



City of Somerville

ZONING BOARD OF APPEALS

City Hall 3rd Floor, 93 Highland Avenue, Somerville MA 02143

DECISION

PROPERTY ADDRESS: 9-11 Aldersey Street
CASE NUMBER: ZBA 2003-25
OWNER: Gerard Meehan, Trustee, G&T Realty Trust
OWNER ADDRESS: 19 Ames Avenue, Canton, MA 02021

DECISION DATE: January 20, 2021

REQUIRED PERMITS: Special Permit with Site Plan Review (SPSR)
DECISION: *Conditional Approval*

This conditional approval is the result of a Massachusetts Land Court decision requiring the Somerville ZBA to approve a Special Permit with Site Plan Review (SPSR) for 9-11 Aldersey Street, so ordered by Judge Keith Long. This decision summarizes the ZBA proceedings, provides a record of the SPSR approval vote, and the conditions added to the approval.

LEGAL NOTICE

Special Permits for an 11-unit development shall be issued as ordered by Judge Long of the Massachusetts Land Court (ZBA case 2003-25). Applicant: Gerard Meehan, Trustee, G&T Realty Trust.

RECORD OF PROCEEDINGS

On January 6, 2021, the ZBA held a public hearing advertised in accordance with MGL 40A and the Somerville Zoning Ordinance (SZO). Present and sitting at the public hearing were ZBA Members Susan Fontano, Danielle Evans, Josh Safdie, Elaine Severino, and Anne Brockelman. The Applicant's attorney and City Staff gave testimony. The ZBA opened the floor to public comment but no public testimony was given. The ZBA voted unanimously to continue the case to the January 20, 2021 meeting date and asked that the Applicant team provide a certified plot plan and make corrections to the plan set.

On January 20, 2021, the Zoning Board of Appeals held a public hearing advertised in accordance with MGL 40A and the Somerville Zoning Ordinance (SZO). Present and sitting at the public hearing were ZBA Members Susan Fontano, Danielle Evans, Josh Safdie, Elaine Severino, and Anne Brockelman. City Staff and the Applicant's attorney gave testimony. The ZBA opened the floor to public comment but no public testimony was given. The ZBA discussed proposal and conditions. As Judge Long had already made the requisite findings on the proposal as part of his ruling, the ZBA made no findings. The ZBA voted unanimously to approve the Special Permit with Site Plan Review (SPSR) with conditions.

FINDINGS

The findings for this case were made by Judge Keith Long in his ruling. The ZBA made no findings.

DECISION

Following public testimony and in accordance with the Land Court ruling in this case, Danielle Evans moved to approve the Special Permit with Site Plan Review (SPSR) with the conditions discussed at the meeting. Elaine Severino seconded. The Board voted **5-0** to approve the SPSR subject to the following conditions:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes							
1	Approval Is for a Special Permit with Site Plan Review (SPSR). Two new buildings will be constructed. Existing building to be restored according to HPC approvals. 11 residential units total on property distributed across the three buildings. One of the units will be inclusionary. 24 on-site parking spaces.	BP/CO	ISD/Plng.								
	<table><tr><th>Date (plan set)</th><th>Submission</th></tr><tr><td>November 6, 2020</td><td>Elevations & Site Plan</td></tr><tr><td>January 6, 2021 updated January 20, 2021</td><td>Plot plan Updated plan pages</td></tr></table>				Date (plan set)	Submission	November 6, 2020	Elevations & Site Plan	January 6, 2021 updated January 20, 2021	Plot plan Updated plan pages	
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	November 6, 2020				Elevations & Site Plan						
	January 6, 2021 updated January 20, 2021				Plot plan Updated plan pages						
Any changes to the approved elevations that Planning Staff determines are not <i>de minimis</i> in nature must receive SPGA approval.											
Affordable Housing											
2	Affordable Housing Implementation Plan (AHIP) shall be approved by the OSPCD Housing Division and executed prior to issuance of Building Permit. Affordable units shall be provided on-site.	BP	Housing								
3	Written certification of the creation of affordable housing units, any fractional payment required, or alternative methods of compliance, must be obtained from the OSPCD Housing Division before the issuance of a Certificate of Occupancy (C.O.). No C.O. shall be issued until the OSPCD Housing Division has confirmed that the Affordable Housing Restriction has been approved and recorded and the developer has provided the promised affordable units on-site.	CO	Housing								

