



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA # 2013-55
Site: 170 School Street
Date of Decision: September 18, 2013
Decision: Petition Approved with Conditions
Date Filed with City Clerk: September 24, 2013

ZBA DECISION

Applicant Name: 170 School Street, LLC
Applicant Address: Scott Miller, Manager, 55 Hazel St, Watertown, MA
Property Owner Name: 170 School Street, LLC
Property Owner Address: Scott Miller, Manager, 55 Hazel St, Watertown, MA
Agent Name: Richard G. DiGirolamo, Esq.
Agent Address: 424 Broadway, Somerville, MA 02145

Legal Notice: Applicant Edward Dottoli and Owner Cortez Investments, LLC* seek a special permit to establish 5 residential units under SZO §7.11.1.c and a special permit to alter the size of parking spaces under §9.13.b. The units would be within a newly constructed mixed use building with an approximately 530 nsf commercial space and nine parking spaces would be onsite. BA zone. Ward 4.

Zoning District/Ward: BA zone/Ward 4
Zoning Approval Sought: §7.11.1.c & §9.13.b
Date of Application: July 2, 2013
Date(s) of Public Hearing: 9/4 & 9/18/13
Date of Decision: September 18, 2013
Vote: 5-0

* The Applicant and Owner changed after the original application form was submitted.



Appeal #ZBA 2013-55 was opened before the Zoning Board of Appeals at Somerville City Hall on September 4, 2013. 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 proposal is to demolish the existing structure and construct a 3 ½ story mixed use building with a 1,053 gross square foot commercial space and 5 residential units. The total net square feet of the building is 5,867. The first floor commercial space is accessible from School Street and the basement commercial space is accessible from the Richdale Avenue residential entrance or the staircase that is in the commercial space. The commercial space will be used as a contractor's office.

There is one residential unit on the ground floor that has one bedroom and is an accessible unit. The four other residential units have bedrooms. The unit sizes range from 552 square feet to 1351 square feet. There are decks off of the units on the second floor and decks set into the roof of the units on the third floor and mezzanine level.

Parking is located behind the building in a surface parking lot with nine parking spaces. Four of the spaces will be under the second story of the building that cantilevers over them. Five of the spaces will be compact at 8 feet wide and 16 feet deep. Two bike racks will be on the far end of the driveway.

The side walk that is damaged will be repaired and the curb cut on Richdale Avenue will be shifted towards School Street.

Landscaping is proposed on the northern and western corners, along the northeast property line, and on the School Street and Richdale Avenue sides of the building. Five street trees are proposed along the sidewalks. The location for trash storage is not shown on the plan and will be conditioned to be in the basement.

FINDINGS FOR SPECIAL PERMIT (SZO §7.11.1.c & §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 and guidelines of the Business A commercial district. The parking is located in the rear of the lot behind the building and vehicular access is from a side street. Landscaping is proposed to be along the School Street and Richdale Avenue side of the building where it will be most visible.

In considering a special permit under §9.13 of the SZO the Applicant must be able to demonstrate that granting the requested special permit would not cause detriment to the surrounding neighborhood through any of the criteria as set forth under SZO §9.13, which are as follows:

- 1) increase in traffic volumes;
- 2) increased traffic congestion or queuing of vehicles;
- 3) change in the type(s) of traffic;



- 4) change in traffic patterns and access to the site;
- 5) reduction in on-street parking;
- 6) unsafe conflict of motor vehicle and pedestrian traffic.

The compact parking spaces will not cause detriment to the surrounding area. The parking requirements are met and all nine parking spaces in the lot will likely not be used considering there will be a Green Line station a short walk from this site. Most cars are able to fit in a 8 foot by 16 foot parking space and the 20 foot drive aisle and back out area in the parking lot make the lot maneuverable.

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 encouraging the most appropriate use of land throughout the City and increasing the amenities of the municipality.

The proposal is consistent with the purpose of the district in providing housing and an office. The purpose is, "to 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."

In considering a special permit under §9.13 of the SZO the SPGA may grant such a special permit only when consistent with the purposes set forth in Section 9.1. The five compact spaces will not cause harm to the circulation on or off of the site and provide sufficient and possible more parking than will be needed in this transit oriented site. The spaces will be made of concrete pavers that will allow for better drainage on the site and create a more attractive back yard. With pavers this area could function as a patio space if all of the spaces in the lot are not utilized.

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."

