



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2014-67
Site: 14-22 McGrath Highway
Date of Decision: August 6, 2014
Decision: Petition Approved with Conditions
Date Filed with City Clerk: August 19, 2014

ZBA DECISION

Applicant Name:	Twin City Plaza, LLC c/o Roger Tyler
Applicant Address:	22 McGrath Highway, Somerville, MA 02143
Property Owner Name:	Twin City Plaza, LLC
Property Owner Address:	P.O. Box 790830, San Antonio, TX 78279
Agent Name:	N/A

Legal Notice: Applicant and Owner, Twin City Plaza, LLC seeks a Special Permit with Site Plan Review under the SZO §5.3.8 to alter a loading dock area of the building that was approved by Special Permit with Site Plan Review.

<u>Zoning District/Ward:</u>	BA zone/Ward 2
<u>Zoning Approval Sought:</u>	§5.3.8
<u>Date of Application:</u>	July 3, 2014
<u>Date(s) of Public Hearing:</u>	August 6, 2014
<u>Date of Decision:</u>	August 6, 2014
<u>Vote:</u>	5-0

Appeal #ZBA 2014-67 was opened before the Zoning Board of Appeals at Somerville City Hall on August 6, 2014. 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.



CITY HALL • 93 HIGHLAND AVENUE • SOMERVILLE, MASSACHUSETTS 02143
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DESCRIPTION:

The proposal is to alter a loading dock on the southwestern side of the building abutting the Millbrook Cold Storage building. Now that this property is under construction, the maneuvering space to access the loading dock has been eliminated on the abutting property and it is difficult to get a truck to the loading dock. The work will include cutting the slab and steel framing and canopy back towards the building to gain back maneuvering space to access the loading dock.

FINDINGS FOR SPECIAL PERMIT WITH SITE PLAN REVIEW (SZO §5.3.8):

In order to grant a special permit with site plan review, the SPGA must make certain findings and determinations as outlined in §5.2.5 of the SZO. This section of the report goes through §5.2.5 in detail.

This proposal for alteration to the loading dock with no change to the operation of the business does not affect the following findings:

5. Adverse Environmental Impacts
6. Impact on the Public Systems
7. Environmental Impacts
9. Preservation of Landform and Open Space
10. Relation of Buildings to Environment
11. Stormwater Drainage
12. Historic or Architectural Significance
13. Enhancement of Appearance
14. Lighting
15. Emergency Access
16. Location of Access
17. Utility Service
18. Prevention of Adverse Impacts
19. Signage
20. Screening of Service Facilities
21. Screening of Parking
22. Impact on Affordable Housing
23. Compliance with SomerVision

1. Information Supplied: The Board finds that the information provided by the Applicant conforms to the requirements of §5.2.3 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 with site plan review."

The Applicant seeks a Special Permit with Site Plan Review under the SZO §5.3.8 to alter a loading dock area of the building that was approved by Special Permit with Site Plan Review. The specific standards for the BA zoning district include locating off-street parking and vehicular access from a side street or alley. The loading dock that is proposed to be altered is not visible from the street or from most views of the building. Access to it is from an alley-like street that wraps the back of the building. The existing condition satisfies this requirement and it is not proposed to change as a result of this application.

3. Consistency with Purposes: The Applicant has to ensure that the project "is consistent with (1) the intent of the specific zoning district as specified in Article 6."



The alteration to the structure will allow the mall to continue to function with the removal of maneuvering space on the abutting property. The mall fits into the BA commercial district's purpose which is, "[t]o establish and preserve business areas bordering main thoroughfares that are attractive to a wide range of uses, including retail business and services, housing, government, professional and medical offices, and places of amusement. While it is anticipated that most users will arrive by motor vehicle, it is intended that the area should be safe for and conducive to pedestrian traffic."

4. Site and Area Compatibility: The Applicant has to ensure that the project "(i)s designed in a manner that is compatible with the existing natural features of the site and is compatible with the characteristics of surrounding area, and that the scale, massing and detailing of the building are compatible with those prevalent in the surrounding area."

The residents that will be moving into the Millbrook building at 39 Medford Street when construction is complete, will have the most prominent view of the loading dock. Since the alteration to pull the dock and canopy in will not impact the frequency of use of the loading dock or the nature of its appearance, the future abutters will not be negatively affected by the alteration. Also, the construction related to the loading dock should be complete well in advance of occupancy of the Millbrook apartments.

8. Consistency with Purposes: "Is consistent with 1) the purposes of this Ordinance, particularly those set forth in Article 1 and Article 5; and 2) the purposes, provisions, and specific objectives applicable to the requested special permit with site plan review which may be set forth elsewhere in this Ordinance, such as but not limited to, those at the beginning of various sections."

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 and facilitating the adequate provision of transportation.



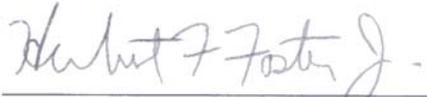
DECISION:

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 Special Permit with Site Plan Review. 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:

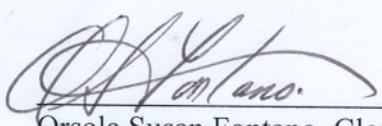
#	Condition	Timeframe for Compliance	Verified (initial)	Notes						
1	Approval is for the alteration of the loading dock on the southwestern side of the building to allow for more maneuvering space to access it. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	ISD / Plng.							
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>July 3, 2014</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>June 30, 201</td> <td>Modified plans submitted to OSPCD (S000 general notes, S100 framing plans, S300concrete plans, S500 section and details)</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	July 3, 2014	Initial application submitted to the City Clerk's Office	June 30, 201	Modified plans submitted to OSPCD (S000 general notes, S100 framing plans, S300concrete plans, S500 section and details)
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Any changes to the approved site plan that are not <i>de minimis</i> must receive SPGA approval.										
2	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							
3	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							
4	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							
Final Sign-Off										
5	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 F. Foster, Jr., Chairman



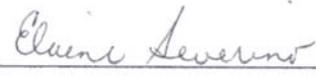
Orsola Susan Fontano, Clerk



Richard Rossetti



Danielle Evans



Elaine Severino, (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

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 _____

