



CITY OF SOMERVILLE, MASSACHUSETTS
OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2012-24
Date: May 15, 2012
Recommendation:
§7.11.1.c – Denial
§4.4.1 – Conditional Approval

PLANNING STAFF REPORT

Site: 231-233 Holland Street

Applicant Name: 62 College Ave Trust LLC
Applicant Address: 30 College Avenue, Somerville MA 02144
Property Owner Name: 62 College Ave Trust LLC
Property Owner Address: 30 College Avenue, Somerville MA 02144
Agent Name: Adam Dash, Esq.
Agent Address: 48 Grove Street, Suite 304, Somerville MA 02144
Alderman: Robert Trane

Legal Notice: Applicant/Owner 62 College Ave Trust LLC, seek a Special Permit under SZO §7.11.1.c to establish 5 residential units at the site along with an existing 1,000 sf office and a Special Permit under §4.4.1 to change doors on a nonconforming structure.

Zoning District/Ward: NB zone / Ward 7

Zoning Approval Sought: Special Permits §7.11.1.c and §4.4.1

Date of Application: March 20, 2012

Dates of Public Hearing: Zoning Board of Appeals – **May 16, 2012**

I. PROJECT DESCRIPTION

1. Subject Property: The subject property is a 5,000 square foot lot with a mixed-use building situated on it near the intersection of Holland Street and Broadway in Teele Square. The structure has 8,032 gross square feet and 4,487 square feet of habitable space. The structure is 2½ stories high, not including the basement level, with a gable roof. There are currently three tandem parking spaces at the property as well. In November of 1941, the Zoning Board of Appeals granted relief to the Applicant at that time to construct a one story concrete building and alter the first story of the existing building at the property.



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2. Proposal: The property currently contains one commercial storefront (currently leased to an IT support company) and several residential units. There is a difference of opinion between the City and the Applicant as to the legal number of dwelling units at the property as the Applicant has performed a substantial amount of work at the property without the necessary building permits. The Applicant is claiming that there are, and have been, five dwelling units and one commercial unit at the property. The Inspectional Services Division feels that there are only two legal dwelling units and one commercial unit at the property. In the interest of resolving this difference, but in no way admitting any need for zoning relief, the Applicant has filed a Special Permit application to establish the use of the property to be one commercial storefront of 987 square feet (as-of-right) and five residential units (which requires a Special Permit). Additionally as part of this application, the Applicant will now be applying for Special Permits to legalize already completed exterior work and apply for additional exterior modifications to the existing nonconforming structure. An existing garage door at the end of the driveway has already been replaced with a pedestrian door and windows and an access door on the low rubber roof has already been changed. The Applicant, at the suggestion of Planning Staff, would also like to make modifications to the commercial storefront by enlarging the window openings on the front façade. In addition, new PVC panels and trim will be implemented and gooseneck lighting will be installed on the façade as part of the renovation to the exterior of the structure.

3. Nature of Application: This is a mixed use property located in an NB (Neighborhood Business) district. In an NB district, the establishment of four or more dwelling units at a property requires a Special Permit as specified in §7.11.1.c. of the Somerville Zoning Ordinance (SZO). Furthermore, the property and structure are currently nonconforming with respect to the minimum landscaped area and the rear yard setback. These existing nonconformities require the Applicant to obtain a Special Permit under SZO §4.4.1 to alter the nonconforming structure to change the existing garage door at the property to a pedestrian door, change the access door on the low rubber roof, enlarge the window openings on the front façade, and to implement the PVC panels, trim, and gooseneck lighting.

4. Surrounding Neighborhood: This is a mixed-use property located in an NB district. The property is located in Teele Square where there is a mix of residential and commercial uses, reflective of its NB district classification. There are several restaurants, retail stores, and office uses in this area as well, and most businesses do not provide off-street parking. The subject property helps the transition from the commercial nature of Teele Square to the surrounding residential neighborhood which is a mixture of single-, two-, three-, and multi-family dwellings. The structures in the surrounding area are mostly between 2½ and 3 stories in height.

5. Impacts of Proposal: With regard to the proposed exterior changes to the existing structure, there shall be minimal impacts to the surrounding neighborhood. The enlarged and lowered windows on the front facade and the gooseneck lighting would help to create a more pedestrian friendly streetscape experience along Holland Street. Additionally, the gooseneck lighting and established signage areas will help to solidify and identify the commercial storefront as a place of business, not to be confused with the associated residences at the property. Further, the removal of the garage door at the end of the driveway is a substantial positive change for the property as it adds more residential qualities to the property and removes reference to the former automotive uses at the site.

