



City of Somerville

ZONING BOARD OF APPEALS

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

DECISION

PROPERTY ADDRESS: 118 College Avenue
CASE NUMBER: ZP23-000032
APPLICANT: Havurat Shalom Community Seminary, Inc.
APPLICANT ADDRESS: 113 College Ave, Somerville, MA 02144
OWNER: LaCourt Realty, LLC
OWNER ADDRESS: 30 College Ave, Somerville, MA 02144
DECISION: Approved (Administrative Appeal)
DATE OF VOTE: October 4, 2023
DECISION ISSUED: October 18, 2023

2023 OCT 18 A 9:25

CITY CLERK'S OFFICE
SOMERVILLE, MA

This decision summarizes the findings made by the Zoning Board of Appeals (the "Board") regarding the Administrative Appeal submitted for 118 College Avenue.

LEGAL NOTICE

Havurat Shalom Community Seminary, Inc., c/o Meredith Porter, seeks an administrative appeal of the Building Official's issuance of a Certificate of Occupancy, CO23-000082.

RECORD OF PROCEEDINGS

On October 5, 2023, the Zoning Board of Appeals held a public hearing advertised in accordance with M.G.L. 40A and the Somerville Zoning Ordinance. Present and sitting at the public hearing were Board Members Chair Susan Fontano, Vice-Chair Anne Brockelman, Clerk Katherine Garavaglia, Ann Fullerton, Zachary Zaremba, Alternate Brian Cook, and Alternate Sisia Daglian. The Board heard and reviewed evidence provided by the Appellant (Applicant), including the originally approved plans for the property, the as-built plans submitted with the Certificate of Occupancy application, and photographs of the property that were taken following the issuance of the Certificate of Occupancy. The Board asked questions related to the evidence provided. The Board then reviewed the application and asked questions of PPZ Staff regarding the procedure that was followed. PPZ Staff referred to the Staff Memo on the subject dated 9/28/2023 and reviewed the procedure that was followed prior to the issuance of the Certificate of Occupancy for 118 College Avenue.

Following the Appellant's presentation, the Board's review and questions, and Staff responses to questions, the Chair opened the public testimony portion of the hearing, during which several members of the public spoke in support of the Administrative Appeal application. No one spoke against the application.

Following the public comment period, the Board further deliberated on the application and, after reviewing the procedure followed and making findings, voted to approve the Administrative Appeal.

FINDINGS

The Board finds that the as-built building and site plans, and constructed building, were different from the plans that were previously approved during the Special Permit with Site Plan Review (SPSR) process, including changes to the interior and exterior of the building.

The Board finds that there is insufficient evidence to confirm that the aforementioned changes were authorized through a Plan Revision prior to the Certificate of Occupancy being issued.

The Board finds that the issuance of the Certificate of Occupancy without the authorization of the aforementioned changes through a Plan Revision constitutes a procedural error.

DECISION

Following public testimony, review of the submitted plans, and discussion of the statutorily required considerations, Clerk Katherine Garavaglia moved to approve the Administrative Appeal of Certificate of Occupancy CO23-000082, for 118 College Avenue. Vice-Chair Anne Brockelman seconded. The Board voted **5-0** to approve the Administrative Appeal.

Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Chair*
Anne Brockelman, *Vice-Chair*
Katherine Garavaglia, *Clerk*
Ann Fullerton
Zachary Zarembo



Sarah Lewis, Director of Planning, Preservation, & Zoning
Office of Strategic Planning & Community Development

2023 OCT 18 A 9 25
CLERK'S OFFICE
SOMERVILLE, MA

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.

FOR SITE PLAN APPROVAL(S) WITHIN

_____ there have been no appeals filed in the Office of the City Clerk, or
 _____ there has been an appeal filed.

FOR ADMINISTRATIVE APPEAL(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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