



CITY OF SOMERVILLE, MASSACHUSETTS
OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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PLANNING DIVISION

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Case #: ZBA # 2009-03-R1-5/2011
Site: 100 Fellsway West
Date of Decision: June 22, 2011
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: June 23, 2011

ZBA DECISION

Applicant Name:	Craig Corporation
Applicant Address:	100 Fellsway West, Somerville, MA 02145
Property Owner Name:	Craig Corporation
Property Owner Address:	100 Fellsway West, Somerville, MA 02145
Agent Name:	Richard G. DiGirolamo, Esq.
Agent Address:	424 Broadway, Somerville, MA 02145

Legal Notice: Applicant & Owner Craig Corporation seek a revision to Special Permit ZBA 2009-03 pursuant to SZO §5.3.8 to change the grading on the site and relocate the garage ramp, garage door location, parking and landscaping. The proposal also includes seeking approval for an increased number of compact parking spaces. The original Special Permit under SZO §4.4.1 was to expand a non-conforming structure within a required front yard setback and a Special Permit with Site Plan Review (SZO §7.11.1.c) to convert from a factory/industrial use to a mixed commercial and residential use in order to construct a 19 unit residential building with approximately 5000sf of office space. BB zone. Ward 1.

<u>Zoning District/Ward:</u>	BB zone/Ward 1
<u>Zoning Approval Sought:</u>	§5.3.8, §4.4.1 & §7.11.1.c & §9.13.b
<u>Date of Application:</u>	May 9, 2011
<u>Date(s) of Public Hearing:</u>	6/8 & 6/22/11
<u>Date of Decision:</u>	June 22, 2011
<u>Vote:</u>	5-0



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Appeal #ZBA 2009-03-R1-5/2011 was opened before the Zoning Board of Appeals at Visiting Nurses Association on June 8, 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.

DESCRIPTION:

The site received a special permit with site plan review (SPSR) (ZBA 2009-03) on August 19, 2009 to construct a two phased project that would ultimately include 54 residential units and approximately 5000 sf of office space. The Zoning Board of Appeals issued a SPSR for phase I of the project and a condition of approval required the applicant to apply for a special permit for the second phase prior to receiving a building permit for the first phase. Details of the second phase still need to be finalized.

Phase I: The first phase of the development contains 19 residential units and 5,000 sf of ground floor office space within an approximately 25,000 g.s.f building at the 100 Fellsway West address. The existing two-story masonry structure has been demolished and a new four-story wooden structure will be built on the existing foundation.

In addition, the applicant demolished the structure at 356 Mystic Avenue in order to allow for windows for the new units, landscaping, parking and improved traffic circulation on the lot. Through negotiations with the HPC, the applicant has agreed to improve and stabilize the remaining structure at 360 Mystic Avenue and to construct the infrastructure for both phases of the project at the inception. The site plan features above and below ground parking, green space and a traffic circulation pattern that allows access and egress on Fellsway West and egress along Mystic Avenue.

Phase II: The second phase of the project will be submitted separately and is required as a condition of approval of phase I. During this phase the corrugated steel structure at 95 Wheatland would be demolished (separate action by the HPC will be required to authorize the demolition). The existing structure at 360 Mystic Avenue would be fully restored and linked to a new residential wing constructed in a similar factory style. The new structure would maintain the 46 ft height of the existing structure and incorporate an elevator tower between the existing structure and new construction. The applicant is proposing 35 units within the completed structure and an additional 40 parking spaces. When completed there will be a total of 54 units and approximately 100 parking spaces on the property.

The Planning Board report from August 5, 2009 attached contains the details of the site and the proposal. The changes to the existing special permit with site plan review that is being requested are due to the need to change the grade of the site to address stormwater runoff issues. It was the Applicant's Civil Engineer's recommendation to raise the elevation of the grade by approximately 3 feet surrounding the parking area at the western and northern portions of the site to alleviate flooding concerns. The increase in the grade change makes it impossible to locate the ramp in its approved location because there is not enough land area to meet the requirements of the slope of the ramp. The new proposed location is on the northern (back) side of the building to accommodate the increase in ramp length. The garage door will be located in the rear of the property and there will be a new egress door from the garage on the western façade.

The landscape area and parking space locations have changed as a result of moving the ramp location. The same number of parking spaces (60) will be located on the parcel as permitted; however, the number of compact parking spaces exceeds the provision in the Somerville Zoning Ordinance that allows 20% of the required spaces to be compact. The Applicant provided justification for the increasing the number of compact spaces to 25% of the total number. The information was acceptable to the City's traffic engineer. Please see Traffic and Parking comments below.

The landscaped area will be shifted to account for the new ramp location. The original approval was for 6, 936 sf of landscaped area, which at 15% exceeds the 10% landscaping requirement for the BB zone. The



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revised plan spreads out the landscaping on the site but there is an overall slight increase in the amount of landscaping to 6,982 sf or 15.37% of the site.

FINDINGS FOR SPECIAL PERMIT (SZO §4.4.1, §7.11.1.c, §5.3.8 & §9.13.b):

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."

The proposal complies with the standards for issuing revisions. The Certificate of Occupancy has not yet been issued, the proposal otherwise is in accordance with the originally approved plans and conditions, and notice has been given for the public hearing.

The increased number of compact spaces from that which is typically allowed under §9.11 was approved by Traffic and 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 change in the ramp, landscaping and parking locations does not change the purpose of the proposal which is consistent with the purpose of the Ordinance and the Business-B zoning district.

