



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 # 2011-83
Site: 44 Park Street
Date of Decision: November 30, 2011
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: December 13, 2011

ZBA DECISION

Applicant Name:	Belam II, Inc.
Applicant Address:	15 Ward Street, Somerville, MA 02143
Property Owner Name:	Belam II, Inc.
Property Owner Address:	15 Ward Street, Somerville, MA 02143
Agent Name:	N/A

Legal Notice: Applicant and Owner Belam II LLC seeks a special permit to alter a nonconforming structure under SZO §4.4.1 by adding windows, doors and a canopy for the use of an approx 6,000 sf by-right child care facility.

<u>Zoning District/Ward:</u>	RC zone/Ward 2
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	November 1, 2011
<u>Date(s) of Public Hearing:</u>	November 30, 2011
<u>Date of Decision:</u>	November 30, 2011
<u>Vote:</u>	5-0

Appeal #ZBA 2011-83 was opened before the Zoning Board of Appeals at Somerville City Hall on November 30, 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 use the eastern portion of the building for a child care facility. The daycare facility will accommodate 44 children and there will be 17 employees. The hours of operation will be from 8am to 5:30pm. The drop-off times are from 8am to 10am and the afternoon pick up times are from 3pm to 5:30pm. Most of the children at the daycare's current location in Harvard Square are picked up by 3:45pm.

The building will be altered to add new windows and doors and add an awning/portico. The siding on portions of the building will also be refinished. The east façade will have the largest change. There is currently no fenestration on this portion of the building. Several new windows and two new entrances are proposed. There will be a portico spanning most of the façade. The HVAC equipment will be on top of the northern portion of the portico and it will be screened by mahogany boards. This side will be clad in hardi-panels with batten at the seams, corrugated metal panels, and mahogany boards. On the west side of the building, the siding on the tower will be replaced with insulated corrugated metal panels to match the south and east facades. There will be a small painted graphic of children on the tower that will primarily be on the southern face of the tower but will wrap around to the western face. There will be new casement windows along the southern face of the building where small windows and a door currently are currently located. The siding on the lower portion of the building will be hardi-panels with batten at the seams. There will be exterior lighting on the façade that will be projecting downward. A portion of the corrugated metal panel on the north elevation will be replaced and two new casement windows will be installed.

There will be a play area and 14 parking spaces behind the building. There will be another 5 parallel spaces along the driveway. The parking lot was designed to be able to be extended when the middle portion of the building is occupied and additional parking will be required for that use.

Other site work will include the installation of ground water recharge tanks for on-site storm water. The new storm drainage system has been designed to remove the existing connection to the sanitary sewer. The recharge tanks will capture and treat rainwater and it will be infiltrated on-site so that adjacent properties will not experience an increase in water runoff. The sanitary sewer has been video inspected and is in good condition. The applicants expect to reuse the connection to the existing sanitary sewer with new internal plumbing connecting the new fixtures to the existing sub slab piping.

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 Board 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 find that the alterations proposed would not be substantially more detrimental to the neighborhood than the existing structure. The alterations to the structure do not increase the nonconforming side yard. In fact the site would become more conforming in terms of the landscape requirements. The new windows proposed will be a significant distance from the surrounding residential neighbors. The lighting proposed for the building will be cast downward so that it will not intrude on the residential neighbors.

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."



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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.

The proposal is consistent with the purpose of the district, which is, “[t]o establish and preserve a district for multi-family residential and other compatible uses which are of particular use and convenience to the residents of the district.” The daycare will be a convenient use to the residents in the area and the renovations to the structure will improve its appearance. However, the warehouse structure and industrial use in the Residence C district is nonconforming. A redevelopment of the site to bring the site into conformance with the Ordinance and to find the highest and best use of the site is desired in the future to meet the goals of the district and the goal of the Ordinance to encourage the most appropriate use of land throughout the City. The applicant has signed a development covenant with the City that will require the applicant to meet with the City no less than once per year beginning at year 9 of the lease to discuss and review the potential for redevelopment of the property. The covenant does not preclude the daycare from exercising an extension to their lease.

