



**CITY OF SOMERVILLE, MASSACHUSETTS**  
**MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT**  
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DAWN PEREIRA, *ADMINISTRATIVE ASSISTANT*

**Case #:** ZBA 2007-11-R3-3/2017  
**Date:** May 11, 2017 **June 1, 2017**  
**Recommendation:**  
SP revision – conditional approval  
Variance – unable to recommend

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**UPDATED PLANNING STAFF REPORT**

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**Site:** 292 – 294 Beacon Street

**Applicant / Owner Name:** Kenneth Spera  
**Applicant / Owner Address:** P.O. Box 189, Still River, MA 01467  
**Alderman:** Maryann Heuston

Legal Notice: Applicant/Owner, Kenn Spera, seeks a Revision to a special permit (ZBA 2007-11, ZBA 2007-11R0508, and ZBA 2007-50) under SZO §5.3.8 to alter the footprint and a Variance under SZO §5.5 and SZO §8.5 to alter the height of the previously approved rear structure to build and approximately 4,850 square foot mixed use building with four residential units and one commercial unit. RC zone. Ward 2.

*This staff report has been updated. Items which no longer apply have been ~~struck~~ and updated information has been **highlighted in yellow**.*

Dates of Public Hearing: Zoning Board of Appeals – May 17, 2017 **and June 7, 2017**

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**I. PROJECT DESCRIPTION**

1. Subject Property: The Applicant received special permits in 2007 to redevelop 292 Beacon Street. The property is a 7,500 square foot lot on which sat a 3,850 square foot flat-roofed wood-frame and masonry building previously used for a VFW hall, auto glass repair, and an auto repair shop. The previous structure was in disrepair and has been cited in the past by the City's Neighborhood Impact Team for multiple violations.

Special Permit 2007-11 under SZO §4.4.1, §4.5.1 allowed for the construction of three ground-floor retail/office units, four two-bedroom residential units, and to change the nonconforming use of the



driveway access. Special Permit 2007-50 under SZO §7.11.1.c allowed the use as a four-family dwelling as part of the approved mixed-use structure. The Applicant received a revision in 2008 (ZBA 2007-11-R0508), which allowed for alterations to the building footprint, modification of façade and landscaping and a revision in 2009 (ZBA 2007-11-R0609) which allowed for the modification of the height and roofline, the material and trim details, and incorporated phases into the project. Another revision was approved in 2009 to phase the project. Phase 1 included constructing the front portion (1/3<sup>rd</sup>) of the building and the entire site plan. The rear façade of the front portion of the building would be constructed as an exterior wall. It would be brick with recessed panels and no windows. The foundation and first floor deck of the rear (2/3<sup>rd</sup>) portion of the building would be constructed and waterproofed. Phase II would include constructing the rest of the building as approved in case # ZBA 2007-11-R0508.

In July of 2011 the ZBA approved a time extension of the Special Permit and construction of the 2 ½ story structure along the street commenced. This building has a 1,920 gross square feet commercial space on the first floor and basement and on the second floor and in the half story is an approximately 1,260 square foot residential unit.

In September of 2015 the ZBA approved another revision ZBA 2007-11, ZBA 2007-11-R0508, and ZBA 2007-50 to separate the buildings into two with the 6,600 square foot rear structure directly behind the front structure. The rear structure was approved to be altered from a two-story building to a three-story building. The uses were approved to change from four units and three commercial spaces to five residential units as townhouses and no commercial space. Each townhouse was approved to have a one or two car garage.



2. Proposal: The proposal is to construct an approximately 4,850 square foot mixed use building with four residential units and one commercial office unit. The site plan will maintain a two structure site plan but alter the footprint of the rear structure from a previously approved footprint of 88 feet by 24 feet (2,112 square feet) to a slightly smaller footprint of 35 feet by 60 feet (2,100 square feet). The building height is proposed to be altered from the prior approval of three stories at 32 feet to four stories at 40 feet — 6 inches; however the Applicant has indicated that he could bring the height to 40 feet even. The uses are proposed to be altered from the prior approval of five residential units as townhouses and no commercial space to four residential units and one commercial unit with six underground parking spaces. This proposal would result in the locus having five residential units and two commercial units.

3. Green Building Practices: The application states that standard green practices in the field will be used.

4. Comments:

*Fire Prevention:* Has been contacted but has yet to provide comments.

*Traffic & Parking:* In 2015 Traffic and Parking had the following comment, “*The ability to maneuver cars out of a 14 foot wide garage door is questionable; however, the same number of parking spaces from the prior approval would remain, 5, even if each of the garages were designed for just one vehicle.*” This new proposal includes a 16-foot wide garage door and seven parking spaces.

