



CITY OF SOMERVILLE, MASSACHUSETTS
OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
JOSEPH A. CURTATONE
MAYOR

PLANNING DIVISION

PLANNING BOARD MEMBERS

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ELIZABETH MORONEY
JAMES KIRYLO
MICHAEL A. CAPUANO, ESQ.
ELIZABETH MORONEY

Case #: PB 2012-02
Site: 331 Washington Street
Date of Decision: May 3, 2012
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: May 9, 2012

PLANNING BOARD DECISION

Applicant Name:	Jonathan Bornstein
Applicant Address:	130 Andrew Street, Newton Highlands, MA 02461
Property Owner Name:	JZB Real Estate, LLC
Property Owner Address:	130 Andrew Street, Newton Highlands, MA 02461
Agent Name:	N/A

Legal Notice: Applicant Jonathan Bornstein and Owner JZB Real Estate LLC, seek Site Plan Approval under SZO §5.4 and §8.8 in order to adjust a lot line to shift 1,884 square feet from one parcel to another.

<u>Zoning District/Ward:</u>	RB zone/Ward 2
<u>Zoning Approval Sought:</u>	§5.4 & §8.8
<u>Date of Application:</u>	January 31, 2012
<u>Date(s) of Public Hearing:</u>	4/5, 4/19 & 5/3/12
<u>Date of Decision:</u>	May 3, 2012
<u>Vote:</u>	4-0

Appeal #PB 2012-02 was opened before the Planning Board at Somerville City Hall on April 5, 2012. 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 Planning Board took a vote.



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DESCRIPTION:

The subject property was purchased in 1976 by a buyer who believed it to be a lawful three-family dwelling. The property was then sold again in 1994, at which time a site inspection and investigation by the Inspectional Services Division determined the property was a lawful two-family structure. The new owner then applied for and received a Variance from the lot area per dwelling unit requirements of the district to establish a three-family dwelling. However, this Variance was never fully acted upon and therefore expired after its one year timeframe. The Applicant and current owner purchased the property in January of 2011.

The current proposal involves two properties. An existing 3,365 square foot, two-family lot at 331 Washington Street and a 128,271 square foot, commercial lot that is home to L. Bornstein & Co., Inc., a floor covering distributor. 331 Washington Street is located in an RB district and 321 Washington Street is located mostly in an RC district, with property frontage on Washington Street in the RB district. The proposal is to adjust the left lot line of the property at 331 Washington Street to shift 1,682 square feet from the adjacent lot at 321 Washington Street to the subject property. This would increase the lot area of the property at 331 Washington Street from 3,365 square feet to 5,047 square feet. This newly created lot would then be large enough to allow for a three-family residential use to be established at 331 Washington Street as-of-right. If the Applicant were to have this Site Plan Approval request approved, he would then take the necessary steps to convert the existing two-family dwelling into a lawful three-family dwelling.

FINDINGS FOR SPECIAL PERMIT (SZO §5.4 & §8.8):

In order to grant a Site Plan Approval, the SPGA must make certain findings and determinations as outlined in §5.4.6 of the SZO. This section of the report goes through §5.4.6 in detail.

1. The development complies with all standards set forth for the overlay district in which it is located.

The subject property is not located within an overlay district. The underlying or base zoning district in which the property is located is Residence B (RB). The purpose of the RB zoning district is “[t]o establish and preserve medium density neighborhoods of one-, two- and three- family homes, free from other uses except those which are both compatible with and convenient to the residents of such districts.” With the proposed lot line adjustment, the subject property would still be compliant with all dimensional requirements where it is currently compliant and would even bring some nonconforming aspects of the lot into conformance. The one exception to this is in regard to the Pervious Area at the property which is currently noncompliant and would be reduced even further to a lower percentage. The Board has included a condition that requires the Applicant to maintain the lot’s nonconforming percentage of Pervious Area at 30% even after the lot line adjustment. While this percentage is still below the required 35% of Pervious Area in an RB district, it would require the Applicant to create new Pervious Area at the property.

2. “The development shall be integrated into the existing terrain and surrounding landscape. Building sites shall, to the extent feasible: minimize use of wetlands, steep slopes, floodplains, hilltops; preserve natural or historic features; maximize open space retention; preserve scenic views from publicly accessible locations; minimize tree, vegetation and soil removal, blasting and grade changes; screen objectionable features from neighboring properties and roadways.”

