



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

PLANNING DIVISION

**ZONING BOARD OF APPEALS MEMBERS**

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BRANDY BROOKS (ALT.)

**Case #: ZBA 2013-72**  
**Site: 8 Curtis Street**  
**Date of Decision: August 21, 2014**  
**Decision: Petition Approved with Conditions**  
**Date Filed with City Clerk: August 25, 2014**

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**ZBA DECISION**

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<b>Applicant Name:</b>	Shree Ganesh Realty Trust
<b>Applicant Address:</b>	1274 Broadway, Unit #2, Somerville, MA 02144
<b>Property Owner Name:</b>	Shree Ganesh Realty Trust
<b>Property Owner Address:</b>	1274 Broadway, Unit #2, Somerville, MA 02144
<b>Agent Name:</b>	Richard G. DiGirolamo, Esq.
<b>Agent Address:</b>	424 Broadway, Somerville, MA 02145

Legal Notice: Applicant and Owner, Shree Ganesh Realty Trust, seeks a Variance (SZO §5.5) for lot size (§8.5.A) and number of stories (§8.5.F)\* to construct a two-family dwelling with six parking spaces.

<u>Zoning District/Ward:</u>	RA zone/Ward 7
<u>Zoning Approval Sought:</u>	§5.5, §8.5.A & §8.5.F
<u>Date of Application:</u>	October 7, 2013
<u>Date(s) of Public Hearing:</u>	7/16, 8/6 & 8/20/14
<u>Date of Decision:</u>	August 20, 2014
<u>Vote:</u>	5-0

\*The proposal was altered to be a single-family with 8 parking spaces that meets the number of stories allowed.

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Appeal #ZBA 2013-72 was opened before the Zoning Board of Appeals at Somerville City Hall on July 16, 2014. Notice of the Public Hearing was given to persons affected and was published and posted, all as required by M.G.L.



CITY HALL • 93 HIGHLAND AVENUE • SOMERVILLE, MASSACHUSETTS 02143  
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c. 40A, sec. 11 and the Somerville Zoning Ordinance. After two hearings of deliberation, the Zoning Board of Appeals took a vote.

**DESCRIPTION:**

The proposal is to construct a 2,944 net square foot, single-family dwelling on the lot with eight parking spaces behind the building. The house will have a gable roof with a shed dormer on each side that is just less than half of the length of the roof. The single-family house will have four bedrooms.

There will be heavily planted landscaping in the front yard, and along the left side and rear yards. The driveway will be on the right side of the house and will lead to eight parking spaces. The two spaces directly behind the house will be made of pavers that they can be used as a patio space when they are not used for parking cars. An excess of parking is planned for this site in order to use the existing nonconformity as a parking lot in a Residence A (RA) district to provide spaces that are not needed for the single-family dwelling to the residents at 1119-1133 Broadway. The businesses that currently use the parking lot can apply for business parking permits with the City and park on the street during the day when the number of onstreet parking spaces is ample. Technically the extra parking spaces cannot count towards fulfilling the parking requirements of 1119-1133 Broadway because the Special Permit to park on a separate lot is not allowed to cross into the RA district. SZO, §9.13.d states that, “[i]n any business, commercial or industrial district, required parking spaces may be located on a separate lot, which may be in separate ownership, within a zoning district in which the principal use served by the remote parking is a permitted use.” The mixed use building is not an allowed use in the RA district and therefore a special permit to “park on a separate lot” is not possible. However, the preexisting use as a parking lot for tenants of 1119-1133 Broadway allows for this practice to continue.

**FINDINGS FOR VARIANCE (SZO §5.5 & §8.5):**

The dimensional and parking requirements can be found in the table below.

