



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA # 2013-58
Site: 595 Somerville Avenue
Date of Decision: February 19, 2014
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: February 26, 2014

ZBA DECISION

Applicant Name:	Douglas S. Beaudet
Applicant Address:	14 Ibbetson Street, Somerville, MA 02143
Property Owner Name:	JAC Realty Trust
Property Owner Address:	330 NE 36 th Street, #115, Fort Lauderdale, FL 33308
Agent Name:	Richard G. DiGirolamo, Esq.
Agent Address:	424 Broadway, Somerville, MA 02145

Legal Notice: Applicant, Douglas Beaudet, and Owner, JAC Realty Trust, seek a Special Permit under SZO §7.11.1.c to establish four dwelling units in a new mixed-use building with a small retail component; a Special Permit under SZO §9.13.b to alter parking design standards; a Special Permit under SZO §9.13.d to park on a separate lot; and a Special Permit under SZO §9.13.e to share parking.

<u>Zoning District/Ward:</u>	BA zone/Ward 3
<u>Zoning Approval Sought:</u>	§7.11.1.c, §9.13.b, §9.13.d & §9.13.e
<u>Date of Application:</u>	August 14, 2013
<u>Date(s) of Public Hearing:</u>	12/11/13, 1/8/14, 1/22, 2/5 & 2/19/14
<u>Date of Decision:</u>	February 19, 2014
<u>Vote:</u>	5-0

Appeal #ZBA 2013-58 was opened before the Zoning Board of Appeals at Somerville City Hall on December 11, 2013. Notice of the Public Hearing was given to persons affected and was published and posted, all as required by



CITY HALL • 93 HIGHLAND AVENUE • SOMERVILLE, MASSACHUSETTS 02143
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M.G.L. c. 40A, sec. 11 and the Somerville Zoning Ordinance. After five hearings of deliberation, the Zoning Board of Appeals took a vote.

DESCRIPTION:

The proposal is to build a mixed use structure 35' in height with a footprint that is 2,120 square feet and a 1.35 floor area ratio (FAR). The ground floor retail space is approximately 400 square feet with an entry on Somerville Avenue. Unit 1 would be ADA accessible due to the dedicated area for the installation of a Limited Use Limited Application Elevator Lift (LULA) and approximately 1379 square feet. The remaining units would be 870 square feet and all units are two bedrooms. The main residential entrance would be located on Spring Street. Four parking spaces would be located beneath the cantilevered rear portion of the structure, one for each residential unit, while each space would also have a bike rack located on the wall in front.

The Somerville Avenue façade is three bays with a heavy cornice line at the top. The first floor has a center entry for the commercial component and four glazed or frosted windows on either side. The west or Spring Street façade is six bays with a projecting center entry for the residential component. Windows or panels are located on either side of the entrance with panels being used to obscure views of the cantilevered rear parking. This façade also features a second and third story balcony with exterior space dedicated to each of the four units. The rear façade also has three bays while the right side façade illustrates three bays with a residential entrance at grade to access the ADA unit. Materials would include cementitious fiber board, vinyl windows, architectural shingles, a storefront system, and cement trim boards.

Storage for Unit 1 has been relocated to where the mechanical space was previously located within the front foyer. This addresses ADA concerns, as all four storage spaces are now accessible from the front foyer. See AAB Rules and Regulations 521 CMR 10.5, which states "equivalent *accessible* storage shall be provided to residents."

Due to the project simultaneously proposed at 587-593 Somerville Avenue, the Applicants of both projects have decided to move forward with a combined site plan to better address access, landscape, trash, and parking between the two projects.

Site Plan

The site plan provides access to both development sites from a shared driveway off Spring Street. The existing curb cut would be reduced by approximately 18' on the south side and increased by approximately 8' on the north side for a 20' access drive. The subject proposal does not currently have any landscaping; however, the landscape would increase to approximately 10% with this proposal. Pervious pavers would be located between the two new proposed structures while two landscaped areas would be located on either side of the residential entry with a public bench located around the corner on Spring Street. Three public bike racks and four new street trees would be placed along Somerville Avenue as part of this combined site plan. The trash area would be enclosed and located at the rear of the adjacent development, abutting the rear of a garage. There will be two curb cuts closed along Somerville Avenue which will increase the on-street parking.