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 renovation to the rear portion of the building will greatly improve the appearance of the building which is currently rusty and in need of repair. The new siding, windows, doors and portico on the back portion of the building have been designed to be compatible with the industrial nature of the building but will make the building inviting as a daycare. Ideally the entire building will be renovated when a tenant occupies the middle portion of the building. The driveway was designed to improve the circulation pattern on the site and minimize the increase in traffic. The condition regarding limiting left turn movements into and out of the site will satisfy the traffic related concerns at the site.



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DECISION:

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans, Scott Darling, and Josh Safdie with Herbert Foster absent. Upon making the above findings, Richard Rossetti 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	<p>Approval is to alter a nonconforming structure by adding windows, doors and a canopy for the use of an approx 6000 sf by-right child care facility. 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>Nov 1, 2011</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>Nov 1, 2011</td> <td>Plans submitted to OSPCD (C1.0 Existing Conditions, C2.0 Site Plan, C3.0 Site Layout, C5.1 Site Details, A1.0 Ground Floor Plan, A2.0, 2.1, 2.2, 2.3 Existing and Proposed Elevations, D1.0 Demo Plan)</td> </tr> <tr> <td>Nov 9, 2011</td> <td>Modified plans submitted to OSPCD (C4.0 Grading, Drainage and Utilities Plan, C5.0 Site Details,)</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	Nov 1, 2011	Initial application submitted to the City Clerk's Office	Nov 1, 2011	Plans submitted to OSPCD (C1.0 Existing Conditions, C2.0 Site Plan, C3.0 Site Layout, C5.1 Site Details, A1.0 Ground Floor Plan, A2.0, 2.1, 2.2, 2.3 Existing and Proposed Elevations, D1.0 Demo Plan)	Nov 9, 2011	Modified plans submitted to OSPCD (C4.0 Grading, Drainage and Utilities Plan, C5.0 Site Details,)	BP/CO	ISD/PIng.	
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2	A one-line diagram of the electrical service to the building shall be submitted to the Wiring Inspector for review and approval.	BP	Wiring Inspector									
3	The owner shall work cooperatively with the City towards the eventual redevelopment of the property to its highest and best use. At the beginning of year #9 of the lease or upon termination of the lease, whichever is earlier, the Owner shall meet with the City from time-to-time as may be appropriate, but in any event no less than once a year to discuss and review the potential for redevelopment of the property to its highest and best use.	Year 9 of the lease and no less than once a year after year 9	PIng.									
4	The installation of a radio master box is required. A low voltage fire alarm system shall be installed. A complete analysis of the sprinkler system by a fire protection engineer is required to ensure that the system is reliable and adequate for a daycare facility.	CO	Fire Prevention									



5	A plan shall be prepared and submitted by a professional Traffic Engineering Firm indicating what traffic control devices or roadway improvements can be installed to preclude left turn movements into and out of the site.	CO	Traffic and Parking	
6	Landscaping should be installed and maintained in compliance with the American Nurserymen's Association Standards.	Perpetual	Plng. / ISD	
7	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	
8	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	
9	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	
10	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.	
11	Prior to the start of construction, the Applicant shall provide to Planning Staff an extended lease between Bigelow Cooperative Daycare Center and the owner.	BP	Plng.	
12	The Applicant shall narrow the driveway to 18 feet and provide an ADA compliant walkway and ramp from Park Street to the planned entry at the Southeast corner of the building in place of the proposed stairs. This design shall be submitted to Planning Staff for review and approval.	BP	Plng.	



Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Acting Chairman*
Richard Rossetti, *Acting Clerk*
T.F. Scott Darling, III, Esq.
Danielle Evans
Josh Safdie (Alt.)

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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