<b>Requirements</b>	<b>RA</b>	<b>Proposal</b>	<b>Permit Required</b>
<b>Min Lot Size</b>	10,000 sf	5,548 sf	Variance
<b>Min Lot Area/Dwelling Unit</b>	2,250 sf	5,548 sf	-
<b>Max Ground Coverage</b>	50%	10.4%	-
<b>Min Landscaped Area % of lot</b>	25%	25%	-
<b>Min Pervious Area</b>	35%	37%	-
<b>Floor Area Ratio (based on nsf)</b>	0.75	0.53	-
<b>Max Height</b>	2.5 stories / 35 ft	2.5 stories / 35 ft	-
<b>Min Front Yard</b>	15 ft	15 ft <sup>±</sup>	-
<b>Min Side Yard</b>	8 ft sum 17 ft	8 ft & 9 ft	-
<b>Min Rear Yard</b>	20 ft	84 ft	-
<b>Min Frontage</b>	50 ft	43 ft	**
<b>Parking</b>	4-2	8	-

\*\* The minimum lot frontage requirements shall not apply to lots in existence prior to May 18, 1988 which were non-conforming to these requirements.

In order to construct the proposal a variance for lot size (§8.5.A) is required. In order to grant a variance the Board must make certain findings and determinations as outlined in §5.5.3 of the SZO.



1. *There are “special circumstances relating to soil conditions, shape or topography of land or structures which especially affect such land or structures but not affecting generally the zoning district in which it is located, causing substantial hardship, financial or otherwise.”*

2. *“The variance requested is the minimum variance that will grant reasonable relief to the owner, and is necessary for a reasonable use of the building or land.”*

Also, SomerVision calls for the City’s residential districts to be conserved. The infill of this vacant parcel with a single-family house that matches the building form of the surrounding area is the kind of proposal that forwards the goals of the comprehensive plan. The rewrite of the zoning ordinance that is underway to ensure that the zoning regulation match the goals of the comprehensive plan will likely allow building types such as the one proposed on lots that are smaller than the existing 10,000 square foot requirement. This will make the urban fabric of the residential districts that the community values legal. Therefore, it is a reasonable use to allow this proposal to go through as we plan for the new regulations.

Moreover, all of the parking and dimensional requirements except for lot size are met and the number of proposed units is less units than that on the surrounding parcels. All of the parcels in the RA district on the block have 3 or more residential units. A proposal for one units that meets all other dimensional requirements is a reasonable use of the land.

3. *“The granting of the variance would be in harmony with the general purpose and intent of this Ordinance and would not be injurious to the neighborhood or otherwise detrimental to the public welfare.”*

The proposed building is familiar in massing and fenestration to other structures on the street. The building will include front porches, dormers, and other elements of quality design that allow it to fit into the context of the neighborhood. The proposed landscaping on the site will be lush and the stormwater runoff from the site will be improved.



**DECISION:**

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Danielle Evans and Elaine Severino. Upon making the above findings, Susan Fontano made a motion to approve the request for a Variance. 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 the construction of a single-family house on a 5,548 sf lot with 8 parking spaces in the rear. The prior approval to use the site to provide parking for tenants of 1119-1133 Broadway will continue. 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>Oct 7, 2013 (complete Jul 7, 2014)</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>July 31, 2014</td> <td>Modified plans submitted to OSPCD (Landscape Plan)</td> </tr> <tr> <td>Mar 17, 2014</td> <td>Modified plans submitted to OSPCD (C-1 Site Utility &amp; Grading Plan, C-2 Details)</td> </tr> <tr> <td>July 24, 2014</td> <td>Modified plans submitted to OSPCD (A-010 Site Plan, A-100 Basement, 1<sup>st</sup>, 2<sup>nd</sup> &amp; 3<sup>rd</sup> Fl Plans, A-101 Roof Plans, A-300 Elevations, Z-003 Perspectives)</td> </tr> </tbody> </table> <p>Any changes to the approved site plan or elevations that are not <i>de minimis</i> must receive SPGA approval.</p>	Date (Stamp Date)	Submission	Oct 7, 2013 (complete Jul 7, 2014)	Initial application submitted to the City Clerk's Office	July 31, 2014	Modified plans submitted to OSPCD (Landscape Plan)	Mar 17, 2014	Modified plans submitted to OSPCD (C-1 Site Utility & Grading Plan, C-2 Details)	July 24, 2014	Modified plans submitted to OSPCD (A-010 Site Plan, A-100 Basement, 1 <sup>st</sup> , 2 <sup>nd</sup> & 3 <sup>rd</sup> Fl Plans, A-101 Roof Plans, A-300 Elevations, Z-003 Perspectives)	BP/CO	ISD / Plng.	
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2	<p>Excess parking spaces at 8 Curtis Street shall be made available to the residents of 1119-1133 Broadway if vacancies exist, spaces can be offered to business tenants. The Owner shall provide to the City a list of users of the parking spaces every two years or upon request to ensure that this condition is met.</p>	Every 2 years	Plng. / ISD											
<b>Pre-Construction</b>														



