



CITY OF SOMERVILLE, MASSACHUSETTS
OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
JOSEPH A. CURTATONE
MAYOR

PLANNING DIVISION

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JOSH SAFDIE (ALT.)

Case #: ZBA # 2011-87
Site: 1 College Avenue/419 Highland Avenue
Date of Decision: December 7, 2011
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: December 9, 2011

ZBA DECISION

Applicant Name:	Midshares, Inc.
Applicant Address:	1 College Avenue, Somerville, MA 02144
Property Owner Name:	Midshares, Inc.
Property Owner Address:	1 College Avenue, Somerville, MA 02144
Agent Name:	Joseph Smalarz
Agent Address:	1 College Avenue, Somerville, MA 02144

Legal Notice: Applicant and Owner Midshares, Inc. seeks a special permit to alter a nonconforming structure under SZO §4.4.1 to make alterations to the façade of the building including changes to window and door openings.

<u>Zoning District/Ward:</u>	CBD zone/Ward 6
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	November 4, 2011
<u>Date(s) of Public Hearing:</u>	December 7, 2011
<u>Date of Decision:</u>	December 7, 2011
<u>Vote:</u>	5-0

Appeal #ZBA 2011-87 was opened before the Zoning Board of Appeals at the Visiting Nurse Association on December 7, 2011. 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 Applicant is proposing to remove six existing sections of solid brick wall and an existing recessed entry along Highland Avenue and to replace those areas with windows that align with the existing windows on the Highland Avenue façade. There are currently four, ten foot long sections of brick wall along Highland Avenue that are each bounded by narrow vertical windows on their sides and high, narrow, horizontal windows at their tops. There are two similar four foot sections of solid brick wall like this on the College Avenue façade and they are also bounded by narrow windows. The Applicant is proposing to remove all of these sections of brick wall and the narrow windows that surround them and to replace these areas with much larger windows that replicate those already on the eastern portion of the building's Highland Avenue façade. The four sections along Highland Avenue would each contain two larger windows and the two sections along College Avenue would each become one large window. The Applicant will also be replacing the existing recessed door next to the main entrance of the Middlesex Federal Savings Bank on Highland Avenue with a window. The new window will be the width of the existing doorway and will therefore be narrower than the existing windows on the Highland Avenue façade, but it will be consistent with the aluminum and glass storefront system that is already in place. The area below the new window will be in-filled with brick to match that of the existing brick on the façade. The structure will remain a two-story building for a bank and general office uses.

FINDINGS FOR SPECIAL PERMIT (SZO §4.4.1 & §5.1):

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 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 §4.4 of the SZO, the Board finds that the alterations proposed would not be substantially more detrimental to the neighborhood than the existing structure. The proposed changes to the façade of the building will be a great improvement to the existing situation. The existing façade of the bank portion of the building contains large sections of blank brick wall that are only interrupted briefly by tall, narrow windows. The proposal will take an existing, non-friendly façade and create a much more pedestrian oriented and friendly façade along two sides of the existing building. The existing façade of the bank portion of the building does not provide a comfortable environment for pedestrians and is not entirely in line with district standards and guidelines for the CBD district, which speaks to providing continuous storefronts or pedestrian arcades along the street level. The proposed new façade will create a more interactive sidewalk which will allow both passerby pedestrians, as well as bank employees and patrons, to enjoy the streetscape movement and activity in the Davis Square area. Furthermore, the proposal will allow for the penetration of much more natural light into the bank creating a greatly enhanced business and work environment.

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 maintaining "the uniquely integrated structure of uses in the City; to provide adequate light and air; to conserve the value of land and buildings; to encourage the most appropriate use of land throughout the City; and to preserve and increase the amenities of the municipality."



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The proposal is also consistent with the purpose of the district (6.1.5. CBD - Central Business Districts), which is, to “preserve and enhance central business areas for retail, business services, housing, and office uses and to promote a strong pedestrian character and scale in those areas. A primary goal for the districts is to provide environments that are safe for and conducive to a high volume of pedestrian traffic, with a strong connection to retail and pedestrian accessible street level uses.”

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 designed to be compatible with the characteristics of the surrounding area and it is consistent with the district standards and guidelines for developments within the CBD as laid out in SZO §6.1.5 as follows:

1. Across the primary street edge, the building should complete the streetwall.

The existing building completes the streetwall along both Highland Avenue and College Avenue. The Applicant is not proposing any changes as part of this project that would alter this situation at the site.

2. At the street level, provide continuous storefronts or pedestrian arcade which shall house either retail occupancies, or service occupancies suitably designed for present or future retail use.

