



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 # 2011-77
Site: 1 & 2 Village Terrace
Date of Decision: December 12, 2012
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: December 21, 2012

ZBA DECISION

Applicant Name:	Douglas S. Beaudet
Applicant Address:	11 Ibbetson Street, Unit #3, Somerville, MA 02143
Property Owner Name:	Douglas S. Beaudet
Property Owner Address:	11 Ibbetson Street, Unit #3, Somerville, MA 02143
Agent Name:	Richard G. DiGirolamo, Esq.
Agent Address:	424 Broadway, Somerville, MA 02145

Legal Notice: Applicant & Owner Douglas Beaudet seeks a Special Permit to establish 5 dwelling units under SZO §7.11.1.c in two structure with 5 parking spaces and a Special Permit to alter a nonconforming structure under sec 4.4.1. The Applicant also seeks a parking variance for 3 spaces (§5.5 &9.5).

<u>Zoning District/Ward:</u>	RC zone/Ward 2
<u>Zoning Approval Sought:</u>	§7.11.1.c & §4.4.1
<u>Date of Application:</u>	October 4, 2011
<u>Date(s) of Public Hearing:</u>	3/14, 4/4, 4/18, 5/2, 5/16, 6/6, 6/20, 7/11, 8/1, 8/15, 9/5, 9/19, 10/3, 10/17, 11/7, 11/28 & 12/12/12
<u>Date of Decision:</u>	December 12, 2012
<u>Vote:</u>	5-0

Appeal #ZBA 2011-77 was opened before the Zoning Board of Appeals at Somerville City Hall on March 14, 2012. 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 three hearings of deliberation, the Zoning Board of Appeals took a vote.



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DESCRIPTION:

One Village Terrace was deemed 'significant' and 'preferably preserved' by the Historic Preservation Commission. The original proposal retained this house; however, the current plan does not. The 9 month demo-delay period is over and the house will be razed. The plan was changed to accommodate the Fire Department's requirement to have an 18 foot wide clear passage from Village Street to each of the dwelling units. The neighboring property at 5-7 Village Street parked two cars along the passage. To replace these spaces in exchange for an easement over the 5-7 Village Terrace property to provide the 18 foot passageway, two parking spaces for the neighbor will be provided on the site. The only way to accommodate these parking spaces was to reconfigure the site plan and remove the single-family house.

Two Village Terrace, which was originally proposed to be greatly altered to develop a four-unit dwelling, is now proposed to be five-unit dwelling. The building will be three-stories tall with a flat roof. There are bays and decks that project from the building. The decks have been pulled back to allow for sufficient "head room" for a fire truck to pull up along side of the building. There will be a trellis on the front of the building that leads to the entrances of the individual units on the west side of the site. There will be three garage doors along the driveway (east) side of the building.

The units are townhouse-like but do not meet the definition of a townhouse. Each unit will include an open living, dining, kitchen and bathroom on the second floor and two bedrooms and a bathroom on the third floor.

Parking

There will be one parking space for the five residential units in garages under the building. Two additional parking spaces will be provided behind 5 Village Street for the use of the tenant of that property. An easement was created for the use of these parking spaces and the easement will be recorded at the Registry of Deeds. There will be one bicycle parking space at the entry court for the five-unit structure. There will be space in the garage for additional bike storage.

Landscaping/Site

A landscape plan was submitted that shows dense plantings in the southwest corner of the site, along the trellis at the front of the building and along the rear property line. There will be brick paving across the driveway to provide a visible pedestrian path from the driveway to the residential entrances. The backyard will contain a lawn and plantings at the edge of the property. Patios will be located by the front entrances to provide some private outdoor space.

Utilities

Condensers will be located in the patio area for each of the units. Trash will be stored in rolling trash cans that will be kept in the garage. It is not yet known if a transformer will be required for the development.

FINDINGS FOR SPECIAL PERMIT (SZO §7.11.1.c, §4.4.1, & §5.1):

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."

In considering a special permit under §4.4 of the SZO, the Board finds that the alterations proposed would not be substantially more detrimental to the neighborhood than the existing structures. The five-unit



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structure will transform a dilapidated structure that is currently built over the right of way into a functional building that will provide enclosed parking. The nonconforming rear yard setback will become more conforming and the front yard setback will become larger. The other nonconforming setbacks will not be reduced further. The large yard at the back of the site will be reduced from its current size of approximately 2,500 sf but it will remain as a functional landscaped backyard with approximately 850 sf.

The number of dwelling units complies with the density dimension regulation. The lot area per dwelling unit dimension allows for up to six units to be on the site by special permit.

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 providing for and maintaining the uniquely integrated structure of uses in the City and encouraging the most appropriate use of land throughout the City.