There are no wetlands, steep slopes, floodplains or hilltops located on the site. There are also not any natural or historic features at the site. The required percentage of landscaping at the site will be maintained but the noncompliant Pervious Area at the property will actually be reduced. The Board has included a condition that requires the Applicant to maintain the lot’s nonconforming percentage of Pervious Area at 30% even after the lot line adjustment. While this percentage is still below the required 35% of pervious area in an RB district, it would require the Applicant to create new Pervious Area at the property. The Applicant will not be altering the existing two-family structure at the site as part of this proposal. Upon approval, the Applicant will convert



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the existing two-family structure into a legal three-family dwelling. The only alterations the Applicant would perform to the existing structure at that time would be those necessary to establish a lawful three-family dwelling at the site. These alterations must be in compliance with the SZO.

3. “The development shall be served with adequate water supply and sewage disposal systems. For structures to be served by sewage disposal systems, the applicant shall document the status of Department of Environmental Management (DEM) and/or other sewage permits.”

The Applicant will be maintaining the existing water supply and sewage disposal systems at the property. Should the Applicant elect to pursue the establishment of an additional dwelling unit at the property, the Applicant or future developer of the site will have to work with the Department of Public Works and the City Engineer to ensure that adequate water supply and sewage disposal systems are satisfactory to these departments.

4. “The development shall incorporate measures that are adequate to prevent pollution of surface and groundwater, to minimize erosion and sedimentation, and to prevent changes in groundwater levels, increased rates of runoff and minimize potential for flooding. Drainage shall be designed so that groundwater recharge is maximized, and at the project boundaries the runoff shall not be increased in amount or velocity.”

There would not be any grade changes on the site and the Applicant is not proposing to make any other alterations at the property that would change the way that surface water, groundwater, drainage, or runoff is currently handled. Any future development on the lot would have to conform to the requirements of the City’s Engineering Department for stormwater management.

5. “To the extent feasible, development shall minimize demands placed on municipal services and infrastructure.”

The lot line adjustment should not place any unforeseen demand on municipal services and infrastructure. However, any future development or establishment of additional dwellings units at the property will be subject to all applicable requirements.

6. “The development shall provide for safe vehicular and pedestrian movement within the site and to adjacent ways, including sidewalks, crosswalks and the like.”

The existing property at 331 Washington Street has one parking space on the right side of the lot. The proposed lot line adjustment will allow for there to be two additional parking spaces at the property on the left side of the existing structure. However, this new square footage will then require vehicles that are accessing the parking for the property at 335 Washington Street to travel over the lot at 331 Washington Street to get to those parking spaces. The Board has included a condition that requires the Applicant to prepare an easement document that permits access across the property at 331 Washington Street to the parking area which serves the two-family dwelling at 335 Washington Street.

7. “Building design and landscaping shall be in harmony with the prevailing character and scale of buildings in the neighborhood through the use of appropriate building materials, screening, and other architectural techniques.”

The Applicant is not proposing to make any exterior alterations to the existing structure as part of this proposal. Any alterations to the existing structure in the future would need to be in compliance with the SZO.

8. “Electric, telephone, cable TV and other such utilities shall be underground except where this cannot be accomplished because it is physically or environmentally infeasible, in which case such utilities shall be screened.”



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The Applicant is proposing to maintain the existing ties into the City services for electric, telephone, and cable. Any new lines would be placed underground from the source or connection in accordance with the SZO and the policies of the Superintendent of Lights and Lines.

9. “Exposed storage areas, machinery, service areas, truck loading areas, utility buildings and structures and other unsightly uses shall be set back and/or screened to protect neighbors from objectionable features.”

The existing use at the property is a two-family dwelling and the potential future use of the property is a three-family dwelling. Neither of these particular uses would likely include exposed storage, machinery, service areas, truck loading areas, or utility buildings and structures.

10. “To the extent feasible, proposed projects shall be designed in such a way as to minimize shadows on neighboring properties.”

The Applicant is not proposing to make any alterations to the existing structure and therefore there would be no impact to the shadows cast onto neighboring properties. If the Applicant were to move forward after approval of the lot line adjustment and convert the existing structure into a three-family dwelling, the exterior alterations required to do this, if any, would most likely only have a minimal impact on the shadows cast onto neighboring properties.