4	No Certificate of Occupancy shall be issued until the OSPCD Housing Division has confirmed that: (for Condominium Projects) the Condominium Documents have been approved and the Developer has agreed to a form of Deed Rider for the Affordable Unit(s), or (for Rental Projects) the Developer has agreed to and executed a Memorandum of Understanding for Monitoring of the Affordable Unit(s).	CO	Housing	
5	The OSPCD Housing Division shall determine which unit(s) shall be inclusionary and at what rate.	CO	Housing	
Misc. Conditions				
6	The Applicant shall ensure that all zoning dimensions are contained on the construction documents submitted for building permit review. Building height is limited to 35 feet above average finished grade.	BP	Zoning Review Planner (ISD)	
7	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. This information shall be posted to be easily readable from the public sidewalk along Prospect Street.	During Construction	Zoning Review Planner (ISD)	
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	
9	If a transformer is required, it shall be buried or shall be placed behind one of the buildings so that It is out of site of public view. The proposed location for the transformer shall be identified on site plans at the time of the application for a building permit is submitted.	BP and CO	Plng/ISD	
10	Garbage and recycling locations shall be clearly indicated on site plans. Storage areas shall be inside of the structure or shall be fully screened from view from both the public way and abutters by an appropriate material reviewed and approved by staff. The location shall not impact any parking, landscaping, or egress.	BP	Zoning Review Planner (ISD)	
11	The Applicant must contact the Engineering Department to obtain addresses for all units prior to a building permit being issued.	BP	Eng	
12	The proposed basement finished floor elevation shall not be less than is 1 foot above the Seasonal High Ground Water elevation. The seasonal high ground water elevation shall be determined by a Massachusetts certified soil evaluator and stated on a signed soil test pit log.	BP	Eng.	
13	Trash and recycling shall be stored in the building or in an enclosed (top and sites) place that is out-of-view of the public way. This must be indicated on site plans.	Perpetual	ISD	
14	Trash shall be picked up by a private contractor.	Perpetual	ISD	

15	Snow removal shall be undertaken by a private contractor and all shoveled/plowed snow shall be removed from the site.	Perpetual	ISD	
16	Gas and electric meters shall not be on the front of the structure. Gas and electric meters may be located on the side of the structure but shall be screened from the street by a hardy, staff approved evergreen planting. Utilities shall not be located adjacent to windows and shall not impact any parking, landscaping, or egress. The provisions of this condition may be waived by staff if the applicant submits a letter from the utility, signed by a utility representative, on utility letterhead, indicating that there is no feasible alternative to placing meters in violation of this condition.	CO	Zoning Review Planner (ISD)	
17	Electrical conduits on the exterior facades of buildings shall be painted to match the color of the building portion to which they are attached. Conduits are not allowed on the front of any structure.	CO	Zoning Review Planner (ISD)	
18	Exterior vents and pipes shall be painted or wrapped to match the façade or roof material through which they pass. Pipes and vents are not allowed on the front of the structures.	CO	Zoning Review Planner (ISD)	
19	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.	Perpetual	ISD	
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	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/ISD	
22	The Applicant shall present to the Somerville Historic Preservation Commission (HPC) for their review, the ZBA-approved plans which show "Building A" with the left elevation front porch removed from the proposal.	BP	Plng/ISD	
Final Sign-Off				

23	The Applicant shall contact the <u>ZONING REVIEW PLANNER within ISD</u> at least five business 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	Zoning Review Planner (within ISD)	
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Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Chair*
Danielle Evans, *Clerk*
Elaine Severino
Josh Safdie
Anne Brockelman

Attest, by the Planning Director:



Sarah Lewis

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. 15.5.3.

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 _____

