



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 # 2011-66
Site: 363 Highland Avenue
Date of Decision: September 21, 2011
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: October 4, 2011

ZBA DECISION

Applicant Name:	Spy Pond Associates, Inc.
Applicant Address:	3755 Glenhurst Avenue, St. Louis, MN 55416
Property Owner Name:	Spy Pond Associates, Inc.
Property Owner Address:	3755 Glenhurst Avenue, St. Louis, MN 55416
Agent Name:	James Freeman/Freeman Realty Associates, Inc.
Agent Address:	505 Main Street, Reading, MA 01867

Legal Notice: Applicant & Owner, Spy Pond Associates, Inc., seek a Special Permit to alter a nonconforming structure under SZO §4.4.1 to install seven (7) skylights on the roof of the western portion of the existing single-story commercial building.

<u>Zoning District/Ward:</u>	CBD zone/Ward 6
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	August 23, 2011
<u>Date(s) of Public Hearing:</u>	September 21, 2011
<u>Date of Decision:</u>	September 21, 2011
<u>Vote:</u>	5-0

Appeal #ZBA 2011-66 was opened before the Zoning Board of Appeals at Somerville City Hall on September 21, 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 proposal is to add even (7) skylights on the flat roof of the western portion of the building to continue the work started in 2001 to add windows to the building to allow for daylight harvesting. The skylights will be 4 ft by 4 ft and provide natural light to an approximately 3,000 sf space that is currently vacant. The space was used as an office in the past and will be re-tenanted as an office. Standard business office hours are expected.

The owner of the building submitted an application in the Spring of 2011 to install nine windows on the northwest side of the building which sits on the property line; however, the owner withdrew the application because of abutter's concerns.

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 skylights will be located on a flat roof and will not be visible from the ground level. The office use will likely be a typical Monday through Friday from 9am to 5pm operation so light spillover is not expected in the middle of the night. The skylights will improve a 3,000 sf interior office space by providing natural light to the space that does not otherwise have windows.

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 adequate light and adequately protecting the natural environment. The windows will provide light into the office space, reducing the electrical usage of the building. The proposal is also consistent with the Central Business District as this proposal will improve the utilization of the professional office building.

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 skylights will be compatible with the built and unbuilt surrounding area. They will be located on a flat roof and will not be visible from the ground level. A parking lot abuts the building where the skylights would be located and the closest structure is eighty feet away.



DECISION:

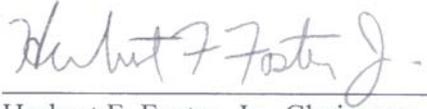
Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Danielle Evans and Scott Darling. Upon making the above findings, Susan Fontano made a motion to approve the request for a special permit. Scott Darling seconded the motion. Wherefore the Zoning Board of Appeals voted **5-0** to **APPROVE** the request. In addition the following conditions were attached:

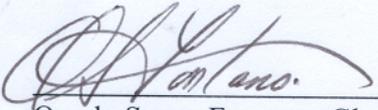
#	Condition	Timeframe for Compliance	Verified (initial)	Notes								
1	Approval is for the installation of seven skylights near the northwest corner of the building. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	ISD/Plng.									
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>August 23, 2011</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>3/23/11</td> <td>Plans submitted to OSPCD (Existing Conditions)</td> </tr> <tr> <td>8/15/11</td> <td>Plans submitted to OSPCD (A0.0 Cover, A 1.3 Roof Plan, A2.0 Reflective Ceiling Plan, S1.1 General Notes, Roof Framing Plan & Typical Details)</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	August 23, 2011	Initial application submitted to the City Clerk's Office	3/23/11	Plans submitted to OSPCD (Existing Conditions)	8/15/11	Plans submitted to OSPCD (A0.0 Cover, A 1.3 Roof Plan, A2.0 Reflective Ceiling Plan, S1.1 General Notes, Roof Framing Plan & Typical Details)
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Any changes to the approved plans that are not <i>de minimis</i> must receive SPGA approval.												
2	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.									

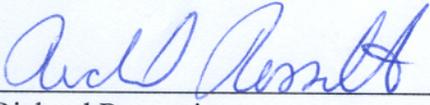


Attest, by the Zoning Board of Appeals:

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


Herbert F. Foster, Jr., Chairman


Orsola Susan Fontano, Clerk


Richard Rossetti


Danielle Evans

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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