



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

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**Case #: ZBA 2015-79**  
**Site: 191 Beacon Street**  
**Date of Decision: May 18, 2016**  
**Decision: Petition Approved with Conditions**  
**Date Filed with City Clerk: May 20, 2016**

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**ZBA DECISION**

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<b>Applicant Name:</b>	Well Built Construction Company, Inc.
<b>Applicant Address:</b>	17 Jeffreys Neck Road, Ipswich, MA 01938
<b>Property Owner Name:</b>	Clayton & Jean Peabody
<b>Property Owner Address:</b>	11 Geason Street, Watertown, MA 02472
<b>Agent Name:</b>	Richard G. DiGirolamo, Esq.
<b>Agent Address:</b>	424 Broadway, Somerville, MA 02145

Legal Notice: Applicant Well Built Construction Company Inc. and Owner Clayton & Jean Peabody, are seeking a Special Permit to substantially modify a nonconforming structure, by replacing an existing garage with three residential units and a small commercial space.

<u>Zoning District/Ward:</u>	RB zone/Ward 2
<u>Date of Application:</u>	September 10, 2016
<u>Date(s) of Public Hearing:</u>	3/2, 3/16, 4/6, 4/20, 5/4 & 5/18/16
<u>Date of Decision:</u>	May 18, 2016
<u>Vote:</u>	5-0

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Appeal #ZBA 2015-79 was opened before the Zoning Board of Appeals at Somerville City Hall on March 2, 2016. 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 current proposal for the property is to demolish the 340sf wood frame garage that is currently in disrepair, and to substantially modify the currently nonconforming brick service station. By modifying the nonconforming structure, and preserving a portion of it, the applicant is able to propose a structure that fronts Beacon Street along the entirety of the site, which would buffer the residential neighborhood from the traffic on Beacon Street, and provide space for a generous amount of landscaping in the rear of the property to further soften the impact of the new development on the abutting properties. After meeting with the abutter, the applicant agreed to install a fence and landscaping along the rear of the property line to help screen the project; final design of these elements will be subject to the approval of the Planning Staff, who will work with the applicant and the abutter to produce an aesthetically pleasing design and landscape composition.

The proposed mixed-use structure is three stories tall, and includes three residential units of three bedrooms each on the second and third floors, and a small space at the ground floor for commercial uses, and a flex space for one of the units that would work for a small office or home occupation. The required parking for the residential units is located inside the ground floor of the building and is accessed via a pervious asphalt driveway in the rear of the structure. The residential units are provided with rear balconies as well as roof decks for outdoor amenities, and the landscaped area of the site is significantly increased from 0% to well over the required 25%.

**FINDINGS FOR SPECIAL PERMIT (SZO §4.4 & §4.5):**

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."*

The structure is currently nonconforming with respect to the following use and dimensional requirements: motor vehicle related sales and service, front yard setback, side yard setback, rear yard setback, permeable area, and landscaped area.

The proposal will change the nonconforming automobile related use residential, but also include the possibility for office (SZO 7.11.7), business services (SZO 7.11.8), or sales or rental of goods or equipment (SZO 7.11.9), but only in the space identified as 'commercial' in the approved plans. The existing nonconforming front yard setback will be slightly reduced and extended along the entire front of the site, the existing nonconforming side yard setback will be reduced to only the front portion of one side of the lot, and the existing nonconforming rear yard setback will be eliminated. The permeable area and landscaped area will be greatly improved from 0% to exceed the requirements in the RB Zone. These alterations to a nonconforming structure, and change from one nonconforming use to another, requires the Applicant to obtain special permits under §4.4.1 of the Somerville Zoning Ordinance (SZO).

Section 4.4.1 states that "[l]awfully existing nonconforming structures other than one- and two-family dwellings may be enlarged, extended, renovated or altered only by special permit authorized by the SPGA in accordance with the procedures of Article 5. The SPGA must find that such extension, enlargement, renovation or alteration is not substantially more detrimental to the neighborhood than the existing nonconforming building. In making the finding that the enlargement, extension, renovation or alteration will not be substantially more detrimental, the SPGA may consider, without limitation, impacts upon the following: traffic volumes, traffic congestion, adequacy of municipal



water supply and sewer capacity, noise, odor, scale, on-street parking, shading, visual effects and neighborhood character.”

In considering a special permit under §4.4 and 4.5 of the SZO, the Board finds that the alterations/use proposed would not be substantially more detrimental to the neighborhood than the existing structure/use. The proposal will increase the rear yard setback, and create a continuous streetwall that helps to buffer the neighborhood from traffic on Beacon Street, thereby providing a significant improvement over the existing conditions as well as the previous proposal.

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 The purposes of the Ordinance are 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 provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements; to conserve the value of land and buildings; 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; to protect and promote a housing stock that can accommodate the diverse household sizes and life stages of Somerville residents at all income levels, paying particular attention to providing housing affordable to individuals and families with low and moderate incomes; and to preserve and increase the amenities of the municipality.

