



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2019-88
Site: 111 Cedar Street
Date of Decision: September 18, 2019
Decision: Approved with Conditions
Date Filed with City Clerk: September 25, 2019

ZBA DECISION

Site: 111 Cedar Street

Applicant / Owner Name: 111 Cedar Street, LLC
Applicant / Owner Address: 103 Hemenway Street, Suite B2, Boston, MA 02115
Agent Name: Richard G. DiGirolamo, Esq.
Agent Address: 424 Broadway, Somerville, MA 02145

Legal Notice: Applicant and Owner, 111 Cedar Street, LLC, seeks a special permit under SZO §9.13.c to allow a driveway to straddle the lot line to serve as a parking space. RB Zone. Ward 5.

<u>Zoning District/Ward:</u>	RB Zone. Ward 5.
<u>Zoning Approval Sought:</u>	SZO §9.13.c
<u>Date of Application:</u>	July 25, 2019
<u>Date(s) of Public Hearing:</u>	September 18, 2019
<u>Date of Decision:</u>	September 18, 2019
<u>Vote:</u>	5-0

Case number ZBA 2019-88 was opened before the Zoning Board of Appeals in the Council Chambers of City Hall at 93 Highland Avenue. 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. On September 18, 2019, the Zoning Board of Appeals took a vote.



CITY HALL • 93 HIGHLAND AVENUE • SOMERVILLE, MASSACHUSETTS 02143
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I. PROJECT DESCRIPTION

The proposal is to re-install a driveway that would straddle the lot line (of 115 Cedar Street, which is located to the left of subject property) to serve as a parking space that could accommodate two motor vehicles in tandem.

II. FINDINGS FOR SPECIAL PERMIT (SZO 9.13):

In order to grant a special permit, the SPGA must make certain findings and determinations as outlined in §5.1.4 of the SZO. This section of the report goes through §5.1.4 in detail.

1. Information Supplied:

The Board finds that the information provided by the Applicant conforms to the requirements of §5.1.2 of the SZO and allows for a comprehensive analysis of the project with respect to the required Special Permits.

2. Compliance with Standards: *The Applicant must comply "with such criteria or standards as may be set forth in this Ordinance which refer to the granting of the requested special permit."*

SZO §9.13.c requires a special permit, "...to allow a driveway to straddle the lot line and serve a parking space or a loading bay on two (2) or more lots; or to allow two or more uses to share a common driveway, in each case provided a binding agreement, satisfactory in form to the SPGA and the City Solicitor, is executed and is filed in the Registry of Deeds of Middlesex County."

The Applicant has submitted an easement agreement between the subject property owner and the owner of 115 Cedar Street. The Board finds the easement agreement to be satisfactory. As of the publication of the Planning Staff Report, the City Solicitor has not stated any objections to the proposed easement agreement. It is conditioned that the easement agreement be filed with the Registry of Deeds of Middlesex County prior to the issuance of a Driveway Permit from the Engineering Department.

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, and upon reaching the findings and determinations set forth in Section 5.1.4". The Board finds that granting the requested Special Permit is consistent with the purposes of SZO §9.1 and will not cause detriment to increased traffic volumes, traffic congestion of queuing of vehicles, changes in the type of traffic, change in traffic patterns and access to the site, reduction in on-street parking, or unsafe conflicts of motor vehicles and pedestrian traffic.

3. Consistency with Purposes: *The Applicant has to ensure that the project "is consistent with (1) the general purposes of this Ordinance as set forth in Article 1, and (2) the purposes, provisions, and specific objectives applicable to the requested special permit which may be set forth elsewhere in this Ordinance, such as, but not limited to, those purposes at the beginning of the various Articles."*

The proposal is consistent with the general purposes of the Ordinance as set forth under §1.2, which includes, but is not limited to promote the health, safety, and welfare of the inhabitants of the City of Somerville; to lessen congestion in the streets; to protect health; to secure safety from fire, panic and other

dangers; to conserve the value of land and buildings; 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 RB 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.”

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 subject parcel is located on Cedar Street between the blocks of Hudson Street and Highland Avenue. The surrounding structures are similar in size, scale, and type.

Impacts of Proposal (Design and Compatibility): The proposed driveway will be constructed of a grass paver system that will have environmental and aesthetic improvements. The proposal will also reduce permeable walkways on the site in favor of added landscaping that will slightly decrease the landscaping percentage to 25.2%, which is just above the minimum requirement of 25% in the RB zone. The parking space will be grass pavers and look like landscaping; however, the definition of landscaping in the SZO does not permit areas of vehicular use to count toward the landscaping percentage.

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

6. 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.

III. DECISION

Present and sitting were, Susan Fontano, Danielle Evans, Anne Brockelman, Elaine Severino, and Drew Kane. Upon making the above findings, Danielle Evans made a motion to approve the requested special permit. Elaine Severino seconded the motion. The Zoning Board of Appeals voted **5-0** to **APPROVE** the request **WITH CONDITIONS**. The following conditions were attached:



#	Condition	Timeframe for Compliance	Verified (initial)	Notes								
1	Approval is for the creation of a driveway that will straddle the lot line. 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>July 25, 2019</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>September 3, 2019</td> <td>Plans submitted to OSPCD (SK-1.1)</td> </tr> <tr> <td>September 11, 2019</td> <td>Easement agreement</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	July 25, 2019	Initial application submitted to the City Clerk's Office	September 3, 2019	Plans submitted to OSPCD (SK-1.1)	September 11, 2019	Easement agreement
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September 11, 2019	Easement agreement											
Any changes to the approved site plan that are not <i>de minimis</i> must receive SPGA approval.												
Site												
2	Landscaping shall be installed and maintained in compliance with the American Nurserymen's Association Standards;	Perpetual	Plng. / ISD									
Miscellaneous												
3	The Applicant, its successors and/or assigns, shall be responsible for maintenance of both the building and all on-site amenities, including landscaping, fencing, lighting, parking areas and storm water systems, ensuring they are clean, well kept and in good and safe working order.	Cont.	ISD									
Public Safety												
4	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP									
5	To the extent possible, all exterior lighting must be confined to the subject property, cast light downward and must not intrude, interfere or spill onto neighboring properties.	CO	Plng.									
Final Sign-Off												
6	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.									
7	The easement agreement shall be filed with the Registry of Deeds of Middlesex County prior to the issuance of a Driveway Permit from the Engineering Department	Driveway Permit.	Eng.									



Attest, by the Zoning Board of Appeals:

Susan Fontano, *Chair*
Danielle Evans, *Clerk*
Anne Brockelman
Elaine Severino
Drew Kane (Alt.)

Attest, by Planner:

Alexander Mello

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 _____

