



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

MICHAEL F. GLAVIN
EXECUTIVE DIRECTOR

PLANNING DIVISION STAFF

GEORGE PROAKIS, *DIRECTOR OF PLANNING*
LORI MASSA, *SENIOR PLANNER*
DAN BARTMAN, *SENIOR PLANNER*
AMIE HAYES, *PLANNER*
DAWN PEREIRA, *ADMINISTRATIVE ASSISTANT*

Case #: ZBA 2012-101
Date: January 3, 2013
Recommendation: Conditional Approval

PLANNING STAFF REPORT

Site: 1 & 3 Benton Road

Applicant and Owner Name: MLM Realty Trust
Applicant and Owner Address: 19 Stetson Shrine, Norwell, MA 02061
Agent Name: Thomas Reilly
Agent Address: none listed
Alderman: Thomas Taylor

Legal Notice: Applicant and Owner MLM Realty Trust seeks a Special Permit under SZO §9.9.a and §9.13.b and §9.13.c to have two shared driveways and 3 sets of 2 tandem parking spaces in a garage for a by-right three-family development.

Zoning District/Ward: RB Zone / Ward 3

Zoning Approval Sought: Special Permit under SZO §9.9.a, 9.13.b, 9.13.c

Date of Application: November 26, 2012

Dates of Public Hearing: Zoning Board of Appeals – January 9, 2013

I. TIMELINE

The timeline for this case is as follows:

- December 29, 2009: Initial subdivision plan provided to planning staff
- March 19, 2010: Completed application submitted to planning staff
- March 2010: Three members of the Planning Board (“PB”) decided that the Plan for creation of a single new lot would not be decided administratively by the Planning Director (Ct. Finding No. 20). The SZO classifies Plaintiff’s proposal as a minor project for which full Board review is not necessary (Ct. Finding Nos. 17-18).



- April 1, 2012: Date of the Planning Board’s first public hearing, followed by public hearings that extended for approximately five (5) months (Ct. Finding No. 21).
- April 15, 2012: Applicant submits additional information and planning staff releases staff report recommending conditional approval of the project. Planning Board holds hearing and takes public comment. Board requests opinion from legal department concerning “whether the Planning Board may deny an application for site plan approval involving a use permitted as-of-right under the SZO relative to the subdivision of an existing parcel into two separate parcels.” (Ct. Finding No. 27).
- May 4, 2012: Planning Board continues to discuss case with new information from traffic and parking, legal, and an updated staff report. PB staff reported that the City’s Traffic and Parking Staff has no objections to Plaintiff’s application (Ct. Finding No. 31).
- August 24, 2010: After requesting and receiving additional information from traffic and parking and from the applicant’s two traffic engineering consultants, the Planning Board denied the subdivision, following an executive session of the PB (Ct. Finding No. 35). based upon the position that the subdivision was inconsistent with findings per 2b, 2c, 2d, 6, 7 and 12 of Section 5.4.6.
- September 2010: Applicant appealed the denial, and subsequently filed with the ZBA to overturn the subdivision denial.
- March 2011: ZBA heard the case and upheld the position of the Planning Board, denying the subdivision
- August 2011: Land Court held summary judgment hearing
- April 2012: Land Court issues summary judgment decision, annulling the PB and ZBA denials and remanding the case to the Planning Board for the Board to approve the plan with or without reasonable conditions in accordance with the Court’s decision.
- May 2012: Planning Board approved subdivision

II. PROJECT DESCRIPTION

1. Subject Property: The subject property consists of two parcels: 1 Benton Road and 3 Benton Road (aka 169 Summer Street). One Benton Road is 12,296 sf and is located on the corner of Benton Road and Summer Street. There is a house on the property, the Benton-Corwin house, circa 1890, that was renovated from a single-family to three-residential units which is a by-right use in the RB zone. 3 Benton Road is 9,622 sf and is located to the north of 1 Benton Road. A three-family house will be constructed on this lot. There is a curb cut and driveway that leads to a parking area on Benton Road and a curb cut to a parking area on Summer Street.

The history of the case is noted above. Planning Board conditionally approved the subdivision of one lot into these two lots in May 2012 after the Land Court remanded the case that was first denied back to the Planning Board for approval. The Court stated that “Application of the SZO provisions violate the uniformity provision of section 4 of the Zoning Act because they were invoked in the form of a denial, which is not an option for site plan review except in rare circumstances which are not presented in this case. Thus, this Court finds that the decisions of the Planning and Zoning Boards must be annulled.”

The property is located in the RB zone. On its westerly border, the property is adjacent to, but not a part of, the local Westwood Road historic district, and therefore, the property is not subject to design control by the Historic Preservation Commission.