The proposal for a multi-family structure is consistent with the purpose of the district, which is, "[t]o establish and preserve a district for multi-family residential and other compatible uses which are of particular use and convenience to the residents of the 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 characteristics of the built and unbuilt surrounding area, including land uses."

The proposed structure is designed to be compatible with the site and built environment. The flat-roofed three-story structure will be modern in design but relate in materials and color to the historic structures that are on the site. This form will allow all but two parking spaces on-site to be in garages. The garage doors will be visible when approaching the building but there will be a prominent trellis structure and door on the front of the building to provide a friendly pedestrian experience that does not interact with the garage doors. The trellis leads people to a court that provides individual entrances to units that will have privacy as this grade is below the grade of the abutting residential structure. The patios along this court will provide individual outdoor space for the units.

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.

The use of the site is currently residential and will remain as such with similar environmental impacts. A grading and drainage plan and drainage report will be a condition of approval. This information will be reviewed by the City Engineer to ensure that the stormwater drainage from the site will not increase as a result of this proposal.

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.

There will be an 18 foot drive aisle to access the site and the Fire Department is requesting that this is a Fire Lane to ensure that it remains clear. The fence along the property line may need to be removed or relocated to achieve this width. Pedestrians will have a path from the driveway to the front doors of the units and the path will be designated with pavers. The path will not cross in front of the garage doors on this site.



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FINDINGS FOR VARIANCE (SZO §5.5 & 9.5):

In order to grant a variance the Board must make certain findings and determinations as outlined in §5.5.3 of the SZO.

1. There are “special circumstances relating to soil conditions, shape or topography of land or structures which especially affect such land or structures but not affecting generally the zoning district in which it is located, causing substantial hardship, financial or otherwise.”

The Applicant stated, “The unique shape of the property is a special circumstance that warrants the granting of a variance to the applicant. The proposal is on a site which is awkwardly shaped. To have a feasible project that is priced affordable with amenities that will be available for new residents. The site layout and lot impacts the structures such that it allows for sufficient parking. This situation is unique to this site and does not impact the zoning district as a whole.”

The shape of the site is unique in that the parcels are located behind the parcel on the public way and are only accessible via a 10 foot private of way. The private way configuration as well as the need to provide two parking spaces for the abutting property in exchange for a required 18 foot wide passage for fire trucks creates a hardship in designing the site in such a way that is financially feasible and provides all of the required parking onsite. These characteristics are unique in the Residence C zoning district. The layout of the site provides limited opportunity for parking spaces that are enclosed and are therefore not visible (except for two spaces), as well as a usable landscaped area in the rear yard. Therefore, the shape of the lot and the requirement for a 18 foot passage creates a unique situation whereby no project with compliant parking could be designed in such a way to be financially viable and meet the expectations of quality design set out by the required findings for development in the SZO.

2. “The variance requested is the minimum variance that will grant reasonable relief to the owner, and is necessary for a reasonable use of the building or land.”

The Applicant stated, “The site for the proposal is shaped with two (2) structures that have not been upkept for many years. The proposal will allow for four (4) additional residential units with sufficient parking. The parking area will allow for adequate landscape and snow storage area.”

The Board finds that the proposal brings the building more into compliance with dimensions and use than the existing structure and use. The proposal is not seeking the maximum number of dwelling units that are allowed based on the lot area per dwelling unit, which is six (6.9). Five residential units is a reasonable use for this site which is in a zoning district that encourages multi-family developments. Each unit will have a dedicated parking space. This is a reasonable number of parking spaces for this type of development in this area of the City. This neighborhood has adequate bus access, options for rapid public transit within a mile of the site and sufficient on-street parking as outlined in the parking memorandum.

3. “The granting of the variance would be in harmony with the general purpose and intent of this Ordinance and would not be injurious to the neighborhood or otherwise detrimental to the public welfare.”

The Applicant stated, “The proposal is to build four (4) additional residential units would greatly benefit the surrounding neighborhood. This project is in harmony with the [surrounding] residence[s]. The site is within close proximity to community paths, it allows for walking connections to amenities and provides opportunities for residents with access to a vehicle or second vehicle.”

The Board finds that the proposal is in harmony with the intent of the Ordinance and it would not be injurious to the neighborhood. The proposal provides one parking space per unit, which will likely be sufficient for the residents that move to this area that is pedestrian, bus and bike-friendly. Also, sufficient parking spaces have been shown to exist in the area in the parking memorandum if the tenants or their visitors needed additional parking spaces. Providing additional off-street parking encourages buyers with extra vehicles, and encourages



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owners to buy and keep extra vehicles. In an area with adequate pedestrian and transit access, the parking being provided is adequate and reasonable. The majority of the parking will be hidden from view and a nicely landscaped area will be visible in the backyard. Approving the variance will facilitate a redevelopment that meets the expectations of the SZO and the needs of the neighborhood in this particular area.

