/20/07 that outlines their parking management and philosophy and addresses measures they will be analyzing and undertaking to reduce the numbers of their employees driving to work.

DECISION:

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Elaine Severino and Scott Darling. Upon making the above findings, Susan Fontano made a motion to approve the request for a special permit. Richard Rossetti 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 applicant to expand a non-conforming use to build a two-story front addition that extends into the required side yard, and a two-story rear addition with basement and mezzanine. This approval is based upon the following application materials and the plans submitted by the Applicant and/or its contractor:	BP/ CO	ISD/ Plng.									
	<table><tr><th>Date</th><th>Submission</th></tr><tr><td>November 15, 2007</td><td>Initial application and plans submitted to the City Clerk’s Office</td></tr><tr><td>January 3, 2008</td><td>Site Plans</td></tr><tr><td>January 4, 2008</td><td>Parking Memo</td></tr></table>	Date	Submission	November 15, 2007	Initial application and plans submitted to the City Clerk’s Office	January 3, 2008	Site Plans	January 4, 2008	Parking Memo			
Date	Submission											
November 15, 2007	Initial application and plans submitted to the City Clerk’s Office											
January 3, 2008	Site Plans											
January 4, 2008	Parking Memo											
	Any changes to the approved site plan or elevations											

	must receive ZBA approval.			
2	The applicant shall place appropriate signage on the driveway to alert drivers to potential oncoming vehicles.	CO	PIng.	
3	The facade materials should match as closely to the existing facade as possible. The ivy on the façade, the magnolia tree in the front yard and the bushes along the base of the façade will be moved or replaced	CO	PIng.	
4	The new parking lot shall be screened from Skehan Street and surrounding residential with new landscaping and fencing (chain link fence should be removed and replaced if possible) pursuant to §10.5 screening requirements. Landscaping shall be installed to National Nurserymen's standards.	CO	PIng.	
5	Fire Prevention shall conduct an on-site inspection of both 100 and 92 Properzi Way	CO	FP	
6	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	PIng.	
7	The Applicant has agreed to remove the roof deck surrounding the new penthouse structure over the existing structure.	CO	PIng.	
8	The Applicant has agreed to install a magnet locking device on the door that allows access from the new penthouse to the roof area.	CO	PIng.	
9	The Applicant shall have the opportunity to seek relief from this Board in the future for the installation of the roof deck.			

Attest, by the Zoning Board of Appeals:

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