



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

PLANNING DIVISION
ZONING BOARD OF APPEALS MEMBERS

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JOSH SAFDIE
ANNE BROCKELMAN, (ALT.)

Case #: ZBA 2016-89-R1-(11/14)
Site: 43-45 Oak Street
Date of Decision: December 12, 2018
Decision: *Petition Approved*
Date Filed with City Clerk: December 26, 2018

ZBA DECISION

Applicant Name: We Close the Deal, LLC
Applicant Address: 43-45 Oak Street, Somerville, MA 02143
Owner Name: We Close the Deal, LLC
Owner Address: 43-45 Oak Street, Somerville, MA 02143
Alderman: Jesse Clingan

Legal Notice: Applicants and Owners, We Close the Deal, LLC, seek a special permit under §5.3.1 of the SZO to revise a condition of the original special permit that required utilities to be buried underground. The Applicant requests to install the utilities above ground. RB zone. Ward 4.

<u>Zoning District/Ward:</u>	RB zone. Ward 4.
<u>Zoning Approval Sought:</u>	Revision to §5.3.1
<u>Date of Application:</u>	October 10, 2018
<u>Date(s) of Public Hearing:</u>	December 12, 2018
<u>Date of Decision:</u>	December 12, 2018
<u>Vote:</u>	5-0

Appeal # ZBA 2016-89-R1-(11/14) was opened before the Zoning Board of Appeals in the Aldermanic Chambers at Somerville City Hall on December 12, 2018. 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 December 12, 2018 the Zoning Board of Appeals took a vote.



CITY HALL • 93 HIGHLAND AVENUE • SOMERVILLE, MASSACHUSETTS 02143
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I.DESCRPTION:

The Applicant seeks to revise their Special Permit by having a condition #14 struck by the ZBA.

II. FINDINGS FOR REVISION TO SPECIAL PERMIT (SZO §5.3):

Under §5.3 of the SZO, a special permit may be revised as long as a Certificate of Occupancy (CO) or final sign-off has not yet been received. A CO has not been issued and a final sign-off has not been received for 43-45 Oak Street.

Highway, Lights & Lines, along with the Wiring Inspector, the City agencies and agents that have final jurisdiction over whether utilities are to be buried or allowed to go aerial, have determined that it is in the city’s best interest to allow the utilities to remain overhead due to the significant amount of roadway and sidewalks that would need to be dug up to accomplish the utility burial. These departments further concluded that such disruption to the City streets and sidewalks, as well as to the neighborhood and adjoining properties was not in anyone’s best interest.

The Board has this determination in writing from Steven MacEachern, the Superintendent of Highway, Lights & Lines who also works in coordination with the Wiring Inspector. This determination, together with Staff’s original inquiry email into this matter has been received.

The Board has received a memo from Steve MacEachern, Superintendent of Highway, Lights and Lines affirming that these lines must go aerial and not be buried.

In light of the above, the Board agrees to strike Condition #14 from the special permit. All other conditions attached to the original approval still apply.

III.DECISION:

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Josh Safdie, Danielle Evans, and Anne Brockelman. Upon making the above findings, Richard Rossetti made a motion to approve the request for a Special Permit. Josh Safdie seconded the motion. The Zoning Board of Appeals voted **5-0** to **APPROVE** the request to revise the special permit. The following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes				
1	Approval is for the full renovation including the addition of habitable space in the basement and a third floor. This approval is based upon the following application materials and the plans submitted by the Applicant: <table border="1" style="margin-left: 20px;"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>July 25th, 2016</td> <td>Initial application submitted to the City Clerk’s Office</td> </tr> </tbody> </table> Any changes to the approved site/building plans and elevations that are not <i>de minimis</i> must receive SPGA approval.	Date (Stamp Date)	Submission	July 25 th , 2016	Initial application submitted to the City Clerk’s Office	BP/CO	ISD/Plng	
Date (Stamp Date)	Submission							
July 25 th , 2016	Initial application submitted to the City Clerk’s Office							
Pre-Construction								
2	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.					



3	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	
4	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				
5	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.	
6	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
7	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	
8	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				
9	An exterior light and electrical receptacle is required for or all levels of the decks.	Final sign off	Wiring Inspector	
10	As per sheet A-101 of the Special Permit Set dated 08/15/2016, the basement storage/mechanical space must remain as labeled and not occupied until such a time as the zoning may change or another Special Permit is granted.	Perpetual	Plng. / ISD	
Site				
11	All trash and recycling containers will be fully screened or stored out of view from the public right-of-way.	Perpetual	Plng. / ISD	
12	Landscaping should be installed and maintained in compliance with the American Nurserymen's Association Standards, and in accordance with SZO §10.2.2 and §10.6.2;	Perpetual	Plng. / ISD	



13	There shall be a minimum of one tree for each 1,000 sf of required landscaped area under SZO §10.3.			
14	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	
Miscellaneous				
15	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				
16	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
17	Any transformers should be located as not to impact the building or landscaped area, and shall be fully screened.	Electrical permits & CO		
18	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.	
19	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/OS E	
Final Sign-Off				
20	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
Josh Safdie
Anne Brockelman

Attest, by the Administrative Assistant:

Monique Baldwin

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 _____