The proposed changes to the façade of the building will be a great improvement to the existing situation. The existing façade of the bank portion of the building contains large sections of blank brick wall that are only interrupted briefly by tall, narrow windows. The proposal will take an existing, non-friendly façade and create a much more pedestrian oriented and friendly façade along two sides of the existing building. The proposed new façade will create a more interactive sidewalk which will allow both passerby pedestrians, as well as bank employees and patrons, to enjoy the streetscape movement and activity in the Davis Square area.

3. Massing of the building should include articulation which will blend the building in with the surrounding district. At the fourth floor, a minimum five-foot deep setback is recommended.

The project is not proposing to change the massing of the building. The proposed changes to the structure will create a much more pedestrian oriented and friendly façade along the Highland Avenue and College Avenue streetscapes.

4. Locate on-site, off-street parking either at the rear of the lot behind the building or below street level; parking should not abut the street edge of the parcel.

The Applicant is not proposing any changes to the existing parking situation at the site.

5. Provide access to on-site, off-street parking from either a side street or alley. Where this is not possible, provide vehicular access through an opening in the street level façade of the building of a maximum twenty-five (25) feet in width.

The Applicant is not proposing any changes to the existing parking situation at the site.

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.



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No adverse environmental impacts are anticipated from 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 project. The structure will remain a two-story building for a bank and general office uses.

DECISION:

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Elaine Severino and Josh Safdie voting for Scott Darling and Danielle Evans who were absent for the vote. 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 to alter a nonconforming structure under SZO §4.4.1 to make alterations to the façade of the building including changes to window and door openings. 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>(November 4, 2011)</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>September 28, 2011 (November 18, 2011)</td> <td>Proposed Existing Conditions and Minor Alterations Plan / Proposed Interior Furnishings Plan (A1)</td> </tr> <tr> <td>November 12, 2011 (November 18, 2011)</td> <td>Exterior Front Elevation / Plot Plan (A2)</td> </tr> <tr> <td>November 18, 2011 (November 18, 2011)</td> <td>Proposed Existing Conditions and Minor Alterations Plan / Proposed Interior Furnishings Plan (A3)</td> </tr> <tr> <td>November 18, 2011 (November 18, 2011)</td> <td>Exterior Front Elevation (Proposed) / Plot Plan (A4)</td> </tr> </tbody> </table> <p>Any changes to the approved elevations that are not <i>de minimis</i> must receive SPGA approval.</p>	Date (Stamp Date)	Submission	(November 4, 2011)	Initial application submitted to the City Clerk's Office	September 28, 2011 (November 18, 2011)	Proposed Existing Conditions and Minor Alterations Plan / Proposed Interior Furnishings Plan (A1)	November 12, 2011 (November 18, 2011)	Exterior Front Elevation / Plot Plan (A2)	November 18, 2011 (November 18, 2011)	Proposed Existing Conditions and Minor Alterations Plan / Proposed Interior Furnishings Plan (A3)	November 18, 2011 (November 18, 2011)	Exterior Front Elevation (Proposed) / Plot Plan (A4)	BP / CO	ISD/Plng.	
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2	Applicant shall comply with Fire Prevention Bureau's requirements.	CO	FP													
3	New brick siding and new window type and color shall match those on the existing College Avenue and Highland Avenue façades of the structure.	CO	Plng.													

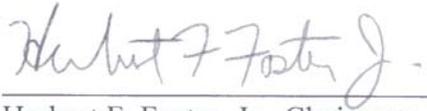


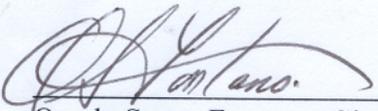
4	The Applicant shall at their expense replace any existing equipment (including, but not limited to street sign poles, signs, traffic signal poles, traffic signal equipment, wheel chair ramps, granite curbing, etc) and the entire sidewalk immediately abutting the subject property if damaged as a result of construction activity. All new sidewalks and driveways must be constructed to DPW standard.	CO	DPW	
5	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 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.	



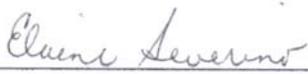
Attest, by the Zoning Board of Appeals:

Herbert Foster, *Chairman*
Orsola Susan Fontano, *Clerk*
Richard Rossetti
Elaine Severino (Alt.)
Josh Safdie (Alt.)


Herbert F. Foster, Jr., Chairman


Orsola Susan Fontano, Clerk


Richard Rossetti


Elaine Severino, (Alt.)


Josh Safdie (Alt.)

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



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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 _____



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