



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2013-71-R1-(7/2014)
Site: 104 Holland Street
Date of Decision: August 20, 2014
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: August 25, 2014

ZBA DECISION

Applicant Name:	R&R Capital Investments, LLC
Applicant Address:	8 Museum Way, #608, Cambridge, MA 02141
Property Owner Name:	R&R Capital Investments, LLC
Property Owner Address:	8 Museum Way, #608, Cambridge, MA 02141
Agent Name:	N/A

<u>Legal Notice:</u>	Applicant/Owner R+R Capital Investments, LLC seek a revision to Special Permit ZBA 2013-71 under SZO §5.3.8 to change the material and pervious coverage of the driveway/walkways. The original Special permit was under SZO § 4.4.1 was to alter the nonconforming 3-family structure.
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<u>Zoning District/Ward:</u>	RC zone/Ward 7
<u>Zoning Approval Sought:</u>	§5.3.8 & §4.4.1
<u>Date of Application:</u>	July 16, 2014
<u>Date(s) of Public Hearing:</u>	August 20, 2014
<u>Date of Decision:</u>	August 20, 2014
<u>Vote:</u>	5-0

Appeal #ZBA 2013-71-R1-(7/2012) was opened before the Zoning Board of Appeals at Somerville City Hall on August 20, 2014. 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 alterations to the house are complete and when Planning staff conducted the final site visit, it was noted that the driveway needed to be a pervious surface. The proposal is to revise the plans to keep the recently repaved asphalt driveway and place the front and side walkways with a pervious material. The applicant stated that they should meet the pervious surface requirement if the walkways were pervious. The pervious surface requirement for the RC district is 30% and the approved site plan had 52% of the site as pervious. The driveway is approximately 42 by 26 feet or 1,092 which is 23.6% of the lot. With the asphalt driveway the site would be 28.4%, just below the required 30%. The proposal, as conditioned, would require a pervious driveway with a 2 foot asphalt strip along the house.

FINDINGS FOR REVISION TO SPECIAL PERMIT (SZO §5.3.8):

The following findings for a special permit under §5.1.4 were used to evaluate the revision request.

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."

A revision to a special permit is allowed if the final signoff and certificates of occupancy have not yet been issued which is the case for this project. Changes that are not de minimis must go back to the permit granting authority for approval. Staff deemed this revision to be greater than the de minimis requirements under §5.3.8 and the request is before the ZBA for a public hearing. The driveway makes up a large percentage of the site, 23%, and the site improvement work contributed to the overall support for the redevelopment of the triple-decker.

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 revision as proposed is not consistent with the City's comprehensive plan, SomerVision. One of the plan's policies is to protect neighborhoods from the adverse environmental impacts of decisions made by individual property owners. An action step is to reduce impervious surfaces and meet the pervious requirement. The request is counter to this goal. The attached condition will remedy this inconsistency with the goals of SomerVision.

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 asphalt driveway will continue to allow stormwater to runoff of the site into the City's combined sewer system instead of natural percolation of stormwater into the ground. Other negative impacts of asphalt are the contribution to the heat island effect and the aesthetic of pavement over pavers. The driveway as conditioned will allow for percolation of ground water, reduce the effect and be aesthetically pleasing.



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 Revision to a Special Permit. 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:

1. Applicant will supply a plan to Planning Staff showing a 2' asphalt strip at the rear of the property and pervious pavers in the remaining area and construct the driveway accordingly.



Attest, by the Zoning Board of Appeals:

Herbert Foster, *Chairman*
Orsola Susan Fontano, *Clerk*
Richard Rossetti
Danielle Evans
Elaine Severino

Attest, by the Administrative Assistant:

Dawn M. Pereira

<p>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.</p>

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 _____