However, with regard to the proposal to establish a total of five residential units at the property, there would be some negative impacts to the surrounding neighborhood. Fire Prevention has expressed concerns about the life safety issues associated with Units # 1 and # 2. All of the bedrooms in Unit # 1 have no windows and therefore no way for Fire Prevention to get access to those spaces other than through the doorway to each room. The only other means of egress from entire Unit # 1 besides the front

door, is a side door which leads into a common area with the washer and dryer and the two small windows adjacent to the front door. While Unit # 2's bedrooms on the second floor have windows, the bedroom on the first floor does not have any windows, and the location of this particular unit on the lot and in the building make it very difficult for fire/emergency access. Furthermore, as there are only three tandem parking spaces at the property, this would only provide three of the five proposed units with an off-street parking space. This means that two of the units primarily vehicle, all of the units secondary vehicles (if they have one), and all visitor vehicles will have to park on the street in the surrounding area, which could create additional parking issues for the neighborhood. The structure on the property will remain a 2½ story, mixed-use building. Planning Staff is recommending that the Applicant only be allowed to establish three dwelling units at the property, along with the commercial unit, all of which is permissible as-of-right under the SZO.

6. Green Building Practices: None indicated.

7. Comments:

Fire Prevention: Indicated in an email to Planning Staff on April 5, 2012 that “The proposed alterations to the property would require an 18’ wide fire lane, a code compliant fire suppression system, a code compliant fire alarm with central station monitoring.” At a later date, Fire Prevention also expressed their concerns about Units # 1 and # 2 (as shown on the plans) and how they would not meet fire safety code compliance, which means that Fire Prevention would not sign off on the establishment of these two residential units at the property.

Ward Alderman: Alderman Trane has been contacted but has not yet provided comments.

Inspectional Services Division: Has been contacted but has not yet provided comments.

Wiring Inspector: Has been contacted but has not yet provided comments.



Existing Conditions



Existing Driveway Area

II. FINDINGS FOR SPECIAL PERMIT (SZO §7.11.1.c and §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 Staff 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 §4.4 of the SZO, Staff find that the alterations proposed to the exterior of the nonconforming structure would not be substantially more detrimental to the neighborhood than the existing structure. The enlarged and lowered windows on the front facade and the gooseneck lighting would help to create a more pedestrian friendly streetscape experience along Holland Street. Additionally, the gooseneck lighting and established signage areas will help to solidify and identify the commercial storefront as a place of business, not to be confused with the associated residences at the property. Further, the removal of the garage door at the end of the driveway is a substantial positive change for the property as it adds more residential qualities to the property and removes reference to the automobile uses at the site.

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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."

If the Applicant were permitted to establish five dwelling units at the property, the proposal would **NOT** be consistent with the general purposes of the Ordinance as set forth under §1.2, which includes, but is not limited to promoting "the health, safety, and welfare of the inhabitants of the City of Somerville; to protect health; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land; and to avoid undue concentration of population."

With regard to the Special Permit request to alter the nonconforming structure, that portion of 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 maintaining “the uniquely integrated structure of uses in the City; to protect health; to secure safety from fire, panic and other dangers; to provide adequate light and air; to conserve the value of land and buildings; and to encourage the most appropriate use of land throughout the City.”

The general concept of having a mixed-use property in this location is consistent with the purpose of the district (6.1.4. NB - Neighborhood Business Districts), which is, “To 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.”

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 proposed and completed alterations to the nonconforming structure are compatible with the characteristics of the surrounding neighborhood. The enlarged and lowered windows on the front façade and the gooseneck lighting would help to create a more pedestrian friendly streetscape experience along Holland Street. Additionally, the gooseneck lighting and established signage areas will help to solidify and identify the commercial storefront as a place of business, not to be confused with the associated residences at the property. Furthermore, the removal of the garage door at the end of the driveway is a substantial positive change for the property as it adds more residential qualities to the property and removes reference to the automobile uses at the site. The structure on the property will remain a 2½ story, mixed-use building. Planning Staff is recommending that they Applicant only be allowed to establish three dwelling units at the property, along with the commercial unit, all of which is permissible as-of-right under the SZO.

5. Adverse 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.

No adverse environmental impacts are anticipated as part of this proposal. No new noise, glare, smoke, vibration, nor emissions of noxious materials nor pollution of water ways or ground water, nor transmission of signals that interfere with radio or television reception are anticipated as part of the proposal. The structure on the property will remain a 2½ story, mixed-use building. Planning Staff is recommending that they Applicant only be allowed to establish three dwelling units at the property, along with the commercial unit, all of which is permissible as-of-right under the SZO.

