



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

ZONING BOARD OF APPEALS MEMBERS

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JOSH SAFDIE

Case #: ZBA 2013-41-E1-6/2015
Site: 84-90 Washington Street
Date of Decision: July 15, 2015
Decision: Petition Approved with Conditions
Date Filed with City Clerk: July 23, 2015

ZBA DECISION

Applicant Name: Cobble Hill Center, LLC, c/o Corcoran Jennison Company, Inc.
Applicant Address: 150 Mount Vernon Street, Suite 520, Boston, MA 02125
Property Owner Name: Cobble Hill Center, LLC, c/o Corcoran Jennison Company, Inc.
Property Owner Address: 150 Mount Vernon Street, Suite 520, Boston, MA 02125
Agent Name: Richard G. DiGirolamo, Esq.
Agent Address: 424 Broadway, Somerville, MA 02145

Legal Notice: Applicant/Owner Cobble Hill Apartment Company seek a Site Plan Approval for a subdivision under SZO §5.4 to divide a 437,090 sf lot into two lots of 173,748 sf and 263,371 sf for a future development proposal for 159 residential units and approx 13,200 sf of commercial space.

Zoning District/Ward: BB zone/Ward 1
Zoning Approval Sought: §5.4
Date of Application: June 9, 2015
Date(s) of Public Hearing: July 15, 2015
Date of Decision: July 15, 2015
Vote: 4-0

Appeal #ZBA 2013-41-E1-6/2015 (originally advertised as ZBA #2015-37 in error) was opened before the Zoning Board of Appeals at Somerville City Hall on July 15, 2015. 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.



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

The proposal is for the extension of Variance. The subject property has been subdivided from Cobble Hill. The proposed redevelopment will include demolition of the existing one-story structure and construction a building with 159 residential units and approximately 13,217 square feet of commercial space on the ground floor. The existing senior housing complex on the 263,371 square foot lot would continue to operate as it does today.

EVALUATION & FINDINGS FOR EXTENSION:

Massachusetts General Law Cpt 40A states:

“If the rights authorized by a variance are not exercised within one year of the date of grant of such variance such rights shall lapse; provided, however, that the permit granting authority in its discretion and upon written application by the grantee of such rights may extend the time for exercise of such rights for a period not to exceed six months; and provided, further, that the application for such extension is filed with such permit granting authority prior to the expiration of such one year period”

The original variance was approved on July 28, 2014. If approved, the extension will last until January 28, 2016.

Demonstration of Hardship

SZO §5.3.10 cites four examples of “hardship”: financing problems, labor strike, bad weather conditions, and act of God.

As with any project, there are always hurdles in getting to the construction phase. The first is the ability to meet conditions of approval. The initial materials presented to the DRC and Planning Staff did not meet quality expectations presented in the approved plans. Planning Staff has since worked collaboratively with the Applicant to remedy these issues. The Applicant must also meet the city stormwater and sewer policies – this includes runoff and mitigation for infiltration and inflow in the city sewer. Lastly, committing to the affordable housing required necessitates a signed AHIP. This item is yet to be executed. Each refinement requires adjustments in the project financing. A detailed letter from the Applicant is attached.

The Board finds that the Applicant encountered issues that constitute hardship which prevented the commencement of construction under the permit.

Good Faith Effort to Overcome Hardship and Expedite Progress

The Applicant submitted a timeline of the action taken to move forward with the construction of this project. This timeline is attached to support this request. The timeline includes the following:

- Financing finalized by October 2015
- Noticing abutters of demolition by the end of August
- Cutting and capping utilities in September
- Demolition starting in October
- Foundation starting in December

Based on the above, the Board finds that the Applicant is making good faith efforts to overcome the demonstrated hardships and move forward with the project.



DECISION:

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans and Elaine Severino with Josh Safdie absent. Upon making the above findings, Richard Rossetti made a motion to approve the request for a Special Permit. Elaine Severino seconded the motion. Wherefore the Zoning Board of Appeals voted **4-0** 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 with Site Plan Review to construct 159 dwelling units with a ground floor commercial component, a Special Permit to park on a separate lot, a Special Permit for shared parking, a Variance for height, and a Variance for parking relief. This approval is based upon the following application materials and the plans submitted by the Applicant:	CO / BP	ISD/PIng.															
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>(June 11, 2013)</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>January 31, 2013 (September 12, 2013)</td> <td>Subdivision plan submitted to OSPCD</td> </tr> <tr> <td>September 11, 2013 (September 12, 2013)</td> <td>Plans submitted to OSPCD (T, A0.1, C-1, C-2, C-3, C-4, C-5, C-6, C-7, Ex-1, L-1, L-2, A1.00, A1.01, A3.01, A3.02, A3.03, A3.04, & A3.05)</td> </tr> <tr> <td>September 4, 2013 (September 12, 2013)</td> <td>Balcony Study</td> </tr> <tr> <td>September 24, 2013 (September 25, 2013)</td> <td>Alternative 2 Proposed Parking Design</td> </tr> <tr> <td>September 11, 2013 September 25, 2013)</td> <td>Roof Plan & Unit Types (Sheets A1.02 & A1.03)</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	(June 11, 2013)	Initial application submitted to the City Clerk's Office	January 31, 2013 (September 12, 2013)	Subdivision plan submitted to OSPCD	September 11, 2013 (September 12, 2013)	Plans submitted to OSPCD (T, A0.1, C-1, C-2, C-3, C-4, C-5, C-6, C-7, Ex-1, L-1, L-2, A1.00, A1.01, A3.01, A3.02, A3.03, A3.04, & A3.05)	September 4, 2013 (September 12, 2013)	Balcony Study	September 24, 2013 (September 25, 2013)	Alternative 2 Proposed Parking Design	September 11, 2013 September 25, 2013)	Roof Plan & Unit Types (Sheets A1.02 & A1.03)
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Any changes to the approved site plan or elevations that are not <i>de minimis</i> must receive SPGA approval.																		
Affordable Housing/Linkage																		
2	Affordable Housing Implementation Plan (AHIP) should be approved by the OSPCD Housing Division and executed prior to issuance of Building Permit. Affordable units shall be provided on-site.	BP	Housing															



