



**CITY OF SOMERVILLE, MASSACHUSETTS**  
**MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT**  
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EXECUTIVE DIRECTOR

PLANNING DIVISION

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JOSH SAFDIE (ALT.)

**Case #: ZBA # 2012-101**  
**Site: 1-3 Benton Road**  
**Date of Decision: January 23, 2013**  
**Decision: Petition Approved with Conditions**  
**Date Filed with City Clerk: February 1, 2013**

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**ZBA DECISION**

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<b>Applicant Name:</b>	MLM Realty Trust
<b>Applicant Address:</b>	19 Stetson Shrine Lane, Norwell, MA 02061
<b>Property Owner Name:</b>	MLM Realty Trust
<b>Property Owner Address:</b>	19 Stetson Shrine Lane, Norwell, MA 02061
<b>Agent Name:</b>	Thomas Reilly, Esq.
<b>Agent Address:</b>	None listed

Legal Notice: Applicant and Owner MLM Realty Trust seeks a Special Permit under SZO §9.9.a, §9.13.b and §9.13.c to have two shared driveways and 3 sets of 2 tandem parking spaces in a garage for a by-right three-family dwelling.

<u>Zoning District/Ward:</u>	RB zone/Ward 3
<u>Zoning Approval Sought:</u>	§9.9.a, §9.13.b & §9.13.c
<u>Date of Application:</u>	November 26, 2013
<u>Date(s) of Public Hearing:</u>	1/9 & 1/23/13
<u>Date of Decision:</u>	January 23, 2013
<u>Vote:</u>	5-0

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Appeal #ZBA 2012-101 was opened before the Zoning Board of Appeals at Somerville City Hall on January 9, 2013. 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.



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**DESCRIPTION:**

The proposal is to have two shared driveways so that the existing curb and driveway at 3 Benton Road can provide access to the existing parking spaces for 1 Benton Road and the existing curb cut at 1 Benton Road can provide access to the parking spaces that will be constructed for the residential units at 3 Benton Road.

The by-right 3-family dwelling at 3 Benton Road could be constructed without the shared driveway approval by providing a driveway from the existing curb cut at Benton Road to parking proposed at the back of the lot. A condition of the subdivision approval limited the future driveway at 3 Benton Road to the south side of the lot, or if the applicants requested, as they are doing in this application, they could provide access to the parking in the rear of the new structure via a shared driveway along Summer Street. The condition also allows for the curb cut on Benton Road to be maintained to provide access to the two parking spaces at 1 Benton Road. The condition specifies that the Board and staff will support such a special permit application.

## Condition 7:

*The applicant shall not locate a driveway between the structure and the lots on Westwood Road. The applicant shall locate the driveway along the right side of the house, furthest from the Westwood Road lot line, and shall ensure that the house is placed so that adequate width exists for running the driveway along this side. As an alternative, should the applicant choose to pursue such alternative, at the applicant's option, the applicant may seek any applicable ZBA special permit per section 9.13.c and 9.9a to access the parking in the rear of lot 2 from the driveway along Summer Street over lot 1, and may either close the Benton Road curbcut on lot 2 and relocate the two spaces using this curbcut that are currently on lot 1, or retain it to access the two parking spaces currently on lot 1. The Board and its staff will support such a special permit application should the applicant opt to pursue it that locates all traffic off Summer Street. Should this potential option not be feasible, as determined by applicant, the Board would support a special permit, should the applicant in its discretion decide to pursue it, that locates traffic for lot 2 off Summer Street and retains the Benton Road curbcut only for access to the current two spaces on lot 1.*

The proposal also includes altering parking space maneuvering requirements for the residential units at 3 Benton Road so that there could be three sets of two tandem parking spaces in the garage. Each of the two parking spaces in tandem would belong to one residential unit. The by-right 3-family dwelling at 3 Benton Road could be constructed without having the six parking spaces in a tandem configuration. Two parking spaces would be in the garage and four parking spaces would be along the driveway and in the rear yard.

**FINDINGS FOR SPECIAL PERMIT (SZO §9.9.a, 9.13.b, 9.13.c):**

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 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 shared driveway and tandem parking spaces would not cause detriment to the surrounding neighborhood. These site conditions would not increase traffic volumes or change the type of traffic as the 3-family use would not change. The driveway would have sufficient maneuvering spaces so that queuing would not be a problem. The proposal would allow nine of the eleven parking spaces for both properties to use Summer Street as the access street, which is a more traveled road than Benton Road. The nine cars would be able to pull out onto the street in a forward direction reducing the potential for vehicular and pedestrian conflicts. Finally, the curb cut on Benton Road would be greatly reduced in length, increasing the amount of on-street parking.

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 adequately protecting the natural environment and encouraging the most appropriate use of land throughout the City.

The proposal is consistent with the purpose of the RB district by providing an efficient maneuvering space and parking for two 3-family houses.

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. The proposal is consistent with Section 9.1. It provides adequate places for storing vehicles off the street in an orderly manner, increases the number of on-street parking spaces, reduces hazards to pedestrians by having most of the cars use the more heavily traveled street and leave in a forward direction, reduces the amount of glare to the neighbor the east, reduces the visibility of expanses of paving, and reduces the amount of impervious materials at the site.

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 shared driveways and tandem parking configuration allow for a better site plan than the by-right options. The shared driveway configuration will reduce the amount of impervious surface on the site than would exist with two separate driveways and provide more area for landscaping. Another benefit of the shared driveway is that it is located along the side and rear yards of the two lots as opposed to the by-right option where the driveway would be in a more visible location between the two structures.

The tandem parking spaces allow for all six of the future parking spaces to be located in garages. The by-right option only provides enough space for two cars to be in garages and four cars would be parked outside. It is beneficial to have the cars in garages and out of site from the right of way and neighboring homes. The sets of tandem parking spaces will be owned by one unit so that the cars can be easily moved to allow for access to the driveway.



**DECISION:**

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Danielle Evans and Josh Safdie. 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	<p>Approval is for shared driveways for 1 and 3 Benton Road to access parking spaces. Approval is also for tandem parking configuration for 3 Benton Road. This approval is based upon the following application materials and the plans submitted by the Applicant:</p> <table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>Nov 26, 2012</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>Nov 26, 2012</td> <td>Plan submitted to OSPCD (Construction Site Plan &amp; Detail Sheet)</td> </tr> </tbody> </table> <p>Any changes to the approved site plan that are not <i>de minimis</i> must receive SPGA approval.</p>	Date (Stamp Date)	Submission	Nov 26, 2012	Initial application submitted to the City Clerk's Office	Nov 26, 2012	Plan submitted to OSPCD (Construction Site Plan & Detail Sheet)	BP/CO	ISD/Png.	
Date (Stamp Date)	Submission									
Nov 26, 2012	Initial application submitted to the City Clerk's Office									
Nov 26, 2012	Plan submitted to OSPCD (Construction Site Plan & Detail Sheet)									
2	Applicant shall provide a binding agreement to Planning Staff and the City Solicitor for review and approval. Once approved, Applicant shall execute the agreement and record it in the Registry of Deeds of Middlesex County.	CO	Png.							
3	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	Png.							
4	To ensure compliance with Planning Board decision condition #8, prior to construction of driveway, the Applicant will provide a sketch plan of the driveway and trees to be removed and review the plan with Planning Staff.	Prior to construction of driveway	Png.							



Attest, by the Zoning Board of Appeals:

Herbert Foster, *Chairman*  
Orsola Susan Fontano, *Clerk*  
Richard Rossetti  
Danielle Evans  
Josh Safdie (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 \_\_\_\_\_