*DPW:* Detailed and stamped electrical and utility plans must be submitted for review and approval prior to obtaining a building permit.

*Ward Alderman:* Alderman Heuston has been contacted but has yet to provide comments as of the publication of this report.

## **II. FINDINGS FOR SPECIAL PERMIT (SZO §4.4.1 and §5.3.8):**

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.

### 40. Information Supplied:

The Staff 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 original Special Permits allowed the Applicant to build a 2 and 3-story structure for retail/office and residential use, retaining a portion of the original structure, in order to protect its nonconforming status. The site and structure are nonconforming with respect to parking, landscaping, and front, side, and rear yard setbacks. The changes to these nonconformities were approved as part of the prior special permit and a subsequent revision to the prior special permit.

The Applicant is requesting another revision to special permit 2007-11 and 2007-50 under SZO §5.3.8. A revision to a special permit is allowed if the final signoff and certificates of occupancy have not yet been issued which is the case for this project that is under construction. Changes that are not de minimis must

go back to the permit granting authority for approval. Staff deemed this revision to be greater than the de minimis requirements under §5.3.8 and the request is before the ZBA for a public hearing.

The following nonconforming dimensions will remain nonconforming:

- Landscaped area – increased from 9% to 13.3%
- Pervious area – increased from 15% to 24.6%
- Front yard setback – 0 feet (no change)
- Right yard setback – approved at 9 feet, which was nonconforming, is proposing to increase the nonconformity to five feet

The following zoning requirements will continue to be conforming:

- Lot Size – 7,500 sf
- Lot area per dwelling unit – 1,500 sf
- Ground coverage – 41%
- FAR – 1.04
- Rear yard setback – 20 feet
- **Height (feet) – 40 feet**

The following dimensions will become new zoning violations and will require a Variance:

- ~~Height (feet) – 40.5 feet~~
- Height (stories) – 4 stories
- Left yard setback – 9 feet (previously approved at 20 feet)

	Existing (2007)	Original approval (2007)	Approved revision (2015)	Proposed revision (2017)	Required	
<b>Lot Size</b>	7,500	7,500	7,500	7,500	7,500	complies
<b>Lot Area/Dwelling Unit</b>	n/a	1,875	1,500	1,500	875	complies
<b>Ground Coverage</b>	52%	44%	40%	41%	70%	complies
<b>Landscaped Area</b>	0%	0%	9%	<del>13.3</del> <b>11%</b>	25%	nonconforming
<b>FAR</b>	0.51	0.67	0.9	1.04	2.0	complies
<b>Height (feet)</b>	unknown	unknown	32	<del>40.5</del>	40	<del>New violation</del> <b>complies</b>
<b>Height (stories)</b>	1	2.5	3	4	3	new violation
<b>Front Yard</b>	0	0	0	0	15	nonconforming
<b>Left Yard</b>	21	20	20	9	13.3	new violation
<b>Right Yard</b>	1.1	1.1	9	5	13.3	nonconforming
<b>Rear Yard</b>	2.5	7	20	20	20	complies
<b>Frontage</b>	50	50	50	50	50	nonconforming
<b>Pervious Area</b>	0%	0%	15%	24.6%	30	nonconforming

The landscaping area is currently nonconforming and will continue to be nonconforming; however, the proposal does include an increase in the amount of landscaping compared to the previously approved revision. The nonconforming right side yard was proposed to be increased from 1.1 feet (location of the previous foundation) to 9 feet under the previously approved revision, which would have been nonconforming as 10 feet would have been required for a three-story building. The current proposal is to increase the existing right side yard from 1.1 feet to 5 feet. New zoning violations that will be created as a

result of the proposal will be ~~the height, in terms of feet and~~ the number of stories and the left side yard setback as the previously approved width was 20 feet and the proposed width is 9 feet.

In considering a special permit under §4.4 of the SZO, Staff finds that the alterations proposed would not be substantially more detrimental to the neighborhood than the existing structure nor the previously approved revision. The proposal has been designed with setbacks that minimally impact the neighbors and the other nonconforming dimensions will not be altered and will continue to be nonconforming to the requirements of the SZO.

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 promote the health, safety, and welfare of the inhabitants of the City of Somerville; to provide for and maintain the uniquely integrated structure of uses in the City; to lessen congestion in the streets; to protect health; to secure safety from fire, panic and other dangers; to avoid undue concentration of population; to preserve the historical and architectural resources of the City; to adequately protect the natural environment; 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 RC district, which is, "to establish and preserve a district for multi-family residential and other compatible uses which are of particular use and convenience to the residents of the district."

