



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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PLANNING DIVISION

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Case #: ZBA #2013-12
Site: 10 Allen Court
Date of Decision: January 8, 2014
Decision: Petition Approved with Conditions
Date Filed with City Clerk: January 14, 2014

ZBA DECISION

Applicant Name:	Kevin Emery
Applicant Address:	9 Gregory Lane, Reading, MA 01867
Property Owner Name:	Kevin Emery
Property Owner Address:	9 Gregory Lane, Reading, MA 01867
Agent Name:	N/A

Legal Notice: Applicant/Owner Kevin Emery seeks a Special Permit to establish four dwelling units in a by-right structure.

<u>Zoning District/Ward:</u>	BA zone/Ward 2
<u>Zoning Approval Sought:</u>	\$5.1 & §7.11.1.c
<u>Date of Application:</u>	March 5, 2013
<u>Date(s) of Public Hearing:</u>	8/21, 9/4, 9/18, 10/2, 10/16, 11/6, 11/20, 12/11/13 & 1/8/14
<u>Date of Decision:</u>	January 8, 2014
<u>Vote:</u>	5-0

Appeal #ZBA 2013-12 was opened before the Zoning Board of Appeals at Somerville City Hall on August 21, 2013. 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 proposal is to demolish the existing house and garage and construct a 4-story, 8,001 net square foot (including the basement) structure for four residential units. Three of the units will be on two-stories and all four of the units will have two bedrooms. There will be a four-car garage and two unenclosed parking spaces at the end of the driveway. Trash and recycling will be stored in the garage. There will be bike rack and the air conditioner condensers behind the house.

FINDINGS FOR SPECIAL PERMIT (SZO §5.1 & §7.11.1.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 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."

Four residential units requires a Special Permit in the Business A zoning district under section 7.11.1.c of the Somerville Zoning Ordinance. The proposal meets the dimensional and parking requirements. The parcel is conforming for a four unit development: the lot size is 4,942 square feet and there is no minimum lot size in the district; the lot area per dwelling unit is 1,235 square feet and the minimum is 875 square feet; the frontage is 46 feet and there is none required. The building envelop is conforming: the ground coverage of the building is 39% of the lot and the maximum allowed is 80%; the floor area ratio is 1.39 and the maximum allowed is 2.0; the building height is 4 stories and 36 feet and the maximum allowed is 4 stories and 50 feet; the side yard setbacks are 5 and 20 feet and none are required; the front yard is 5 feet and none is required; the rear yard is 20 feet and 16 is required. The site also meets the requirements for landscaped area at 31%, all of which will be pervious, and the minimum is 10% and parking requirement for 6 cars will be satisfied.

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 conserving the value of land and buildings. It is also consistent with the purpose of the Business A commercial district which includes housing and continues the historical residential use of the property.

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 surrounding neighborhood is a mix of residential and commercial properties of varying styles. There is a 2 ½ story house across the street and 3 and 4 story flat roofed residential buildings in close proximity. The style for the proposed building is Georgian and the design incorporates the Design Review Committee suggestions on reducing its perceived massing while keeping with this traditional building style.

Allen Court is a narrow street and the building massing, access and parking onsite were redesigned several times to address concerns. The current proposal allows six cars to park onsite and only two will be outside of the garage. The garage doors are on the side of the house where they are not as visible as they were originally proposed along the front of the house. There will be a front door for all of the units along the street, which will be an inviting and



pedestrian oriented entrance along this small street. Landscaping will be visible along the street and there will be usable open space in the lawn in the rear yard.

5. 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.

The neighbors across the street requested that the driveway be located on the left/east side of the property where the existing driveway is located so that cars do not pass their house and parked cars to enter the site. The driveway in the latest plan is on the left side of the property and therefore the circulation pattern will not change except that the cars that park in the garage will exit the driveway in a forward direction.

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. In addition the following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes										
1	Approval is for the construction of a 4-unit residential building. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	ISD/PIng.											
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>Mar 5, 2013 Complete Dec 19, 2013</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>Jan 31, 2013</td> <td>Plans submitted to OSPCD (Plot plan)</td> </tr> <tr> <td>Dec 6, 2013</td> <td>Modified plans submitted to OSPCD (Landscape Plan)</td> </tr> <tr> <td>(Dec 20, 2013)</td> <td>Modified plans submitted to OSPCD (C1 site plan, A1 front elevation, A2 right side elevation, A3 rear elevation, A4 left side elevation, A5 basement plan, A6 first floor plan, A7 second floor plan, A8 third floor plan, A9 fourth floor plan)</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	Mar 5, 2013 Complete Dec 19, 2013	Initial application submitted to the City Clerk's Office	Jan 31, 2013	Plans submitted to OSPCD (Plot plan)	Dec 6, 2013	Modified plans submitted to OSPCD (Landscape Plan)	(Dec 20, 2013)	Modified plans submitted to OSPCD (C1 site plan, A1 front elevation, A2 right side elevation, A3 rear elevation, A4 left side elevation, A5 basement plan, A6 first floor plan, A7 second floor plan, A8 third floor plan, A9 fourth floor plan)
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Any changes to the approved site plan or elevations that are not <i>de minimis</i> must receive SPGA approval.														
Pre-Construction														



2	The Applicant must contact the Engineering Department to obtain a street address prior to a building permit being issued.	BP	Eng.	
3	The Applicant shall submit a utility plan to the Engineering Department for review and approval.	BP	Eng.	
4	The Applicant shall submit a proposed grading and drainage plan, stamped by a registered PE in Massachusetts that demonstrates compliance with the City's stormwater policy.	BP	Eng.	
5	The Applicant shall submit a proposed drainage report, stamped by a registered PE in Massachusetts that demonstrates compliance with the City's stormwater policy.	BP	Eng.	
6	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	
Construction Impacts				
7	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	
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	
Design				
9	Applicant shall provide final material samples for siding, trim, windows, and doors (to the Design Review Committee for review and comment and) to Planning Staff for review and approval prior to construction.	BP	Plng.	
10	All of the windows shall be double hung 8 over 8 windows.	BP	Plng.	
Site				
11	Landscaping should be installed and maintained in compliance with the American Nurserymen's Association Standards.	Perpetual	Plng. / ISD	
12	The electric, telephone, cable TV and other such lines and equipment shall be placed underground from the source or connection. The utilities plan shall be supplied to the Wiring Inspector before installation.	Installation of Utilities	Wiring Inspector	
13	Snow plowed from the development shall be moved off site or stored in the rear yard. Snow shall not be placed in the Court.	Cont.	ISD.	
14	The air conditioner units shall be located in the rear yard behind the house.	CO	Plng.	



15	A bike rack shall be located in the rear yard and/or on the wall along each space in the garage.	CO	Png.	
Miscellaneous				
16	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	
17	Trash and recycling shall be stored in the garage.			
Public Safety				
18	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
19	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	Png.	
20	The Applicant shall provide notice of intent to strictly comply with applicable State and Federal regulations regarding air quality including without limitation continuous dust control during demolition and construction.	CO	Png/OSE	
Final Sign-Off				
21	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	Png.	



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

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 _____

