



CITY OF SOMERVILLE, MASSACHUSETTS
OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
JOSEPH A. CURTATONE
MAYOR

PLANNING DIVISION

ZONING BOARD OF APPEALS MEMBERS

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JOSH SAFDIE (ALT.)

Case #: ZBA # 2011-37
Site: 14-15 Bleachery Ct. & 10 Garden Ct.
Date of Decision: May 18, 2011
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: May 19, 2011

ZBA DECISION

Applicant Name:	City of Somerville
Applicant Address:	93 Highland Avenue, Somerville, MA 02143
Property Owner Name:	City of Somerville
Property Owner Address:	93 Highland Avenue, Somerville, MA 02143
Agent Name:	N/A

Legal Notice: The City of Somerville, as Applicant and Owner, seeks a Special Permit with Site Plan Review per SZO Section 7.11.6.1.b to establish a recreational use greater than 10,000 square feet and modify the existing site by constructing an enclosed structure over the existing street hockey rink at Conway Park.

<u>Zoning District/Ward:</u>	IA zone/Ward 2
<u>Zoning Approval Sought:</u>	§7.11.6.1.b
<u>Date of Application:</u>	April 19, 2011
<u>Date(s) of Public Hearing:</u>	May 18, 2011
<u>Date of Decision:</u>	May 18, 2011
<u>Vote:</u>	4-1

Appeal #ZBA 2011-37 was opened before the Zoning Board of Appeals at Somerville City Hall on May 18, 2011. 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.



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DESCRIPTION:

The Applicant is proposing to construct a pre-fabricated corrugated steel building and ice rink bed to create an enclosed ice rink over the existing outdoor street hockey rink. The basketball courts will remain. Parking will be adjusted to fit, but will remain essentially in the same location. Some parking spaces will be adjusted to be shorter and will therefore become ‘compact spaces’ under the zoning.

FINDINGS FOR SPECIAL PERMIT (SZO §7.11.6.1.b):

In order to grant a special permit with site plan review, the SPGA must make certain findings and determinations as outlined in §5.2.5 of the SZO. This section of the report goes through §5.2.5 in detail.

1. Information Supplied: The Board finds that the information provided by the Applicant conforms to the requirements of §5.2.3 of the SZO and allows for a comprehensive analysis of the project.
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 with site plan review.” The proposal complies with the standards of the ordinance. The project will establish a use allowed by special permit in the IA district that meets all existing zoning requirements.
3. Purpose of the District: The Applicant has to ensure that the project “is consistent with the intent of the specific zoning district as specified in Article 6”. The purpose of the Industrial A district is “to establish and preserve areas for industrial and related uses which are not incompatible with commercial uses; uses which are most appropriately located as neighbors of industrial uses including living and studio space for artists; and uses which are necessary to service the immediate needs of industrial establishments in those areas, and accessory uses to industrial uses such as day care centers, cafeterias, health facilities, and the like”. The site is not incompatible with adjacent industrial activities, and continues the use for recreational purposes that is established in the adjacent open space district.
4. Site and Area Compatibility: The Applicant has to ensure that the project “(i)s designed in a manner that is compatible with the existing natural features of the site and is compatible with the characteristics of the surrounding area, and that the scale, massing and detailing of the buildings are compatible with those prevalent in the surrounding area”.

The new building would be similar in type but smaller than the adjacent hockey facility. It will be a simple building that will fit this location as a transition between adjacent recreational and industrial uses. The building will serve the recreational needs of the community and allow the site to be used throughout the year. It is a recreational building on a recreational lot next to additional recreational facilities. Its other immediate neighbors are industrial uses.

5. Functional Design: The project must meet “accepted standards and criteria for the functional design of facilities, structures, and site construction.”

The project would meet accepted standards and criteria for the functional design of facilities, structures, and site construction. It will function to cover the proposed ice surface, and will be connected to the services in the adjacent building.

6. Impact on Public Systems: The project will “not create adverse impacts on the public services and facilities serving the development, such as the sanitary sewer system, the storm drainage system, the public water supply, the recreational system, the street system for vehicular traffic, and the sidewalks and footpaths for pedestrian traffic.”

No impact on services is anticipated. Water service will be provided from the existing building, to serve the equipment that will allow the ice surface to operate effectively. Other services are provided in the adjacent building.