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."*

*Surrounding Neighborhood:* The locus is located on the southwestern side of Beacon Street in a neighborhood with a mix of residential structures, mixed use structure with ground floor retail, and a supermarket. Building height varies in the neighborhood from one story to seven stories; however, two and three story buildings are the most common building height. Additionally, flat and gable roof types are common in this particular neighborhood.

*Impacts of Proposal (Design and Compatibility):* The proposed design will follow that of a Georgian style building and will be located in the rear of the site behind an existing Georgian style building. The building will include many hand crafted detailed architectural features. The site plan will be compatible to the site and the neighborhood as parking is provided underground with the exception of one space behind the commercial structure. The site will include a 1,000 square foot private perennial flower garden in the rear with a lilac shrub perimeter **that includes a brick courtyard, lawn space, and a fountain.** A new cedar fence will surround the perimeter of the site. Overall, Staff finds that the proposed revision would enhance the urban design of Beacon Street compared to the previously approve townhouse style proposal.

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.*

*Impacts of Proposal (Circulation):* Vehicles are intended to pull off of Beacon Street and either park behind the front building where there is one spot designated for the residential unit in the front building or pull straight ahead into the site and underneath the rear building to access six parking spaces that are also reserved for residential units. The previously approved special permits permitted the site with no spaces allocated for the commercial unit.

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

8. 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.*

<i>SomerVision Summary</i>	<i>Existing</i>	<i>Proposed</i>
<i>Dwelling Units:</i>	1	5
<i>Commercial Sq. Ft.:</i>	1,960	4,060
<i>Estimated Employment:</i>	10	TBD
<i>Parking Spaces:</i>	1	7

**III. FINDINGS FOR VARIANCE**

A Variance (§5.5) is sought for a fourth story with a total height of 40.5 feet on the proposed rear mixed use structure as well as a left side yard setback of 9 feet.

In order to grant a variance the Board must make certain findings and determinations as outlined in §5.5.3 of the SZO.

1. *There are “special circumstances relating to soil conditions, shape or topography of land or structures which especially affect such land or structures but not affecting generally the zoning district in which it is located, causing substantial hardship, financial or otherwise.”*

*Applicant’s response:* The narrow width of the lot and its total area will not allow the owner to create the permissible five units to include a mix of unit sizes together with a desirable three-bedroom unit. In the mixed unit development, the fourth story requested will accommodate the bedrooms for the three-bedroom unit, and the overall height of the building will still meet the 40-foot maximum height limit for the zoning district.

*Staff’s response:* The width of the site is narrow for a lot that allows multifamily housing and is along a major thoroughfare through the City. The proposal is able to get parking in a garage under the building with this narrow lot but the building is slightly in the left side yard and ~~is six inches and~~ a story taller than what is allowed in the district **but within the 40 foot height requirement.**

2. *“The variance requested is the minimum variance that will grant reasonable relief to the owner, and is necessary for a reasonable use of the building or land.”*

*Applicant’s response:* The fourth story Variance will be the minimum variance necessary to provide relief to the owner so that he may make available a mix of household sizes in this new mixed use development.

Larger units allow families to reside in the neighborhood as well as provide options for housing people with a desire to live with others. Many typical developments provide only one and two bedroom units.

*Staff's response:* The number of residential units included in the development is allowed under the lot area per dwelling unit and the proposal includes three two-bedroom units and one three-bedroom unit, which are desired in the City. Three bedroom units are becoming harder to find as houses are carved into condominium units and new development typically includes one- and two-bedroom units. Larger units allow for families to come to or stay in Somerville and also provide different options of housing for other people with a desire to live with others.

3. “The granting of the variance would be in harmony with the general purpose and intent of this Ordinance and would not be injurious to the neighborhood or otherwise detrimental to the public welfare.”

*Applicant's response:* The granting of the Variance will allow the construction of a building in conformance with the zoning ordinance and in harmony with the revitalization of the surrounding neighborhood. As previous indicated, the overall proposed structure will remain less than the maximum required building height for the zoning district. The provision of a three-bedroom unit will be an asset to the neighborhood and in conformity with the zoning ordinances intent to protect and promote housing stock that can accommodate diverse household sizes.

*Staff's response:* The building will not be injurious to the surrounding area due to the extra story and slight projection into the left side yard setback. The fourth floor is set back from the front and side façades and is treated with different architectural features than the three-story portion making appear as a penthouse and not a full fourth floor. The structure will remain within the 40 foot height requirement.

#### IV. RECOMMENDATION

##### Special Permit under §4.4.1 and §5.3.8 Variance under §5.5 and §8.5

Based on the materials submitted by the Applicant, the above findings and subject to the following conditions, the Planning Staff recommends **CONDITIONAL APPROVAL** of the requested **SPECIAL PERMIT and VARIANCE**.