Parking

The parking calculation requires a total of 7 spaces for the subject development; six spaces for residential and one space for the retail component. Four parking stalls are located beneath the cantilevered rear portion of the subject structure while the remaining three would be 8'x16' compact spaces, located in the northeast corner of the adjacent development site, and shared with the retail component of this adjacent development.



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

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."

Under SZO §7.11.1.c, a Special Permit required is in a Business A district to construct 4-6 housing units. A Special Permit is required to park on a separate lot under SZO §9.13.d, to share parking under SZO §9.13.e and, as the three shared spaces will also be compact parking stalls, a Special Permit is required to alter parking design standards under SZO §9.13.b.

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; and
- 6) unsafe conflict of motor vehicle and pedestrian traffic.

Parking on a separate lot, shared parking, and compact parking stalls would not cause detriment to the surrounding neighborhood as each residential unit would be provided with one dedicated parking space, additional on-street parking will be provided by closing curb cuts along Somerville Avenue, and the curb cut along Spring Street would be reduced to align with the rear access drive. The proposed use would likely reduce the overall amount of traffic as the rear access provides clear entry and exit lanes. While the type of traffic would likely change, due to the change in use from sales and service automotive to predominantly residential, the type of traffic would be more appropriate to the residential structures at the rear of the development. Traffic patterns will also likely change as well as access to the rear of the site would be from Spring Street; however, pedestrians would have better access and fewer vehicle conflict while overall access to the site would be more appropriate. The proposal would increase on-street parking by 2-5 additional spaces, which would further reduce any existing conflict for vehicles or pedestrians along Somerville Avenue.

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 "promoting the health, safety, and welfare of the inhabitants of the City of Somerville; to conserve the value of land and buildings; to encourage the most appropriate use of land throughout the City; and to preserve and increase the amenities of the municipality."

The proposal is consistent with the purpose of the Business A district, §6.1.6, which 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.”

The proposal is to construct a mixed-use development that will implement the SomerVision Comprehensive Plan, which refers to new zoning, which is appropriate to the pedestrian and transit-oriented nature of this proposal. This project will create housing near transit, a streetwall which will enhance the pedestrian quality of this corridor, and incorporate a mix of uses to increase the neighborhood amenities that will activate the street and help establish a sense of place. Together, these will enhance the neighborhood west of Union Square and facilitate interest in this corridor.

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 subject proposal promotes traffic safety through on-site parking, clear entry and exit lanes, additional on-street parking, and less pedestrian conflict. As the proposed use is more appropriate to the site, the carrying capacity of Somerville Avenue and Spring Street would become more efficient while the additional on-street parking would increase and be available to the larger community. Eliminating several curb cuts would also reduce pedestrian hazards. The proposed use, as well as shared access, protects adjoining lots and is more considerate to the residential structures at the rear of the parcel. The proposal dedicates a number of new bike parking spaces to each residential unit as well as locates three new bike racks along Somerville Avenue.

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 parcel is located in a Business A district and abuts residential properties to the rear, Spring Street to the west and a proposed development site to the east at 587-593 Somerville Avenue, which proposes to share a site plan with the subject project. The subject parcel is located near Wilson Square at the corner of Somerville Avenue and Spring Street. Somerville Avenue is comprised of a mix of uses that includes other auto body repair shops, restaurants, office and retail while the residential neighborhood north of Somerville Avenue is comprised of single, two-, three- and multi-family dwellings.

The use, site plan and building design will not be detrimental to the Somerville Avenue corridor nor the adjacent residential neighborhood and have been devised to be compatible with the built and unbuilt surrounding area. The proposed four-unit residential use with a small ground floor retail component is more appropriate for this commercial corridor and adjacent residential neighborhood than the existing auto oriented use as the proposed structure is located at the sidewalk, incorporates ground floor retail, is pedestrian friendly and activates this corner of the intersection. The site plan, as combined with the adjacent proposed development at 587-593 Somerville Avenue, provides for a shared access drive, parking, and an enclosed trash area while simultaneously closing curb cuts to add on-street parking, three new public bike racks, and four new street trees. The building design proposes hardy materials and a contextual building design that is compatible with the adjacent residential neighborhood, continues the Somerville Avenue streetwall, develops the character of the streetscape, and enhances the pedestrian quality of the corridor.