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 change in the ramp location does not negatively impact the design of the site except that the landscaped area will be spread out more as a result of the revision. The original site plan had a larger landscaped area between the buildings and a decorative brick paving treatment for a portion of the driveway to make the landscaped areas on either side feel connected. The revision tries to address the spreading out of the landscaping by proposing four densely planted trees along the rear ramp and a decorative railing to improve the condition of the edge of the ramp. Also, the decorative brick paving area was extended.

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

The proposal provides space for the ramp to access the garage to be long enough to account for the change in grading on the site. The pedestrian circulation through the site will be improved because there will be a longer area with decorative brick pavement between the buildings and a longer stretch of landscaping next to this path.



DECISION:

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Danielle Evans and Scott Darling. 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 to construct 19 residential units and 5000sf of first floor office space on the 100 Fellsway West address of MBL 69-E-1 (Phase I of a two phased project). This approval is based upon the following application materials and the plans submitted by the Applicant and/or its contractor:	BP/CO	ISD / Plng.		
	Date (Stamp Date)				Submission
	(2/4/09)				Initial application submitted to the City Clerk's Office
	6/16/09 (7/9/09)				Plans submitted to OSPCD for Phase I: mechanical study
	1-25-11 (6/16/11)				Revised Site Plan (L-100), Revised Garage Floor Plan (A-100)
12-22-10 (6/16/11)	Revised Elevations (A-401)				
	Any changes to the approved plans or use must receive ZBA approval.				
2	The applicant shall file an application for zoning approval for Phase II of the development in accordance with the renderings and site plan submitted to OSPCD dated June 16, 2009 prior to the issuance of the first Certificate of Occupancy for 100 Fellsway West.	First CO	Plng.		
3	The applicant shall construct infrastructure for both Phase I and Phase II as shown in site plan A-010, including all applicable water, sewer, duct and drainage work to the satisfaction of Inspectional Services.	CO	Plng/ISD		
4	The applicant shall complete structural work to stabilize 360 Mystic Avenue and 95 Wheatland Street to the satisfaction of Inspectional Services before the issuance of any demolition or construction permits.	Demolition or building permits	ISD		
5	Applicant shall work with Planning Staff and Traffic and Parking to develop appropriate control measures to ensure automobiles do not cut through the lot from Mystic Avenue to Fellsway West.	CO	Plng./T&P		



6	The Applicant shall work with Planning Staff to locate and screen (with fencing and/or vegetation) from the public way any proposed transformer.	Building Permit	Plng	
7	The Applicant shall install six bicycle parking spaces which could be satisfied by three inverted U-shaped racks.	CO	Plng	
8	No commercial signage on 100 Fellsway West shall be visible from Interstate 93 or Mystic Avenue. Signage visible from Fellsway West shall be approved by Planning Staff.	Cont.	Plng	
9	A code compliant fire alarm and suppression system shall be installed at 100 Fellsway West.	CO	FP	
10	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. The brush shall be cleaned in the corner of the site adjacent to 87 Wheatland Street and the dry well shall be cleaned within 30 days of issuance of special permit modification.	Cont.	ISD	
11	Any fencing installed on the site shall not be chain link.	CO	Plng.	
12	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 meet DPW standards.	CO	DPW	
13	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	
14	The applicant shall provide notice of intent to strictly comply with applicable State and Federal regulations regarding air quality including without limitation continuous dust control during demolition and construction.	CO	Plng/OSE	
15	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. Rodent baiting shall occur twice monthly and a record of the work shall be submitted to Planning Staff.	Demolition Permitting	ISD	



16	Because of the history of the site and the intended residential use, the Applicant shall, prior to issuance of any foundation permit and/or any building permit for the project, provide to the Planning Division 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.	Building Permits	ISD/Plng.	
17	To the maximum extent feasible applicant will utilize strategies during construction to mitigate dust and control air quality, to minimize noise and to implement a waste recycling program for the removed debris.	During Construction	OSE/ISD	
18	Notification must be made, within the time period required under applicable regulations, to the Massachusetts Department of Environmental Protection (DEP) if there is any release of oil, hazardous materials, or regulated hazardous substances at the site. The City's OSE office, Fire Department and the Board of Health shall also be notified.	CO	OSE/FP/BOH	
19	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	
20	Fencing for the entire property shall be constructed of wood or Staff approved wood-like materials at the completion of Phase II.	Cont.	Plng.	
21	The railing along the ramp to the garage shall be the wrought iron, aluminum or an equivalent and be decorative in nature.	CO	Plng.	
22	If the work associated with connections to utilities in Fellsway West is not completed before the City repaves the roadway, the Applicant must wait 5 years to conduct the work, grind and overlay the entirety of Fellsway West after completion of the work or modify the utility connection plan to remove any need to connect to utilities in Fellsway West.	CO	DPW	
23	The curb cut on Mystic Ave shall be a minimum of 15 feet and a maximum of 18 feet wide.	CO	Highway	
24	Applicant shall install a retaining wall along the south western property line where necessary within 30 days of issuance of the special permit modification.	30 days after decision filed	DPW	
25	Contractor shall place contact information on a sign on site that is not in violation of condition #8.	30 days after decision filed	Plng.	



Attest, by the Zoning Board of Appeals:

Herbert Foster, *Chairman*
Orsola Susan Fontano, *Clerk*
Richard Rossetti
T.F. Scott Darling, III, Esq.
Danielle Evans

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 _____



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