3	Written certification of the creation of affordable housing units, any fractional payment required, or alternative methods of compliance, must be obtained from the OSPCD Housing Division before the issuance of a Certificate of Occupancy (C.O.). No C.O. shall be issued until the OSPCD Housing Division has confirmed that the Affordable Housing Restriction has been approved and recorded and the developer has provided the promised affordable units on-site.	CO	Housing	
Pre-Construction				
4	The Applicant must contact the Engineering Department to obtain a street address prior to a building permit being issued.	BP	Eng	
5	The Applicant shall work with the Engineering Department to determine the street name should be for the private road.	BP	Eng.	
6	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.	
7	The Applicant shall submit a proposed grading and drainage plan, stamped by a registered PE in Massachusetts that demonstrates compliance with the City's stormwater policy.	BP	Eng.	
8	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				
9	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	Plng.	
10	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	
11	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				



12	The Applicant shall provide final material samples for siding, trim, windows, doors, and light fixtures (to the Design Review Committee for review and comment) and to Planning Staff for review and approval prior to construction.	BP	Plng.	Applicant will submit final materials for documentation
13	Each balcony shall be sized to accommodate a circle with a diameter of five feet.	BP	Plng.	
14	The address, 90 Washington, illustrated on the east facing ribbon element between the East and Middle blocks shall be written vertically, so as to read from top to bottom.	BP	Plng.	
15	The Applicant shall continue to work with Planning Staff on the square projecting element of the east elevation of the East Block. Staff shall approve this component prior to a building permit being issued.	Prior to BP	Plng.	Approved
16	The fiber cement paneling located on the top floor of the rear façade shall extend the length of this floor to the glazed window bay located in the corner, and continue after this bay across the top floor of the west facing building component.	Prior to BP	Plng.	
Site				
17	Landscaping should be installed and maintained in compliance with the American Nurserymen's Association Standards;	Perpetual	Plng. / ISD	
18	There shall be a 6 foot deep landscape buffer between the road and sidewalk along New Washington Street. This landscaped buffer shall have street trees placed between 20 to 30 feet apart on center. This sidewalk shall be at least 5 feet wide and constructed in accordance with City standards.	BP	Plng./ISD	Approved Plan dated 8-8-2015.
19	There shall be a minimum of one tree for each 1,000 sf of required landscaped area under SZO §10.3.	BP	Plng./ISD	
20	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	
21	The small landscape area adjacent the Washington St parking lot shall have a 5' diagonal pedestrian path with no less than 2 benches, facing the path. The remainder of this area shall be grass, shrubs, and trees. The Applicant shall submit a plan and receive Staff approval regarding this space prior to receiving a building permit.	BP	Plng.	Approved Plan dated 8-8-2015.
22	All new sidewalks will be installed by the Applicant in accordance with the specifications of the Highway Superintendent. Specifically, all driveway aprons shall be concrete.	CO	Plng.	