A shadow study illustrates that during the summer solstice, the proposed development will cast a shadow along Somerville Avenue in the morning and cast shadows within the rear parking lot in the evening. The fall/spring equinox will cast shadows on Spring Street and Somerville Avenue in the morning, and by evening, this shadow will extend toward the buildings facing Pitman Street. The winter solstice casts shadows across Spring Street into the parking lot behind Somerville Avenue in the morning. This shadow extends toward Pitman Street in the evening. This proposal does not shadow adjacent buildings; however, during the winter solstice, the shadow becomes closest to adjacent buildings.

Lighting has been added to the ground floor entrance for Unit 1.



5. Adverse environmental impacts: The proposed use, structure or activity will not constitute an adverse impact on the surrounding area resulting from: 1) excessive noise, level of illumination, glare, dust, smoke, or vibration which are higher than levels now experienced from uses permitted in the surrounding area; 2) emission of noxious or hazardous materials or substances; 3) pollution of water ways or ground water; or 4) transmission of signals that interfere with radio or television reception.

The proposal would not result in an adverse impact on the surrounding area as the proposed use is more appropriate than the existing use, the site plan is efficient and considerate of the surrounding residential parcels. The building design proposes quality materials and a contextual building design that is compatible with Somerville Avenue and the adjacent residential neighborhood.

6. 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 subject proposal promotes traffic safety through on-site parking, clear entry and exit lanes, additional on-street parking, and less pedestrian conflict. As the proposed use is more site appropriate, the carrying capacity of Somerville Avenue and Spring Street would become more efficient while the additional on-street parking would increase and be available to the larger community. Eliminating several curb cuts would also reduce pedestrian hazards. The proposed use, as well as shared access, protects adjoining lots and is more considerate to the residential structures at the rear of the parcel. The proposal dedicates a number of new bike parking spaces to each residential unit as well as locates three new bike racks along Somerville Avenue.

The Traffic and Parking Assessment concludes that the combined development proposal (587-593 & 595 Somerville Avenue) would have an insignificant impact on the permit parking supply for the surrounding area and that sharing a driveway and on-site compact parking spaces would not exceed capacity of the site nor create issues regarding access to the site. The proposal is expected to generate traffic similar to, if not less than, existing traffic conditions. Capacity issues are not anticipated with regard to a shared driveway, which are estimated at a maximum of 14 peak hour trips for both the combined development proposal; however, this does not account for proximity to transit nor to future transit stations, which would further reduce this estimate. Shared parking is expected to be sufficient with regard to the residential and retail demand as the timing for these peak uses is offset. In a predominantly residential setting, with regard to compact parking stalls, the use of smaller parking stalls is reasonable due to the small turnover rate, as the 9'x18' dimensions specified in the SZO are for a broad range of parking facilities. As compact cars have increased in popularity and the average size of most vehicle classifications is less than 16' in length and 6' in width, reduced size parking stalls would be appropriate and viable for this combined development proposal. The closure of several curb cuts will provide several new on-street parking stalls, to be available for use by the larger public. Census data indicates that 1/4 of Somerville residents do not own a vehicle and more than half travel to work by alternate transportation modes. The site is served by several bus routes and both the Porter and Harvard Square stations are less than one mile away, providing easy access to the larger metropolitan area. Upon completion of the Green Line Extension, the Union Square Station would be located within one mile as well. The parking study also indicates a substantial amount of underutilized parking permit spaces are located within 500 feet of the development, which does not include the Conway Park lot, handicap parking, or loading zones. The shared driveway and parking, additional on-street parking, proximity to public transit, mode choice precedent, existing parking conditions, and trip generation estimates illustrate that the combined development proposal is appropriate for the site and will not be detrimental to this commercial corridor or the surrounding residential neighborhood.