7. 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.”

The project has no anticipated long-term environmental impacts. The city is completing borings to establish the location and depth of footings for the building, and these footings will need to be installed at the site. After this is done, construction impacts are minimal, as the building can be constructed within a few months. Otherwise, impacts are minimal.

8. Consistency with Purposes: “Is consistent with: 1) the purposes of this Ordinance, particularly those set forth in Article 1 and Article 5; and 2) the purposes, provisions, and specific objectives applicable to the requested special permit with site plan review which may be set forth elsewhere in this Ordinance, such as, but not limited to, those at the beginning of the various sections.”

As the required findings of Article 5 have been made, and the proposal satisfies the purposes of Article 1, including “to provide for and maintain the uniquely integrated structure of uses in the City” and “to conserve the value of land and buildings” and of Article 6, as already described, the proposal is consistent with the purposes of the SZO.

9. Preservation of Landform and Open Space: The Applicant has to ensure that “the existing land form is preserved in its natural state, insofar as practicable, by minimizing grading and the erosion or stripping of steep slopes, and by maintaining man-made features that enhance the land form, such as stone walls, with minimal alteration or disruption. In addition, all open spaces should be designed and planted to enhance the attractiveness of the neighborhood. Whenever possible, the development parcel should be laid out so that some of the landscaped areas are visible to the neighborhood.”

The site is relatively flat and already covered with an existing recreational facility. This park area has been in this location since the industrial buildings on the site were demolished in the mid 1990’s. The only change to the landform would be the addition of the structure and adjustment of a row of parking. The remainder of the parking and islands, as well as basketball courts, will remain in place.

10. Relation of Buildings to Environment: The Applicant must ensure that “buildings are: 1) located harmoniously with the land form, vegetation and other natural features of the site; 2) compatible in scale, design and use with those buildings and designs which are visually related to the development site; 3) effectively located for solar and wind orientation for energy conservation; and 4) advantageously located for views from the building while minimizing the intrusion on views from other buildings.”

The site will include one building that will be set back behind the streetscape structures with the basketball courts in front of it. The building is surrounded by existing recreational activity and associated parking. It is smaller than the adjacent hockey structure, and in harmony with adjacent industrial buildings. It will not block any scenic views.

11. Stormwater Drainage: The Applicant must demonstrate that “special attention has been given to proper site surface drainage so that removal of surface waters will not adversely affect neighboring properties or the public storm drainage system. Storm water shall be removed from all roofs, canopies, and powered area, and routed through a well-engineered system designed with appropriate storm water management techniques. Skimming devices, oil, and grease traps, and similar facilities at the collection or discharge points for paved surface runoff should be used, to retain oils, greases, and particles. Surface water on all paved areas shall be collected and/or routed so that it will not obstruct the flow of vehicular or pedestrian traffic and will not create puddles in the paved area. In larger developments, where practical, the routing of runoff through sheet flow, swales or other means increasing filtration and percolation is strongly encouraged, as is use of retention or detention ponds. In instances of below grade parking (such as garages) or low lying areas prone to flooding, installation of pumps or other devices to prevent backflow through drains or catch basins may be required.”



The Board is recommending a condition that drainage plans be satisfactory to the City Engineer prior to the issuance of any permits.

12. Historic or Architectural Significance: The project must be designed “with respect to Somerville’s heritage, any action detrimental to historic structures and their architectural elements shall be discouraged insofar as is practicable, whether those structures exist on the development parcel or on adjacent properties. If there is any removal, substantial alteration or other action detrimental to buildings of historic or architectural significance, these should be minimized and new uses or the erection of new buildings should be compatible with the buildings or places of historic or architectural significance on the development parcel or on adjacent properties.”

The site is a recently developed recreational area on the site of former industrial buildings. There are no historic structures on or adjacent to the site.

13. Enhancement of Appearance: The Applicant must demonstrate that “the natural character and appearance of the City is enhanced. Awareness of the existence of a development, particularly a non residential development or a higher density residential development, should be minimized by screening views of the development from nearby streets, residential neighborhoods of City property by the effective use of existing land forms, or alteration thereto, such as berms, and by existing vegetation or supplemental planting.”

The site plan with the proposed landscaping plan would minimally impact the neighborhood.