A future Green line stop will be located in Gilman Square. Station Area Plans were created for the neighborhoods around the future Green Line Stations to create a road map for growth and change in these neighborhoods. A significant goal of the Gilman Plan is to foster the rebirth of Gilman Square as a transit-oriented node of activity. The subject property is within the area that is contemplated to be a potential future Neighborhood Square Zoning District that creates neighborhood-serving commercial uses, four-story mixed-use building and parking regulations that reflect the transit oriented nature of the neighborhood. The subject property is at the edge of the proposed district and therefore the small office space on the first floor that will generate some but not a steady influx of foot traffic is appropriate for this block. The proposal will create an attractive building that completes the street wall improving the pedestrian environment on the block. The range of residential unit sizes and availability of an accessible unit increases the diversity of housing in the area.



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. 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 to establish 5 residential units and 5 compact parking spaces in a lot with 9 total parking spaces. 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 2, 2013</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>August 13, 2013</td> <td>Plans submitted to OSPCD (Site Plan)</td> </tr> <tr> <td>August 14, 2013</td> <td>Plans submitted to OSPCD (landscape plan)</td> </tr> <tr> <td>September 3, 2013</td> <td>Plans submitted to OSPCD (Z-001 Zoning Plan, A-100 Basement & 1st floor plan, A-101 2nd & 3rd floor plan, A-102 mezzanine & roof plan, A-300 building elevations)</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	July 2, 2013	Initial application submitted to the City Clerk's Office	August 13, 2013	Plans submitted to OSPCD (Site Plan)	August 14, 2013	Plans submitted to OSPCD (landscape plan)	September 3, 2013	Plans submitted to OSPCD (Z-001 Zoning Plan, A-100 Basement & 1st floor plan, A-101 2 nd & 3 rd floor plan, A-102 mezzanine & roof plan, A-300 building elevations)
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Any changes to the approved site plan or elevations that are not <i>de minimis</i> must receive SPGA approval.														
Pre-Construction														
2	The Applicant must contact the Engineering Department to obtain a street address for the office and residential units prior to a building permit being issued.	BP	Engineering											
3	The Applicant will be required to demonstrate that the updated project plans meet the current City of Somerville stormwater policy. Utility, grading, and drainage plans must be submitted to the Engineering Department for review and approval.	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											



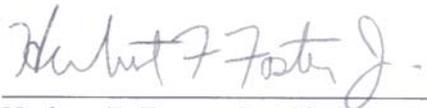
Construction Impacts				
5	The Applicant shall at his expense replace any existing equipment (including, but not limited to street sign poles, signs, traffic signal poles, traffic signal equipment, wheel chair ramps, granite curbing, etc) if damaged as a result of construction activity.	CO	DPW	
6	The applicant shall replace the sidewalk in the area noted on the plan and any other portion of the sidewalk abutting the property as deemed necessary by the Superintendent of Highways. All new sidewalks and driveways must be constructed to DPW standard.			
7	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	
Design				
8	Applicant shall provide final material samples for siding, trim, windows, and doors (to the Design Review Committee for review and comment and) to Planning Staff for review and approval prior to construction. The columns shall be made of wood or similar high quality material.	BP	Plng.	
9	An exterior light and electrical receptacle is required for the first (or all) level of the porch and an electrical receptacle is required for the second.	Final sign off	Wiring Inspector	
Site				
10	The Applicant shall install 5 street tress as shown on the plan. Landscaping should be installed and maintained in compliance with the American Nurserymen's Association Standards.	Perpetual	Plng. / ISD	
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	Trash storage shall be located in the basement or for the accessible unit in the rear yard and should be fully enclosed.	CO	Plng.	
13	Applicant will supply at least 2 bicycle parking spaces.	CO	Plng.	
14	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	
Public Safety				
15	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
16	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.	



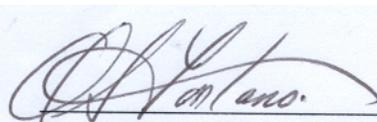
17	The Applicant shall provide notice of intent to strictly comply with applicable State and Federal regulations regarding air quality including without limitation continuous dust control during demolition and construction.	CO	Plng/OS E	
18	Because of the history of the site and the intended use, the 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/IS D	
Signage				
19	Signage will be limited in size and location to that shown in the elevation diagrams and lighting after 10p.m. facing residential property will be turned down or off. The signage on the building shall not be internally illuminated.	CO/Cont.	Plng.	
Final Sign-Off				
20	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



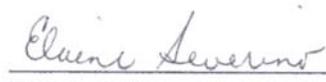
Orsola Susan Fontano, Clerk



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 _____