III. RECOMMENDATION

Special Permits under §7.11.1.c and §4.4.1

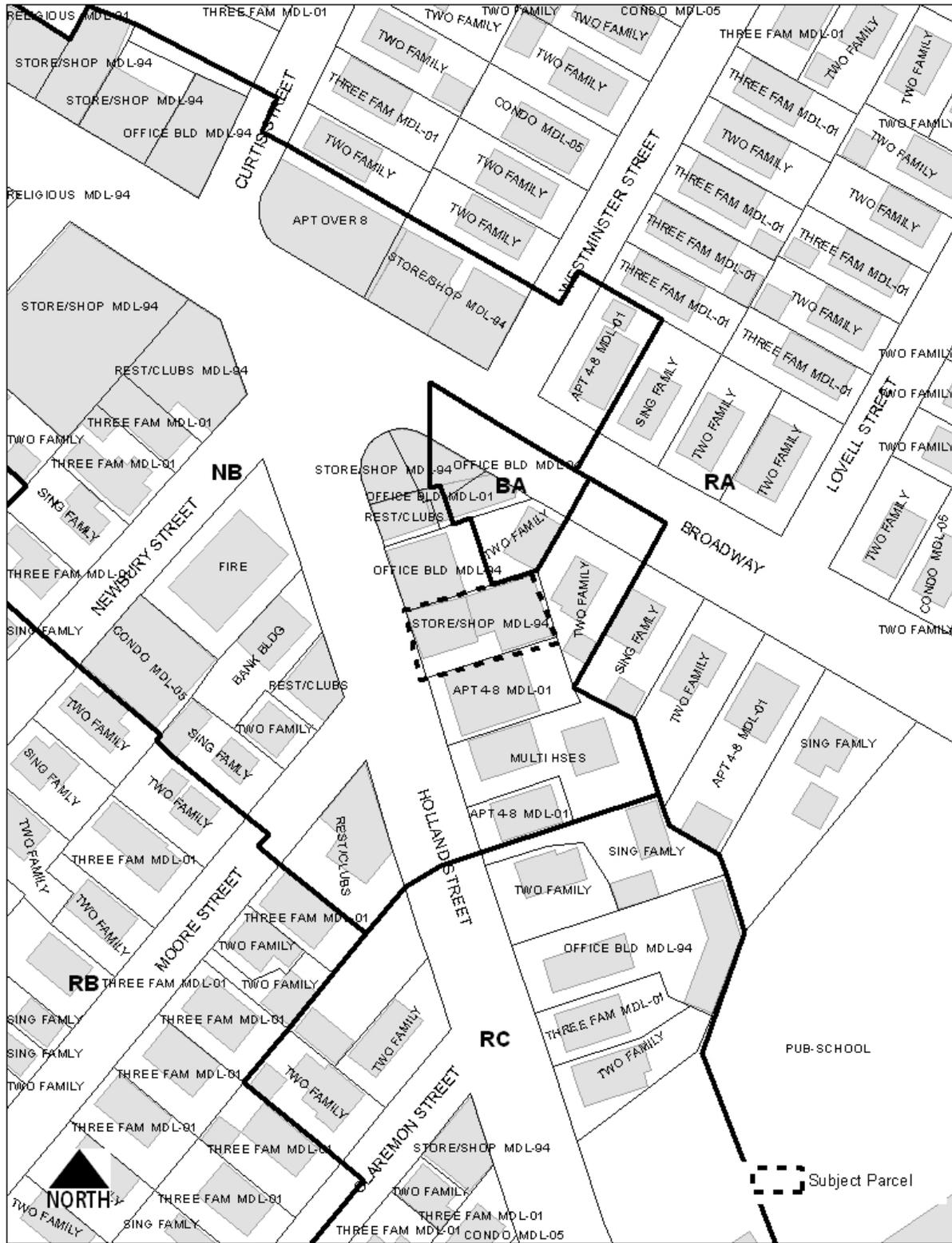
Based on the materials submitted by the Applicant and the above findings, the Planning Staff recommends **DENIAL** of the requested **SPECIAL PERMIT UNDER §7.11.1.c** to establish five (5) residential units at the property.

Based on the materials submitted by the Applicant, the above findings, and subject to the following conditions, the Planning Staff recommends **CONDITIONAL APPROVAL** of the requested **SPECIAL PERMIT UNDER §4.4.1** to change doors and windows on a nonconforming structure.

The recommendation is based upon a technical analysis by Planning Staff of the application material based upon the required findings of the Somerville Zoning Ordinance, and is based only upon information submitted prior to the public hearing. This report may be revised or updated with new recommendations, findings and/or conditions based upon additional information provided to the Planning Staff during the public hearing process.

#	Condition	Timeframe for Compliance	Verified (initial)	Notes								
1	Approval is to alter a nonconforming structure under SZO §4.4.1 to change doors and windows on a nonconforming structure. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	ISD/PIng.									
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>(March 20, 2012)</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>March 19, 2012 (May 11, 2012)</td> <td>Title Sheet and Certified Plot Plan (AD-000 and C-001)</td> </tr> <tr> <td>February 22, 2012 (May 11, 2012)</td> <td>Permit Floor Plans, Current Floor Plans, Current Elevations, and Proposed Elevations (AD-100, AD-101, AD-200, and A-200)</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	(March 20, 2012)	Initial application submitted to the City Clerk's Office	March 19, 2012 (May 11, 2012)	Title Sheet and Certified Plot Plan (AD-000 and C-001)	February 22, 2012 (May 11, 2012)	Permit Floor Plans, Current Floor Plans, Current Elevations, and Proposed Elevations (AD-100, AD-101, AD-200, and A-200)
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Any changes to the approved elevations that are not <i>de minimis</i> must receive SPGA approval.												
2	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									
3	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP									
4	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 to DPW standard.	CO	DPW									

5	This Special Permit approval shall only allow for the establishment of three (3) dwelling units at the property. If the Owner or an Applicant wishes to establish additional units at the property, they must receive SPGA approval first.	Perpetual	ISD/Plng.	
6	The Applicant shall contact Planning Staff at least five working days in advance of a request for a final inspection by Inspectional Services 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.	



231-233 Holland Street