The proposal is consistent with the purpose of the district, which is, “To 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.

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.

Each three bedroom unit requires two parking spaces, which are provided in the garages on the ground level. The generic commercial space requires an additional two parking spaces which are not provided on-site. Per SZO Section 9.13, projects that require 6 or fewer parking spaces may modify the parking standards by Special Permit, as such this project requires a Special Permit for two spaces of parking relief. The provision of 2 spaces of parking relief will not cause detriment to the surrounding neighborhood through any of the following criteria: increase in traffic volumes, increased traffic congestion due to queuing of vehicles, change in the type of traffic, reduction in on-street parking, or unsafe conflict of motor vehicle and pedestrian traffic. There is ample metered parking located on Beacon Street within 500 feet of the site, there is a major bike lane planned for Beacon Street, and there is also a bus stop on the corner of Park and Beacon. The combination of these factors allows people to access the site through a diverse means of transit modes.

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 surrounding neighborhood contains a mix of residential and commercial uses. The site is located in a pocket of the neighborhood that is primarily residential, but located approximately one tenth of a mile from pockets of commercial uses that are convenient to the neighborhood and help to encourage pedestrian activity in the area.



*Impacts of Proposal (Design and Compatibility):* The impacts of the proposal will be beneficial to the neighborhood on multiple fronts. First, the massing and location on the site of the proposed structure will help screen the abutting properties from the traffic on Beacon Street. Second, the three units of using proposed will help to improve the aesthetics of the neighborhood over the currently vacant lot that is in disrepair. The project will increase the landscaping and permeability of the site and neighborhood. Lastly, the inclusion of a space for a home office and for a small commercial use on the ground level helps to knit together the streetwall along Beacon Street and to provide space and uses that will be convenient to the neighborhood and its residents.

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.*

*Impacts of Proposal (Environmental):* No adverse impacts on the surrounding area anticipated as a result of excessive noise, illumination, glare, dust smoke or vibration, or from emissions of noxious materials, or pollution of water ways or ground water, or interference with radio or television signals.

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):* No traffic congestion or potential for accidents are anticipated as a result of this structure.

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

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.*

8. Impact on Affordable Housing: *In conjunction with its decision to grant or deny a special permit for a structure of four or more units of housing, the SPGA shall make a finding and determination as to how implementation of the project would increase, decrease, or leave unchanged the number of units of rental and homeownership housing that are affordable to households with low or moderate incomes, as defined by HUD, for different sized households and units.*

No impact on affordable housing is anticipated.



**DECISION:**

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans, Elaine Severino and Josh Safdie. 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 **5-0** to **APPROVE** the request. In addition the following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes						
1	Approval is for the Special Permit to substantially modify a nonconforming structure, a nonconforming use and parking relief. 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>September 10, 2015</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>February 25, 2016</td> <td>Modified plans submitted to OSPCD (1-11)</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	September 10, 2015	Initial application submitted to the City Clerk's Office	February 25, 2016	Modified plans submitted to OSPCD (1-11)
	Date (Stamp Date)				Submission					
	September 10, 2015				Initial application submitted to the City Clerk's Office					
February 25, 2016	Modified plans submitted to OSPCD (1-11)									
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 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.							
3	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.							



4	<p>Because of the history of the site and the intended use, the Applicant shall, prior to issuance of any demolition permit and/or any building permit for the project, provide to the Planning Department and the Inspectional Services Division:</p> <p>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</p> <p>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.</p>	Demolition Permit	Plng/ ISD	
5	The Applicant shall submit a proposed drainage report, stamped by a registered PE in Massachusetts that demonstrates compliance with the City's stormwater policy.	BP	Eng.	
6	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	
7	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.	
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	
<b>Construction Impacts</b>				



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	Approval is subject to the Applicant's and/or successor's right, title and interest in the property.	Cont.	Plng.	Deed submitted & application formed signed
11	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	
12	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>				
13	Applicant shall provide final material samples for siding, trim, windows, and doors to Planning Staff for review and approval prior to construction. Applicant shall also provide final landscape plan and 6' fence design for approval.	BP	Plng.	
14	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	
<b>Site</b>				
15	Landscaping should be installed and maintained in compliance with the American Nurserymen's Association Standards;	Perpetual	Plng. / ISD	
16	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	
17	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.	
<b>Public Safety</b>				
18	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
19	Any transformers should be located as not to impact the historic building or landscaped area, and shall be fully screened.	Electrical permits & CO		



20	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/B OH	
21	The suspected underground fuel tanks on this site must be removed under the supervision of the Fire Prevention Bureau. Permits will be required for these removals.	CO	FP	
<b>Final Sign-Off</b>				
22	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  
Josh Safdie

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 \_\_\_\_\_