2. Proposal: The proposal is to have two shared driveways so that the existing curb and driveway at 3 Benton Road can provide access to the existing parking spaces for 1 Benton Road and the existing curb cut at 1 Benton Road can provide access to the parking spaces that will be constructed for the residential units at 3 Benton Road.

The by-right 3-family dwelling at 3 Benton Road could be constructed without the shared driveway approval by providing a driveway from the existing curb cut at Benton Road to parking proposed at the back of the lot. A condition of the subdivision approval limited the future driveway at 3 Benton Road to the south side of the lot, or if the applicants requested, as they are doing in this application, they could provide access to the parking in the rear of the new structure via a shared driveway along Summer Street. The condition also allows for the curb cut on Benton Road to be maintained to provide access to the two parking spaces at 1 Benton Road. The condition specifies that the Board and staff will support such a special permit application.

Condition 7:

The applicant shall not locate a driveway between the structure and the lots on Westwood Road. The applicant shall locate the driveway along the right side of the house, furthest from the Westwood Road lot line, and shall ensure that the house is placed so that adequate width exists for running the driveway along this side. As an alternative, should the applicant choose to pursue such alternative, at the applicant's option, the applicant may seek any applicable ZBA special permit per section 9.13.c and 9.9a to access the parking in the rear of lot 2 from the driveway along Summer Street over lot 1, and may either close the Benton Road curbcut on lot 2 and relocate the two spaces using this curbcut that are currently on lot 1, or retain it to access the two parking spaces currently on lot 1. The Board and its staff will support such a special permit application should the applicant opt to pursue it that locates all traffic off Summer Street. Should this potential option not be feasible, as determined by applicant, the Board would support a special permit, should the applicant in its discretion decide to pursue it, that locates traffic for lot 2 off Summer Street and retains the Benton Road curbcut only for access to



*Above: 1 Benton Rd – curb cut and parking area off of Summer St,
Below: 3 Benton Rd – curb cut and parking area off of Benton Rd*



the current two spaces on lot 1.

The proposal also includes altering parking space maneuvering requirements for the residential units at 3 Benton Road so that there could be three sets of two tandem parking spaces in the garage. Each of the two parking spaces in tandem would belong to one residential unit. The by-right 3-family dwelling at 3 Benton Road could be constructed without having the six parking spaces in a tandem configuration. Two parking spaces would be in the garage and four parking spaces would be along the driveway and in the rear yard.

3. Nature of Application: Through the special permit approval, the Somerville Zoning Ordinance allows for shared driveways. Section 9.13.c provides the opportunity for shared driveways/access easements to allow a driveway on one lot to lead to a parking space on another lot provided a binding agreement, satisfactory in form to the SPGA and the City Solicitor, is executed and is filed in the Registry of Deeds of Middlesex County.

The Somerville Zoning Ordinance also allows for tandem parking in a parking lot by special permit. A parking lot is defined as six or more parking spaces. Section 9.13.b permits modification of parking area design standards when the design of a parking lot differs from the provisions of Sections 9.9, 9.11, and 9.12, provided such design is prepared by a professional engineer or architect in the case of a parking garage, and further provided such design is approved in writing by the City Traffic and Parking Director.

The modification is needed from the provisions of Section 9.9.a that states that parking spaces shall be connected by a maneuvering aisle and driveway to a street and that part of a driveway may be partly on another lot where there is a recorded easement or lease allowing such right of use and provided that SPGA grants a special permit under Section 9.13.

4. Surrounding Neighborhood: To the west of 3 Benton Road is a 4-unit property (18 Westwood Road) and a 2-unit property (16 Westwood Road). A large apartment building is at the rear (north) of the property, having 29 residential units (163 Summer Street) and then 68 residential units (157 Summer Street). Three (3) residential units (1 Benton Road) and Summer Street are to the east, and Benton Road to the south.

5. Impacts of Proposal: The shared driveways and tandem parking configuration allow for a better site plan than the by-right options. The shared driveway configuration will reduce the amount of impervious surface on the site than would exist with two separate driveways and provide more area for landscaping. Two separate driveways in addition to the footprint of the house would make up 6,920 square feet of impervious surface on the lot and the proposal with the shared driveway would make up 6,575 square feet or 345 less square feet of impervious surface. Another benefit of the shared driveway is that it is located along the side and rear yards of the two lots as opposed to the by-right option where the driveway would be in a more visible location between the two structures.

The tandem parking spaces allow for all six of the future parking spaces to be located in garages. The by-right option only provides enough space for two cars to be in garages and four cars would be parked outside. It is beneficial to have the cars in garages and out of site from the right of way and neighboring homes. The sets of tandem parking spaces will be owned by one unit so that the cars can be easily moved to allow for access to the driveway.

6. Green Building Practices: The shared driveway and tandem parking space configuration provide more pervious surface on the site, which captures rainwater runoff.