3	Applicant shall made adjustments to the utility, grading, and drainage plans, if deemed necessary by the Engineering Department to meet the current City of Somerville stormwater policy and address the following items: <ul style="list-style-type: none"> <li>• A test pit WILL be required.</li> <li>• The realized benefit of adding additional infiltration units</li> <li>• Mitigation of sheet flow of a majority of the northern portion of the site directly into Curtis St.</li> <li>• Proposed daily sanitary flows location.</li> <li>• Plan for connecting to and potentially repairing an existing VC sewer in Curtis Street that dates back to the late 1800's and is approximately 10'-12' beneath existing grade if it crumbles.</li> <li>• Elevation on the Detention System detail and the Sewer Chimney Connection detail.</li> <li>• Pervious paver detail and instructions for annual O&amp;M of pavers.</li> </ul>	BP	Eng.	
4	The Applicant shall develop a demolition plan in consultation with the City of Somerville Inspectional Services Division. Full compliance with proper demolition procedures shall be required, including timely advance notification to abutters of demolition date and timing, good rodent control measures (i.e. rodent baiting), minimization of dust, noise, odor, and debris outfall, and sensitivity to existing landscaping on adjacent sites.	Demolition Permitting	ISD	
<b>Construction Impacts</b>				
5	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	
6	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	
<b>Design</b>				
7	Applicant shall provide final material samples for siding, trim, windows, and doors to Planning Staff for review and approval prior to construction.	BP	Plng.	
8	An exterior light and electrical receptacle is required for the first level of the porch and an electrical receptacle is required for the second level.	Final sign off	Wiring Inspector	
<b>Site</b>				
9	Landscaping should be installed and maintained in compliance with the American Nurserymen's Association Standards.	Perpetual	Plng. / ISD	



10	There shall be a minimum of one tree for each 1,000 sf of required landscaped area under SZO §10.3.	CO	Plng.	
11	The electric, telephone, cable TV and other such lines and equipment shall be placed underground from the source or connection. The utilities plan shall be supplied to the Wiring Inspector before installation.	Installation of Utilities	Wiring Inspector	
12	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 and storm water systems, ensuring they are clean, well kept and in good and safe working order.	Cont.	ISD	
<b>Public Safety</b>				
13	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
14	To the extent possible, all exterior lighting must be confined to the subject property, cast light downward and must not intrude, interfere or spill onto neighboring properties.	CO	Plng.	
15	Because of the history of the site and the intended use, the Applicant shall, prior to issuance of any foundation permit and/or any building permit for the project, provide to the Planning Department and the Inspectional Services Division:  a) a copy of the Response Action Outcome (RAO) Statement, signed by a Licensed Site Professional (LSP) and filed with DEP, verifying that a level of no significant risk for the proposed residential use has been achieved at the site; or  b) if remediation has not reached the RAO stage, a statement signed by an LSP describing (i) the management of oil and hazardous materials/waste at the site, including release abatement measures intended to achieve a level of no significant risk for residential use at the site, treatment and storage on site, transportation off-site, and disposal at authorized facilities, (ii) a plan for protecting the health and safety of workers at the site, and (iii) a plan for monitoring air quality in the immediate neighborhood.	Foundation Permit	Plng/ISD	
<b>Final Sign-Off</b>				
16	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.	
17	The Applicant will construct sidewalk apron and reciprocal ramp at M-B-L 8-D-8 to DPW standards.	CO	Plng.	



Attest, by the Zoning Board of Appeals:

Herbert Foster, *Chairman*  
Orsola Susan Fontano, *Clerk*  
Richard Rossetti  
Danielle Evans  
Elaine Severino

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 \_\_\_\_\_