Staff has discussed the current two-way to one-way circulation concern of Spring Street with Traffic and Parking. Due to the recent replacement of older signs with new signage (two Do Not Enter signs and two One Way signs), Traffic and Parking do not feel that the addition of 6-8 vehicles entering and exiting into the rear of the proposed parcels will significantly impact the current traffic pattern. Additionally, Pitman Street funnels traffic back toward Somerville Avenue and is not a shortcut through the neighborhood, so as this route is not a shortcut, the one-way offenders are likely knowledgeable neighborhood residents.



DECISION:

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Danielle Evans and Brandy Brooks with Elaine Severino and Josh Safdie absent. 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 for Special Permits to establish four dwelling units in a new mixed-use building with a small retail component, to alter parking design standards, to park on a separate lot, and to share parking. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	ISD/PIng.															
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>(August 5, 2013)</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>(October 18, 2013) January 29, 2014</td> <td>Modified plans submitted to OSPCD (A-000, Z-001, A-303, A-100, A-101, A-110, & A-300)</td> </tr> <tr> <td>(January 14, 2014) January 29, 2014</td> <td>Landscape Plan</td> </tr> <tr> <td>(November 20, 2013) January 29, 2014</td> <td>Site Plan</td> </tr> <tr> <td>(April 18, 2013) January 29, 2014</td> <td>Civil Site Plan (C-1)</td> </tr> <tr> <td>(October 18, 2013) January 29, 2014</td> <td>Shadow Study</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	(August 5, 2013)	Initial application submitted to the City Clerk's Office	(October 18, 2013) January 29, 2014	Modified plans submitted to OSPCD (A-000, Z-001, A-303, A-100, A-101, A-110, & A-300)	(January 14, 2014) January 29, 2014	Landscape Plan	(November 20, 2013) January 29, 2014	Site Plan	(April 18, 2013) January 29, 2014	Civil Site Plan (C-1)	(October 18, 2013) January 29, 2014	Shadow Study
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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 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.															
Construction Impacts																		
3	The applicant shall post the name and phone number of the general contractor at the site entrance where it is visible to people passing by.	During Construction	PIng.															



4	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	
5	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				
6	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.	BP	Plng.	
7	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 level (if there is no access to the ground).	Final sign off	Wiring Inspector	
Site				
8	Landscaping should be installed and maintained in compliance with the American Nurserymen's Association Standards;	Perpetual	Plng. / ISD	
9	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	
10	New sidewalks in front of the development will be installed by the Applicant in accordance with the specifications of the Highway Superintendent. Specifically, all driveway aprons shall be concrete	CO	Plng.	
11	Applicant will screen the dumpster to block any views of the dumpster itself.	CO	Plng.	
12	The Applicant shall provide a bench to be located on the development site at the corner of Somerville Ave and Spring Street.	CO	Plng.	
13	Applicant will supply 4 private bicycle parking spaces within garage and 1 public bicycle racks along Somerville Avenue.	CO	Plng.	
14	Snow plowed from the development shall be limited to on-site storage.	Cont.	ISD.	
15	Pending NSTAR approval, a transformer shall be located at the rear of the site; shall not impact adjacent residential structures, the historic building, or landscape area; shall be fully screened; and be shared between both developments.	Electrical permits & CO	Plng./ISD	
16	Parking spaces dedicated to specific units shall be clearly marked. Parking spaces for the retail component shall be clearly marked for the shared retail establishments.	CO	Plng.	



Miscellaneous				
17	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				
18	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
19	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/BO H	
20	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.	
Final Sign-Off				
21	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.	
22	The Applicant shall submit three IPS meters to Traffic and Parking.	CO	Traffic/Pkg.	
23	The Applicant shall purchase and plant two street trees to be located along Somerville Avenue in front of the development.	CO	Plng.	
24	The alley shall be appropriately lit near the ground floor residential entrance.	CO	Plng.	



Attest, by the Zoning Board of Appeals:

Herbert Foster, *Chairman*
Orsola Susan Fontano, *Clerk*
Richard Rossetti
Danielle Evans
Brandy Brooks (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 _____