The recommendation is based upon a technical analysis by Planning Staff of the application material based upon the required findings of the Somerville Zoning Ordinance, and is based only upon information submitted prior to the public hearing. This report may be revised or updated with new recommendations, findings and/or conditions based upon additional information provided to the Planning Staff during the public hearing process.

(Conditions revised for the June 7, 2017 public hearing)

#	Condition	Timeframe for Compliance	Verified (initial)	Notes								
1	Approval is for the revision of the previously approved special permit to construct a mixed use building in the rear (four residential units and one office unit). 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>March 30, 2017</td> <td>Initial application submitted to the City Clerk’s Office</td> </tr> <tr> <td>(May 10, 2017)</td> <td>Plans submitted to OSPCD (rear, left, and right elevations, basement parking floor plan, )</td> </tr> <tr> <td>(June 1, 2017)</td> <td>Plans submitted to OSPCD (revised site plan, left foundation elevation, front elevation, second and third floor plans, and garden drawing)</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	March 30, 2017	Initial application submitted to the City Clerk’s Office	(May 10, 2017)	Plans submitted to OSPCD (rear, left, and right elevations, basement parking floor plan, )	(June 1, 2017)	Plans submitted to OSPCD (revised site plan, left foundation elevation, front elevation, second and third floor plans, and garden drawing)
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Any changes to the approved site plan or elevations/use that are not <i>de minimis</i> must receive SPGA approval.												
<b>Pre-Construction</b>												
2	The Applicant must contact the Engineering Department to obtain a street address prior to a building permit being issued.	BP	Eng.									
3	The Applicant shall complete the Site Plan Review Checklist and supply the information to the Engineering Office. The plans must comply with the City’s Stormwater Management Policy.	BP	Eng.									
4	The Applicant must contact the Engineering Department to coordinate the timeline for cutting or opening the street and/or sidewalk for utility connections or other construction. There is a moratorium on opening streets from November 1st to April 1st and there is a list of streets that have additional opening restrictions.	BP	Eng									
5	New sanitary connection flows over 2,000 GPD require a removal of infiltration and/or inflow by the Applicant. This will be achieved by submitting a mitigation payment, established by the City Engineers Office, to the City based on the cost per gallon of I/I to be removed from the sewer system and a removal ratio of 4:1. If a different ratio of removal or mitigation payment amount is adopted by the Board of Aldermen prior to the Applicant receiving a Certificate of Occupancy, payment will be adjusted to the BOA rate. The Applicant shall work with Engineering and meet this condition before a certificate of occupancy is issued.	BP	Eng.									



6	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	
<b>Construction Impacts</b>				
7	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.	
8	The Applicant shall at their 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	
9	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	
<b>Design</b>				
10	Applicant shall provide final material samples for siding, trim, windows, and doors to Planning Staff for review and approval prior to the issuance of a building permit.	BP	Plng.	
11	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	
12	The height of the structure shall be no higher than 40 feet.	Cont.	Plng. / ISD	
13	An accessibility narrative prepared by a licensed architect or code consultant that describes how the proposed structure will meet all applicable federal and state regulations regarding accessibility requirements.	BP	Plng. / ISD	
<b>Site</b>				
14	Landscaping shall be installed and maintained in compliance with the American Nurserymen's Association Standards;	Perpetual	Plng. / ISD	
15	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	
16	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.	
17	Applicant will supply bicycle parking spaces at a location to be reviewed and approved by Planning Staff.	CO	Plng.	

18	Garbage and recycling locations shall be clearly indicated on site plans. Storage areas shall be inside of the structure or shall be fully screened from view from both the public way and abutters by an appropriate material reviewed and approved by staff. The location shall not impact any parking, landscaping, or egress.	CO	Plng.	
19	Gas and electric meters shall not be on the front of the structure. Gas and electric meters may be located on the side of the structure but shall be screened from the street by a hardy, staff approved evergreen planting. Utilities shall not be located adjacent to windows and shall not impact any parking, landscaping, or egress. The provisions of this condition may be waived by staff if the applicant submits a letter from the utility, signed by a utility representative, on utility letterhead, indicating that there is no feasible alternative to placing meters in violation of this condition.	CO	Plng./ ISD	
<b>Miscellaneous</b>				
20	Construction on the foundation shall commence within one year to constitute substantial use of the Variance in order to eliminate questions whether the permit has lapsed.	Within one year of the granting of the Variance.	Plng./ ISD	
21	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	
<b>Public Safety</b>				
22	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
23	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.	At time of release	OSE/FP/ BOH	
24	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.	
<b>Final Sign-Off</b>				
25	The Applicant shall contact Planning Staff when a tenant is selected for the ground floor commercial space to determine whether or not zoning relief for parking will be required.	CO	Plng.	
26	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.	