11. “There shall be no unreasonable glare onto public roads and other public ways into the night sky, or onto neighboring properties from lighting or reflection.”

The Applicant is not proposing to make alterations to the existing two-family structure at the property as part of this proposal. Were the Applicant to move forward after approval of the lot line adjustment, it is very unlikely that the three-unit building would cause unreasonable glare onto the public roads, ways or onto neighboring properties from lighting or reflection.

12. “The site plan shall comply with all zoning requirements.”

No new zoning violations would be created by the proposed lot line adjustment. The lot line adjustment will actually bring the nonconforming left side yard setback into conformance and the additional square footage will allow for two additional parking spaces to be situated on the property. This will increase the ratio of parking spaces to dwelling units at the property from 1:2 to 3:2. The existing percentage of landscaping and the front and rear yard setbacks at the property will all be maintained. Other dimensional requirements that will change as a result of this lot line adjustment include a decrease in the percentage of ground coverage, an increase in the lot area per dwelling unit ratio, and a decrease in the Floor Area Ratio. However, the new square footage from the lot at 321 Washington Street will actually lower the already noncompliant Pervious Area square footage at the property. In an RB district, a property should have 35% Pervious Area but the addition of the new square footage will lower the percentage of Pervious Area at the property from 30% to 25%. The Board has included a condition that requires the Applicant to maintain the lot’s nonconforming percentage of Pervious Area at 30% even after the lot line adjustment. While this percentage is still below the required 35% of Pervious Area in an RB district, it would require the Applicant to create new Pervious Area at the property.



DECISION:

Present and sitting were Members Elizabeth Moroney, Joseph Favaloro, James Kirylo and Michael Capuano with Kevin Prior absent. Upon making the above findings, Joseph Favaloro made a motion to approve the request for a Site Plan Approval. Michael Capuano seconded the motion. Wherefore the Planning Board voted **4-0** to **APPROVE** the request. In addition the following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes										
1	<p>Approval is to adjust a lot line in order to shift 1,682 square feet from one parcel to another under SZO §5.4 and §8.8. 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>(January 31, 2012)</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>January 19, 2011</td> <td>Mortgage Inspection Plan</td> </tr> <tr> <td>April 5, 2012 (April 10, 2012)</td> <td>Subdivision Plan of Land</td> </tr> <tr> <td>April 5, 2012 (April 10, 2012)</td> <td>Plan of Land</td> </tr> </tbody> </table> <p>Any changes to the approved plans that are not <i>de minimis</i> must receive Planning Board approval.</p>	Date (Stamp Date)	Submission	(January 31, 2012)	Initial application submitted to the City Clerk's Office	January 19, 2011	Mortgage Inspection Plan	April 5, 2012 (April 10, 2012)	Subdivision Plan of Land	April 5, 2012 (April 10, 2012)	Plan of Land	Recording / Filing Subdivision	Plng.	
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2	The Applicant shall delineate two (2) additional parking spaces on the left side of the property at 331 Washington Street prior to filing the subdivision with the Middlesex South Registry of Deeds.	Recording / Filing Subdivision	Plng.											
3	The Applicant shall prepare an easement document that permits access across the property at 331 Washington Street to the parking area which serves the two-family dwelling at 335 Washington Street. Following a final review and approval by the City's Law Department, the Applicant shall record the easement with the Middlesex South District Registry of Deeds. The easement shall be recorded with the subdivision plan and shall constitute a restriction running with the land which shall be binding upon the owner of the 331 Washington Street lot and such owner's successors and assigns.	Recording / Filing Subdivision	Plng.											



4	The Applicant shall ensure that the existing noncompliant 30% of Pervious Area at the subject property is maintained on the newly created lot prior to filing the subdivision with the Middlesex South Registry of Deeds.	Recording / Filing Subdivision	Plng.	
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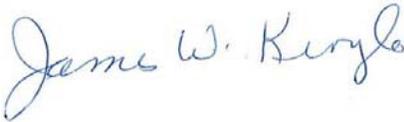
Attest, by the Planning Board:



Elizabeth Moroney



Joseph Favaloro



James Kirylo



Michael A. Capuano, Esq.

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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