



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: **ZBA 2016-129/R1/2/19**
Site: **17-25 Murdock Street**
Date of Decision: **March 20, 2019**
Decision: ***Petition Approved with Conditions***
Date Filed with City Clerk: **April 3, 2019**

ZBA DECISION

Applicant Name: Cedar Murdock Partners, LLC
Address: 6 Spice Street, Suite 10, Charlestown, MA 02129
Property Owner Name: The Marchionne Realty Trust Property
Owner Address: 506 Main Street, Medford, MA 02155
Agent Name: Adam Dash, Esq.
Agent Address: 48 Grove Street, Suite 304, Somerville, MA 02144

Legal Notice: Applicant, Cedar Murdock Partners, LLC, and Owner, The Marchionne Realty Trust, seek a revision under to their original special permit in order to change the height of the foundation for building 1 only due to ground water levels. SZO §5.3.8. RB zone. Ward 5.

<u>Zoning District/Ward:</u>	RB zone. Ward 5.
<u>Zoning Approval Sought:</u>	SZO §5.3.8
<u>Date of Application:</u>	February 14, 2019
<u>Date(s) of Public Hearing:</u>	March 20, 2019
<u>Date of Decision:</u>	March 20, 2019
<u>Vote:</u>	5-0

Case # ZBA 2016-129/R1/2/19 was opened before the Zoning Board of Appeals in the Council Chambers at Somerville City Hall. 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 March 20, 2019 the Zoning Board of Appeals took a vote.



I. PROJECT DESCRIPTION

The applicant seeks a revision to the original SPSR granted February 1, 2017 due to the ground floor constructed higher above grade than the approved plan set showed.

II. FINDINGS FOR SPECIAL PERMIT (SZO §5.3.8):

Section 5.3.8: Revision of Special Permit states that “subsequent to a special permit, special permit with design review, or special permit with site plan review being granted by the SPGA, revisions in the plan may be made prior to the granting of the Certificate of Occupancy, in accordance with the following procedures and applicable law, ordinances, and regulations.”

During the initial phases of construction the development site was found to have a higher than expected water table which is not an atypical condition in many parts of the city. Condition #4 of the original approval states,

“The proposed basement finished floor elevation shall not be less than is 1 foot above the Seasonal High Ground Water elevation. The seasonal high ground water elevation shall be determined by a Massachusetts certified soil evaluator and stated on a signed soil test pit log.”

As a result of this condition the foundations for all buildings on this site have had their out-of-ground heights increased to varying degrees. Buildings 2-5 are raised to lesser amounts and are not visible from the street. Building one, however, is not. The condition cannot be solved via re grading due to Building 1’s proximity to the driveway for the project, the left lot line, and the sidewalk. To disguise the visibility of the taller basement wall the applicant has proposed a solution showing a raised dooryard with enhanced landscaping. Staff is supportive of this proposal as it will enhance the street view of the property and help to obscure the extra foundation.

This proposed change to the project was determined not to be de minimis in nature. Since there is no Certificate of Occupancy has yet been issued, the Applicant may request a revision to the previously-issued Special Permit.

As the ground water and basements heights are becoming a re-occurring issue the language of the future condition will be reviewed with Engineering to ensure this problem is addressed. Staff is working with ISD to institute zoning site visits after foundation pours to ensure compliance with ZBA approved plans.

III.DECISION:

Present and sitting were Members Danielle Evans, Josh Safdie, Anne Brockelman, Elaine Severino, and Drew Kane. Upon making the above findings, Josh Safdie made a motion to approve the request for a 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	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>February 14, 2019</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>February 19, 2019</td> <td>Plans submitted to OSPCD</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	February 14, 2019	Initial application submitted to the City Clerk's Office	February 19, 2019	Plans submitted to OSPCD
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	February 14, 2019				Initial application submitted to the City Clerk's Office					
February 19, 2019	Plans submitted to OSPCD									
Any changes to the approved (site plan or elevations/use) that are not <i>de minimis</i> must receive SPGA approval.										
Construction Impacts										
2	All previous conditions remain	BP/CO	PLNG/ISD							
3	Final materials for curbing and any installed hardscape shall be reviewed and approved by staff prior to installation.	BP/CO	PLNG/ISD							
4	A more developed final landscape design shall be presented to city staff for review and approval before the installation of plantings.	BP/CO	PLNG/ISD							
5	A maintenance program for the dooryard should be part of the condo documents to ensure planting survival and flourishing.	BP/CO	PLNG/ISD							



Attest, by the Zoning Board of Appeals:

Danielle Evans, *Acting as Chair*
Josh Safdie, *Acting as Clerk*
Elaine Severino
Anne Brockelman
Drew Kane, *Alt.*

Attest, by City 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 _____

