



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

MEMBERS

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Case #: ZBA #2009-11
Site: 184 Summer Street
Date of Decision: June 3, 2009
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: June 8, 2009

ZBA DECISION

Applicant Name:	Agassiz Preschool, Inc.
Applicant Address:	1803 Massachusetts Avenue, Cambridge, MA 02140
Property Owner Name:	Jeanne Salvo
Property Owner Address:	184 Summer Street, Somerville, MA 02143
Agent Name:	Tracy Kaplan, Director
Agent Address:	1803 Massachusetts Avenue, Cambridge, MA 02140

Legal Notice: Applicant Agassiz Preschool, Inc. and Owner Jeanne Salvo seeks a special permit (SZO §4.4.1) to construct a 650± s.f. addition to a structure on a nonconforming lot and a special permit (SZO §9.13.a) for modification of parking requirements for nonconforming structures and lots. RA zone. Ward 3.

<u>Zoning District/Ward:</u>	RA zone/Ward 3
<u>Zoning Approval Sought:</u>	§4.4.1 & §9.13.a
<u>Date of Application:</u>	April 14, 2009
<u>Date(s) of Public Hearing:</u>	5/20 & 6/3/09
<u>Date of Decision:</u>	June 3, 2009
<u>Vote:</u>	5-0

Appeal #ZBA 2009-11 was opened before the Zoning Board of Appeals at Somerville City Hall on May 20, 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.

DESCRIPTION:

The proposal is to construct a 650± square foot multi-level addition for a preschool and to construct a staircase and elevator to meet building and fire codes, and ADA and the Department of Early Education and Care's (EEC), the preschool licensing body, regulations. The renovation would consist of removing existing porches and adding a

one-story porch that wraps around the building. The Applicant submitted the following information regarding the preschool that would utilize the renovated structure. The Agassiz Cooperative Preschool is a 35 year old childcare facility serving 40 children aged 2-5. It operates Monday through Friday from 8:30am to 4:30pm with some evening and weekend meetings. There are 6 staff members and 2 parents volunteering at peak times.

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

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 addition 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 §4.4 of the SZO, Staff find that the alterations proposed would not be substantially more detrimental to the neighborhood than the existing structure. The addition would comply with all of the dimensional requirements except for the nonconforming lot size.

In considering a special permit under §9.13 of the SZO 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.

As conditioned, the proposal would not cause detriment to the neighborhood.

The use as a preschool complies with the Massachusetts General Laws' definition of day care center or preschool. It receives children from different families that are less than seven years of age. It provides nonresidential care during part or all of the day separate from their parents and the services are limited to preschool services.

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 providing for and maintain the uniquely integrated structure of uses in the City and preserving the historical and architectural resources of the City. The proposal is also consistent with the purpose of the district – the appearance of the structure would remain as a residence and the preschool would be convenient to the residents of the district.

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 § 9.1. As conditioned, the proposal would be consistent with the purposes of §9.1.

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 addition would be sympathetic to the historic character of the structure and would replace an inappropriate modern porch. The roofline of the addition would match that of the original structure and the proposed porch would add interest to the building and help to incorporate the old and the new portions of the house together. The siding would match the rest of the building. The gothic bargeboards would be repaired.

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

There is an existing circulation pattern to drop children off at the St. Catherine's school. There would be an increase in the use of the traffic pattern; however, with the information provided in the traffic study and in the parking management plan, the Board does not anticipate that it would negatively affect traffic congestion or the potential for traffic accidents. Additionally, the drop-off times differ from St. Catherine's school and pick-up times for the children vary, which would spread out afternoon and evening travel to the site.

DECISION:

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Elaine Severino and Scott Darling with Josh Safie recused. 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 the construction of a 650± s.f. addition to a structure on a nonconforming lot and modifications of parking requirements. 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>(April 14, 2009)</td><td>Initial application submitted to the City Clerk’s Office</td></tr><tr><td>March 30, 2009 (April 27, 2009)</td><td>Plans submitted to OSPCD (existing elevations: EC 4.0, 4.1)</td></tr><tr><td>April 24, 2009 (April 27, 2009)</td><td>Plans submitted to OSPCD (site plan)</td></tr><tr><td>April 14, 2009 (April 27, 2009)</td><td>Plans submitted to OSPCD (demo plans: D 01.1, 01.2; area plans: A 00.1; floor plans: A 01.1, 01.2; roof plan: 01.3; proposed elevations: A 2.1, 2.2)</td></tr><tr><td>April 27, 2009 (April 27, 2009)</td><td>Plans submitted to OSPCD (conceptual site plan: S 0.1)</td></tr></table>				Date (Stamp Date)	Submission	(April 14, 2009)	Initial application submitted to the City Clerk’s Office	March 30, 2009 (April 27, 2009)	Plans submitted to OSPCD (existing elevations: EC 4.0, 4.1)	April 24, 2009 (April 27, 2009)	Plans submitted to OSPCD (site plan)	April 14, 2009 (April 27, 2009)	Plans submitted to OSPCD (demo plans: D 01.1, 01.2; area plans: A 00.1; floor plans: A 01.1, 01.2; roof plan: 01.3; proposed elevations: A 2.1, 2.2)	April 27, 2009 (April 27, 2009)	Plans submitted to OSPCD (conceptual site plan: S 0.1)
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Any changes to the approved site plan or elevations that are not <i>de minimis</i> must receive ZBA approval.																
2	The Applicant or Owner shall meet the Fire Prevention Bureau’s requirements.	CO	FP													
3	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, ensuring they are clean, well kept and in good and safe working order.	Cont.	ISD													
4	The Applicant shall at his expense replace any existing equipment (including, but not limited to the fire pull box, 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													

5	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	
6	The Applicant shall ensure that the parents' manual describes the parking management plan and that it is reinforced via annual instruction email, and at all school meetings.	Perpetual	Plng./ T&P	
7	The Applicant shall create a parking distribution plan for families that drive to the site. Any modifications to the plan should be approved by the Traffic and Parking Department.	CO	T&P	
8	The school shall post a parent helper along the curb prior to the arrival of the first car during drop off times to keep parents moving along.	Perpetual	T&P	
9	Parents are not allowed to use the driveway as a drop-off location.	Perpetual	T&P	
10	The Applicant shall provide pedestrian impact recovery systems to be used on Summer Street in the vicinity of proposed school. The number of systems will be determined by the Traffic and Parking Department.	CO	T&P	
11	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	Plng.	

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 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 _____