14. Lighting: With respect to lighting, the Applicant must ensure that “all exterior spaces and interior public and semi-public spaces shall be adequately lit and designed as much as possible to allow for surveillance by neighbors and passersby.”

Lighting will be limited to that which lights the nearby parking lot and the building.

15. Emergency Access: The Applicant must ensure that “there is easy access to buildings, and the grounds adjoining them, for operations by fire, police, medical and other emergency personnel and equipment.”

The Fire Prevention Bureau has not yet provided comments regarding this proposal.

16. Location of Access: The Applicant must ensure that “the location of intersections of access drives with the City arterial or collector streets minimizes traffic congestion.”

The proposal meets all requirements of the zoning regarding parking and driveway dimensions. Access to the site will not change, although parking will change slightly by providing a row of shorter (compact) spaces to allow for a sidewalk along the building.

17. Utility Service: The Applicant must ensure that “electric, telephone, cable TV and other such lines and equipment are placed underground from the source or connection, or are effectively screened from public view.”

The Applicant is proposing to tie into the existing City services for electric and telephone.

18. Prevention of Adverse Impacts: The Applicant must demonstrate that “provisions have been made to prevent or minimize any detrimental effect on adjoining premises, and the general neighborhood, including, (1) minimizing any adverse impact from new hard surface ground cover, or machinery which emits heat, vapor, light or fumes; and (2) preventing adverse impacts to light, air and noise, wind and temperature levels in the immediate vicinity of the proposed development;”

No negative impacts are anticipated as a result of the proposed use and new structure.



19. **Signage:** The Applicant must ensure that “the size, location, design, color, texture, lighting and materials of all permanent signs and outdoor advertising structures or features shall reflect the scale and character of the proposed buildings.

The proposal has not identified a location for signage.

20. **Screening of Service Facilities:** The Applicant must ensure that “exposed transformers and other machinery, storage, service and truck loading areas, dumpsters, utility buildings, and similar structures shall be effectively screened by plantings or other screening methods so that they are not directly visible from either the proposed development or the surrounding properties.”

No visible transformer and/or dumpster is planned.

DECISION:

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Scott Darling and Josh Safdie with Danielle Evans absent. Upon making the above findings, Susan Fontano made a motion to approve the request for a special permit. Scott Darling seconded the motion. Wherefore the Zoning Board of Appeals voted **4-1** to **APPROVE** the request with Josh Safdie voting in opposition. In addition the following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes								
1	Approval is to establish a recreational use greater than 10,000 square feet in an IA zone per SZO Section 7.11.6.1.b and to modify the existing site by constructing an enclosed structure over the existing street hockey rink at Conway Park. 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</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>April 19, 2011</td> <td>Initial application submitted to the City Clerk’s Office</td> </tr> <tr> <td>May 16, 2011 (May 16, 2011)</td> <td>Existing Site Plan</td> </tr> <tr> <td>May 16, 2011 (May 16, 2011)</td> <td>Conceptual Elevations, Plans, and Wall Sections</td> </tr> </tbody> </table>				Date	Submission	April 19, 2011	Initial application submitted to the City Clerk’s Office	May 16, 2011 (May 16, 2011)	Existing Site Plan	May 16, 2011 (May 16, 2011)	Conceptual Elevations, Plans, and Wall Sections
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May 16, 2011 (May 16, 2011)	Conceptual Elevations, Plans, and Wall Sections											
Any changes to the approved site plan, elevations or use must receive ZBA approval.												
2	The Applicant shall submit drainage plans that are satisfactory to the City Engineer prior to the issuance of any permits.	BP	Eng.									



3	The Applicant shall submit a site plan showing lot lines and setbacks of the proposed building as well as a landscaping plan to Planning Staff for approval prior to the issuance of any permits.	BP	PIng.	
4	The Applicant shall contact Planning Staff at least five working days in advance of a request for a final sign-off on the building permit to ensure the proposal was constructed in accordance with the plans and information submitted and the conditions attached to this approval.	Final Sign Off	PIng.	



Attest, by the Zoning Board of Appeals:

Herbert Foster, *Chairman*
Orsola Susan Fontano, *Clerk*
Richard Rossetti
T.F. Scott Darling, III, Esq.
Josh Safdie (Alt.)

*** Need all board signatures if registered land (check deed) ***

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 _____



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