7. Comments:

Traffic & Parking: Traffic and Parking will provide comments to the Board; however, they have reviewed the application and have no objections because each set of tandem parking spaces will be used by one residential unit.

Ward Alderman: Alderman Taylor stated in an email to Planning Staff that the request does not seem unreasonable and appears to be within the zoning requirements.

III. FINDINGS FOR SPECIAL PERMIT (SZO §9.9.a, 9.13.b, 9.13.c):

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 Staff 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 §9.13 of the SZO the Applicant must be able to demonstrate that granting the requested special permit would not cause detriment to the surrounding neighborhood through any of the criteria as set forth under SZO §9.13, which are as follows:

- 1) increase in traffic volumes;
- 2) increased traffic congestion or queuing of vehicles;
- 3) change in the type(s) of traffic;
- 4) change in traffic patterns and access to the site;
- 5) reduction in on-street parking;
- 6) unsafe conflict of motor vehicle and pedestrian traffic.

The shared driveway and tandem parking spaces would not cause detriment to the surrounding neighborhood. These site conditions would not increase traffic volumes or change the type of traffic as the 3-family use would not change. The driveway would have sufficient maneuvering spaces so that queuing would not be a problem. The proposal would allow nine of the eleven parking spaces for both properties to use Summer Street as the access street, which is a more traveled road than Benton Road. The nine cars would be able to pull out onto the street in a forward direction reducing the potential for vehicular and pedestrian conflicts. Finally, the curb cut on Benton Road would be greatly reduced in length, increasing the amount of on-street parking.

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 adequately protecting the natural environment and encouraging the most appropriate use of land throughout the City.

The proposal is consistent with the purpose of the RB district by providing an efficient maneuvering space and parking for two 3-family houses.

In considering a special permit under §9.13 of the SZO the SPGA may grant such a special permit only when consistent with the purposes set forth in Section 9.1. The proposal is consistent with Section 9.1. It provides adequate places for storing vehicles off the street in an orderly manner, increases the number of on-street parking spaces, reduces hazards to pedestrians by having most of the cars use the more heavily traveled street and leave in a forward direction, reduces the amount of glare to the neighbor the east, reduces the visibility of expanses of paving, and reduces the amount of impervious materials at the site.

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 shared driveways and tandem parking configuration allow for a better site plan than the by-right options. The shared driveway configuration will reduce the amount of impervious surface on the site than would exist with two separate driveways and provide more area for landscaping. Another benefit of the shared driveway is that it is located along the side and rear yards of the two lots as opposed to the by-right option where the driveway would be in a more visible location between the two structures.

The tandem parking spaces allow for all six of the future parking spaces to be located in garages. The by-right option only provides enough space for two cars to be in garages and four cars would be parked outside. It is beneficial to have the cars in garages and out of site from the right of way and neighboring homes. The sets of tandem parking spaces will be owned by one unit so that the cars can be easily moved to allow for access to the driveway.

III. RECOMMENDATION

Special Permit under §9.9.a, 9.13.b, 9.13.c

Based on the materials submitted by the Applicant, the above findings and subject to the following conditions, the Planning Staff recommends **CONDITIONAL APPROVAL** of the requested **SPECIAL PERMIT**.

The recommendation is based upon a technical analysis by Planning Staff of the application material based upon the required findings of the Somerville Zoning Ordinance, and is based only upon information submitted prior to the public hearing. This report may be revised or updated with new recommendations, findings and/or conditions based upon additional information provided to the Planning Staff during the public hearing process.

#	Condition	Timeframe for Compliance	Verified (initial)	Notes						
1	<p>Approval is for shared driveways for 1 and 3 Benton Road to access parking spaces. Approval is also for tandem parking configuration for 3 Benton Road. 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>Nov 26, 2012</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>Nov 26, 2012</td> <td>Plan submitted to OSPCD (Construction Site Plan & Detail Sheet)</td> </tr> </tbody> </table> <p>Any changes to the approved site plan that are not <i>de minimis</i> must receive SPGA approval.</p>	Date (Stamp Date)	Submission	Nov 26, 2012	Initial application submitted to the City Clerk's Office	Nov 26, 2012	Plan submitted to OSPCD (Construction Site Plan & Detail Sheet)	BP/CO	ISD/Plng.	
Date (Stamp Date)	Submission									
Nov 26, 2012	Initial application submitted to the City Clerk's Office									
Nov 26, 2012	Plan submitted to OSPCD (Construction Site Plan & Detail Sheet)									
2	Applicant shall provide a binding agreement to Planning Staff and the City Solicitor for review and approval. Once approved, Applicant shall execute the agreement and record it in the Registry of Deeds of Middlesex County.	CO	Plng.							
3	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.							

