



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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PLANNING DIVISION

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Case #: ZBA 2014-36
Site: 16 South Street
Date of Decision: October 15, 2014
Decision: Petition Approved with Conditions
Date Filed with City Clerk: October 23, 2014

ZBA DECISION

Applicant Name:	Patrycja Missiuro & Dmitry Vasilyev
Applicant Address:	17 Vinal Avenue, #2, Somerville, MA 02143
Property Owner Name:	18 South Street Condominium Trust
Property Owner Address:	18 South Street, Somerville, MA 02143
Agent Name:	N/A
<u>Legal Notice:</u>	Applicant & Owners, Patrycja Missiuro & Dmitry Vasilyev, seek a Special Permit for compact parking spaces per SZO §9.13.
<u>Zoning District/Ward:</u>	BA zone/Ward 2
<u>Zoning Approval Sought:</u>	§9.13
<u>Date of Application:</u>	May 1, 2014
<u>Date(s) of Public Hearing:</u>	6/4, 10/1 & 10/15/14
<u>Date of Decision:</u>	October 15, 2014
<u>Vote:</u>	5-0

Appeal #ZBA 2014-36 was opened before the Zoning Board of Appeals at the Visiting Nurse Association on June 4, 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 three hearings of deliberation, the Zoning Board of Appeals took a vote.



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

To accommodate an easement between 16 and 18 South Street the proposal is for 4 compact parking spaces. The parking spaces will be 9' wide by 16' deep. The 3-unit residential building associated with these compact parking spaces are by-right.

FINDINGS FOR SPECIAL PERMIT (SZO §9.13):

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."*

Per SZO §9.13 the SPGA may grant a special permit modify parking standards. A standard parking space is 9' wide by 18' feet long. There are four parking spaces proposed to be 9' wide by 16' long which requires special permit approval.

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 new development complies with the required number of parking spaces and will not reduce availability of on-street parking. The motor vehicles are garaged and will not cause an unsafe conflict between motor vehicles and pedestrian traffic.

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 and to lessen congestion in the streets.

The proposal is consistent with the purpose of the district, 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."



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 proposal meets the intent of §9.1, the purpose of the Off-street Parking and Loading Article. By providing compact spaces, the project meets the parking requirement of the district. A condition of approval for this special permit is that the applicant will provide pedestrian scale lighting along the façade of 16 South Street to increase visibility of pedestrians in the area. The compact spaces will not create a situation that would be a nuisance or hazard to pedestrians and adjacent properties, nor would it decrease the traffic carrying capacity of the adjacent streets or significantly compromise the on-street parking available in the neighborhood.

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 surrounding neighborhood is a mix of residential and commercial buildings. Established businesses include LaHacienda, Cubby Oil, and several automotive garages. Residential uses are mixed between the commercial structures and take a variety of form from 2 ½ story single families to the redevelopment of Millbrook into high rise residential lofts.

There are little to no impacts to the parking design and layout. The parking spaces will be screened from view from the street. The parking layout and maneuvering aisles will function and vehicles will exit in a forward facing motion.

5. 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.*

Allowing compact parking spaces will not result in conditions that create traffic congestion or potential for traffic accidents.

6. Housing Impact: *Will not create adverse impacts on the stock of existing affordable housing.*

This project will not have an impact on the existing affordable housing because the lot was vacant.

7. SomerVision Plan: *Complies with the applicable goals, policies and actions of the SomerVision plan, including the following, as appropriate: Preserve and enhance the character of Somerville's neighborhoods, transform key opportunity areas, preserve and expand an integrated, balanced mix of safe, affordable and environmentally sound rental and homeownership units for households of all sizes and types from diverse social and economic groups; and, make Somerville a regional employment center with a mix of diverse and high-quality jobs. The areas in the SomerVision map that are designated as enhance and transform should most significantly contribute towards the SomerVision goals that are outlined in the table below. The areas marked as conserve are not expected to greatly increase the figures in the table since these areas are not intended for large scale change.*

<u>SomerVision Summary</u>	<i>Existing</i>	<i>Proposed</i>
<i>Dwelling Units:</i>	0	3
<i>Affordable Units:</i>	0	0
<i>Commercial Sq. Ft.:</i>	0	0
<i>Estimated Employment:</i>	0	0
<i>Parking Spaces:</i>	0	6



Publicly Accessible Open Space:	0	0
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DECISION:

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Danielle Evans and Elaine Severino with Brandy Brooks 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:

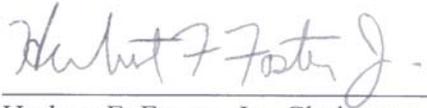
#	Condition	Timeframe for Compliance	Verified (initial)	Notes						
1	Approval is for a Special Permit for 4 compact parking spaces per SZO §9.13. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	ISD/ Plng.							
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>May 1, 2014</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>March 20, 2014</td> <td>Modified plans submitted to OSPCD (T1 Cover, Z1 Zoning Analysis, A1 Ground & Second Floor, A2 Third & Fourth Floor, A3 Basement & Roof Plan, A4 Elevations)</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	May 1, 2014	Initial application submitted to the City Clerk's Office	March 20, 2014	Modified plans submitted to OSPCD (T1 Cover, Z1 Zoning Analysis, A1 Ground & Second Floor, A2 Third & Fourth Floor, A3 Basement & Roof Plan, A4 Elevations)
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Any changes to the approved plan 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 prior a certificate of occupancy being issued.	CO	Engineering							
Construction Impacts										
3	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							
4	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										



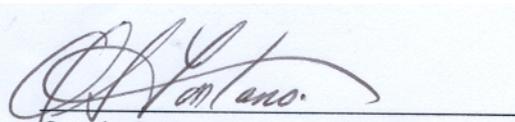
5	The Applicant will incorporate pedestrian scale lighting into the front façade to increase pedestrians passing on the sidewalk. Lighting specifications and an elevation will be submitted to Planning Staff for review and approval.	BP	Plng.	
Site				
6	Because of the history of the site and the intended 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/ISD	
7	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	
Miscellaneous				
8	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				
9	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
10	Any transformers should be located as not to impact the landscaped area, and shall be fully screened.	Electrical permits & CO		
11	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				
12	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 _____