DECISION:

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Danielle Evans and Elaine Severino. Upon making the above findings, Susan Fontano made a motion to approve the request for a Special Permit. Richard Rossetti seconded the motion. Wherefore the Zoning Board of Appeals voted **5-0** to **APPROVE** the request. Upon making the above findings, Susan Fontano made a motion to approve the request for a Variance. Richard Rossetti seconded the motion. Wherefore the Zoning Board of Appeals voted **5-0** to **APPROVE** the request. In addition the following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes								
1	<p>Approval is to establish 5 dwelling units under SZO §7.11.1.c and alter the nonconforming structure under §4.4.1. Approval is also to provide 5 of the 8 required parking spaces. This approval is based upon the following application materials and the plans submitted by the Applicant:</p> <table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>Oct 4, 2011 – Complete Nov 20, 2012</td> <td>Initial application submitted to the City Clerk’s Office</td> </tr> <tr> <td>June 7, 2011</td> <td>Plans submitted to OSPCD (plot plan)</td> </tr> <tr> <td>Nov 19, 2012</td> <td>Modified plans submitted to OSPCD (Easement Plan, A1.01 - 1st floor plan/Site Plan, A1.02 - 2nd & 3rd fl plan, A3.01 Elevations, A7.01 Rendered Views, L1&L2 - landscape plan)</td> </tr> </tbody> </table> <p>Any changes to the approved site plan or elevations that are not <i>de minimis</i> must receive SPGA approval.</p>	Date (Stamp Date)	Submission	Oct 4, 2011 – Complete Nov 20, 2012	Initial application submitted to the City Clerk’s Office	June 7, 2011	Plans submitted to OSPCD (plot plan)	Nov 19, 2012	Modified plans submitted to OSPCD (Easement Plan, A1.01 - 1 st floor plan/Site Plan, A1.02 - 2 nd & 3 rd fl plan, A3.01 Elevations, A7.01 Rendered Views, L1&L2 - landscape plan)	BP/CO	ISD/PIng.	
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2	The Applicant shall submit a proposed grading and drainage plan and drainage report, stamped by a registered PE in Massachusetts that demonstrates compliance with the City’s stormwater policy.	BP	Engineering									
3	Applicant shall submit proof that the Mutual Grants of Easements Document was recorded at the Registry of Deeds.	BP	PIng.									



4	Applicant shall provide final material samples for siding, trim, windows, corner boards, and doors to the DRC for review. The DRC shall provide guidance to the Planning Staff who will provide final approval. Material samples shall be presented prior to procurement to allow the Planning Staff's input to be incorporated without the burden of the input being cost prohibitive.	BP	Plng.	
5	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	
6	The addresses for the property shall be 2 Village Terrace.	CO	Engineering	
7	An 18' wide fire lane is required along the driveway into the site. The fence along the property line may need to be removed to achieve this width.	CO	FP	
8	A code compliant fire suppression system and a code compliant fire alarm with central station monitoring is required.	CO	FP	
9	The Applicant/Owner shall install a new water line and hydrant on Village Terrace.	CO	FP	
10	The Applicant shall purchase and deliver to the City six Pedestrian Impact Recovery Systems for the City to install at nearby intersections in this neighborhood to promote a safe transportation network	CO	T&P	
11	The Applicant shall submit information on the size of the electrical service including a total load calculation to ensure that the service is sized properly.	Electrical permits & CO	Wiring Inspector	
12	Any transformers shall be fully screened.	Electrical permits & CO	Wiring Inspector	
13	The utilities for the building shall be placed underground from the source or connection.	Electrical permits & CO	Wiring Inspector	
14	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	
15	The Applicant shall at his 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	
16	The Applicant shall repave the right-of-way over the land of 5 Village St upon completion of construction.	CO	Plng.	



17	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.	
18	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	
19	Landscaping should be installed and maintained in compliance with the American Nurserymen's Association Standards;	Perpetual	Plng. / ISD	
20	Snow plowed from the development shall be limited to the rear yard.	Perpetual	ISD.	
21	The condominium documents shall specifically state that the condominium association will maintain and plow the right of way over the 5 Village Street property. The Applicant/Owner shall submit a copy of the condominium documents with the citation to Planning Staff and the owners of 5 Village Street.	CO / Perpetual	Plng.	
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.	



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Attest, by the Zoning Board of Appeals:

Herbert Foster, *Chairman*
Orsola Susan Fontano, *Clerk*
Richard Rossetti
T.F. Scott Darling, III, Esq.
Danielle Evans
Elaine Severino (Alt.)

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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