23	Evergreen trees and shrubs, similar to those that surround the transformer, shall be added throughout the rest of the rear parking lot area. There shall be a minimum of 75 evergreen trees/shrubs added to this lot beyond what is illustrated and does not include the proposed deciduous trees.	CO	Plng.	
24	Applicant will supply 11 bicycle racks, as specified on the plans, for public use, to be located along sidewalks throughout the site.	CO	Plng.	
25	All new streets shall be constructed by the Applicant in accordance with the specifications of the Highway Superintendent and in accordance with City standards.	CO	ISD	
26	If not taken off-site, snow plowed from the development can only be stored in the landscaped area in the back of the site.	Cont.	ISD	
27	The new shared street shall include but is not limited to including pavers, plantings, seating, interactive components or artwork, bollards, signage, and lighting as well as a programmatic plan for the piazza located along the east side. The plans shall be reviewed and approved by Planning Staff prior to being issued a Building Permit.	Prior to BP	Plng.	In development 9-18-2014
28	A landscape buffer shall be constructed to obstruct views from the abutting sidewalk of the rear surface parking lot once parcels on the south side of New Washington Street and/or within the Inner Belt area south of the railroad tracks exceed 200,000 square feet of new development, the Green Line has opened, and Phase II of the proposed development has not been built and is not intended to be built in the near future.	Perpetual	Plng.	
Plaza Design				
29	To create seating immediately accessible from the sidewalk, the planters along the Washington Street and New Washington Street in the plaza shall provide additional seating ledges adjacent to the sidewalk at a minimum depth of 22 inches.	CO	Plng.	
30	All seating in the plaza is required to be a height between 16 and 30 inches above grade (adjacent walking surfaces). Deterrents to seating, such as spikes, rails, or deliberately uncomfortable materials or shapes, placed on surfaces that would otherwise be suitable for seating are prohibited. Deterrents to skateboards, rollerblades and other wheeled devices are permitted on seating surfaces if they do not inhibit seating, maintain a minimum distance of five feet between deterrents, and are integrated into the seating surface at the time of manufacture or construction.	CO	Plng.	
31	A minimum of 50% of the seats in the plaza shall have seat backs that are a minimum of 14 inches high and either contoured in form for comfort or reclined between 10 to 15 degrees from vertical. Walls located adjacent to a seating surface shall not count as seat backs.	CO	Plng.	



32	Movable chairs shall not be chained, fixed, or otherwise secured while a civic space is open to the public, however may be removed during the hours of 9:00pm to 7:00am.	CO	Plng.	
33	Four litter receptacles shall be provided in the plaza that are 30 to 50 gallon containers with an opening no more than 36 inches above grade and designed in such a manner that users do not have to touch the receptacle or push open a door in order to dispose of litter. Litter receptacles shall be constructed of durable materials that are graffiti-, fire-, rust-, and stain-resistant and function to permit emptying from the top. Litter receptacles should be located near entrances to civic spaces and within reasonable proximity to seating areas. Plazas that contain open air cafes or kiosks providing food service shall provide one additional litter receptacle for each 1,500 square feet of plaza area occupied by such outdoor eating area.	CO	Plng.	
34	Final materials for the plaza shall be reviewed by the Design Review Committee and approved by Planning Staff.	Prior to CO	Plng.	
35	Final plant selections for the plaza and the overall site shall be reviewed and approved by Planning Staff	Prior to CO	Plng.	
Traffic & Parking				
36	A state of the art traffic controller (a TS 2, Type 2 traffic controller) shall be purchased by the developer and then installed by a contractor suitable and approved by the City.	CO	Traffic/ Pkg	
37	The developer shall have a contractor, approved by Traffic and Parking, repaint all the pavement markings on Washington St, from New Washington St to the Boston city/line, as well as inventory and replace all signs along the above described corridor.	CO	Traffic/ Pkg	
38	Not before one year after full occupancy of the building and during the school year, the owner shall submit a parking study to the City that includes parking counts of the parking lot in the evening for weekday 8 nights and parking counts of the area surrounding the subject site as defined in the baseline parking study dated August 7, 2013. Only if the parking lot is 95% occupied for 7 of the 8 nights and overflow parking has extended into the surrounding area as compared to the baseline parking study, the owner shall construct the 55 space overflow parking lot.	One year after full occupancy	Plng.	
39	Documentation detailing how 34 spaces of parking will be shared between the residential and retail components shall be submitted to Planning Staff.	CO	Plng.	
40	Until a future road design dictates otherwise, movement into the parking lot off of the Washington Street shall be "Right turn in, Right turn out". The curb cut design and signage shall be reviewed and approved by Traffic and Parking Staff.	CO	Traffic/ Pkg	
Miscellaneous				



41	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	
42	The Applicant, its successors and/or assigns, shall be responsible for maintenance of new private access located between Cobble Hill Apartments and the proposed development. This includes but is not limited to general maintenance, snow plowing, sweeping etc.	Cont.	ISD	
Public Safety				
43	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
44	The fire lane shall be clearly marked and no less than 18 feet in width.	CO	FP	
45	Any transformers should be located as not to impact the building or landscaped area.	Elec.permits & CO	ISD	
46	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/BOH	
47	If there unknown underground fuel tanks on this site, these are to be removed under the supervision of the Fire Prevention Bureau. Permits will be required for these removals.	CO	FP	
48	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.	
49	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/OSE	
Signage				
50	Signage will be limited in size and location to that shown in the elevation diagrams. Applicant shall provide signage, including lighting and material, (to the Design Review Committee for review and comment and) to Planning Staff for review and approval prior to Installation.	BP For signage	Plng.	
51	Signage may remain lit until the last business establishment has closes operations for the day, this includes both retail and residential signage and will likely be different between weekday and weekend.	Perpetual	ISD	
Final Sign-Off				
52	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:

Orsola Susan Fontano, *Chairman*
Richard Rossetti, *Clerk*
Danielle Evans
Elaine Severino

*** Need all board signatures if registered land (check deed) ***

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 _____

