



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2016-55
Site: 76 School Street
Date of Decision: July 13, 2016
Decision: Petition Approved with Conditions
Date Filed with City Clerk: July 25, 2016

ZBA DECISION

Applicant Name:	Summer Living, LLC
Applicant Address:	202 River Street, Cambridge, MA 02139
Property Owner Name:	MBTA co/ Laura Kaplan of MA Realty Group
Property Owner Address:	20 Park Plaza, Suite 1120, Boston, MA 02116
Agent:	Steven Azar
Agent Address:	202 River Street, Cambridge, MA 02139

Legal Notice: Applicant Summer Living, LLC, and Owner MBTA co/ Laura Kaplan of MA Realty Group, seek a Special Permit to modify a nonconforming structure by adding living and office space to an MBTA Storage Building and for parking relief. Zone RA, Ward 3.

<u>Zoning District/Ward:</u>	Zone RA, Ward 3.
<u>Date of Application:</u>	March 17, 2016
<u>Date(s) of Public Hearing:</u>	6/8, 6/22, 7/13
<u>Date of Decision:</u>	July 13, 2016
<u>Vote:</u>	4-0

Appeal #ZBA 2016-55 was opened before the Zoning Board of Appeals at Somerville City Hall on July 13, 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.



DESCRIPTION:

The proposal is a renovation project. Minor modifications to the exterior include roof and brick repair and new fenestration openings for light, ventilation and access in the rear and sides of the structure. The use is changing from storage to mixed-use and it is proposed to include two residential units as well as office space.

FINDINGS FOR SPECIAL PERMIT:

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: the industrial storage use as a primary use in and RA zone is nonconforming per SZO section 7.11.12. The Floor Area Ratio is also nonconforming, the current FAR is 0.90; the requirement in an RA zone is 0.75. The front and side yard setbacks along Avon and School Streets are also nonconforming. The structure is also currently nonconforming with respect to parking; the industrial storage use requires six (6) spaces, and zero (0) spaces are provided on site.

The proposal will impact the following nonconforming uses/dimensions: The nonconforming storage use will be converted to another nonconforming use as an office. The facades of the structure located in the nonconforming setbacks will be modified by adding glass in the existing bricked-over window frames.

This alteration to a nonconforming structure requires the Applicant to obtain special permits under §4.4.1 of the Somerville Zoning Ordinance (SZO).

Section 4.4.1 states that "[I]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, §4.5, and §9.4.1 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 clean up the contamination on the site and rehabilitate a historic building; both actions will greatly improve the safety and character of the neighborhood. The proposal has been designed with setbacks that minimally impact the neighbors.



Per section 9.4.1, changes in use with no change in floor area, the delta between the required parking for the existing use and the proposed use will be the requirement for additional parking. The proposed office and residential uses increase the existing nonconforming parking requirement by 3 spaces, from 6 to 9. When the new use is calculate dot require two or more additional parking spaces, then 50% of the additional requirement shall be provided, but in in case less than one space. 50% of the additional requirement is 1.5 spaces. Two spaces will be provided on site (although 6 spaces will be made available through a managed tandem parking arrangement).

[It should be noted that if the applicant chooses to pursue a future residential conversion of a portion of the basement commercial unit, the parking requirement will remain the same]

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 quiet neighborhoods of one- and two-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 surrounding neighborhood contains a mix of 1-3 story structures of residential, commercial and institutional uses of various architectural styles. The adjacent lot is a vacant gas station

Impacts of Proposal (Design and Compatibility): The design thoughtfully rehabilitates the existing building and cleans up the contaminated site; these actions greatly improve the condition of the site, and also make the neighborhood safer and improve it from an aesthetic perspective, while also providing a commercial activity which was one of the requests from the neighbors that came up during the community meeting.



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.*

There are no adverse environmental impacts anticipated as a result of items 1-4 above; in fact it is anticipated that the end result of this project and site remediation will provide a net environmental benefit to the neighborhood.

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 home ownership 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.



DECISION:

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans, and Josh Safdie. Upon making the above findings, Richard Rossetti made a motion to approve the request for a Special Permit with the following conditions. Danielle Evans seconded the motion. Wherefore the Zoning Board of Appeals voted **4-0** 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 modify a nonconforming structure and to convert one nonconforming use to another, and for parking relief. 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>5/18/2016</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>6/17/2016</td> <td>Modified plans submitted to OSPCD (1-10)</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	5/18/2016	Initial application submitted to the City Clerk's Office	6/17/2016	Modified plans submitted to OSPCD (1-10)
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5/18/2016	Initial application submitted to the City Clerk's Office									
6/17/2016	Modified plans submitted to OSPCD (1-10)									
Any changes to the approved site plan or elevations/use that are not <i>de minimis</i> must receive SPGA approval.										
Pre-Construction										
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 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.							



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 if required, 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 if applicable. 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				



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	
Design				
13	Applicant shall provide final material samples for siding, trim, windows, and doors to Planning Staff for review and approval prior to construction.	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	
Site				
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.	
Public Safety				
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/BOH	
21	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				
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
Josh Safdie

Attest, by the Staff:

Sarah White

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 _____

