



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2018-84
Date: June 19, 2019
Recommendation: Revisions recommended

PLANNING STAFF REPORT

Site: 11 Cedar Street

Applicant Name: John D. Barry, Esq.
Applicant Address: 400 Granite Avenue, Milton, MA 02186
Property Owner Name: Cheryl A. Hurley and Carl A. Hurley
Property Owner Address: 11 Cedar Street, Somerville, MA 02143
Agent Name: John D. Barry, Esq.
Agent Address: 400 Granite Avenue, Milton, MA 02186
Agent Name: James Christopher
Agent Address: 415 Neponset Avenue #4, Dorchester, MA 02122

City Councilor: Mark Niedergang

Legal Notice: Applicant, John D. Barry, Esq., and Owners, Cheryl A. Hurley and Carl A. Hurley, seek a special permit with site plan review under SZO §7.2 and §7.3 to erect a second principal structure on the lot and to have five dwelling units on the lot. The proposal is to demolish the existing garage structure and erect a new three-unit dwelling in the rear of the site. A special permit under SZO §4.4.1 to alter the existing nonconforming structure by constructing a rear deck and under SZO §9.13 for parking relief is also required. RB Zone. Ward 5.

Dates of Public Hearing: Zoning Board of Appeals – June 19, 2019

I. PROJECT DESCRIPTION

1. **Subject Property:** The subject property is comprised of two parcels totaling 8,470 square feet of land area. The site contains a two-family 2.5 story dwelling, an eight-bay, and a three-bay concrete block garage. The rear of the site accessed via a private way (Gove Court) that is shared with the abutting property (9 Cedar Street).



2. Proposal: The proposal is to demolish the existing garages in the rear and construct a second principal structure. The proposed structure will be two stories tall and include three dwelling units (one in the basement, one of the first floor, and another on the second floor). The proposal will include a total of five parking spaces. One of the units on-site will be designated as affordable in perpetuity.

3. Green Building Practices:

4. Comments:

Fire Prevention: An earlier version of the plans included parking in the private way, which was opposed by the Fire Prevention Bureau. The proposed plan with no parking in the private way is supported by the Fire Prevention Bureau.

City Councilor: Councilor Niedergang has been informed of the proposal and held a neighborhood meeting. Two abutting property owners have also expressed concerns about the lack of parking, shadows, and loss of privacy. Councilor Niedergang opposes the project.

II. FINDINGS FOR SPECIAL PERMIT with SITE PLAN REVIEW (SZO §7.2 and §7.3) and SPECIAL PERMIT (SZO §4.4.1 and §9.13):

In order to grant a special permit with site plan review, the SPGA must make certain findings and determinations as outlined in §5.2.5 of the SZO. This section of the report goes through §5.2.5 in detail.

1. Information Supplied:

The Staff finds that the information provided by the Applicant conforms to the requirements of §5.2.3 of the SZO and allows for a comprehensive analysis of the project.

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 with site plan review.”*

Article 4: Nonconforming Uses and Structures

The structure is currently nonconforming with respect to the following dimensional requirements: landscaped area, pervious area, and left side yard setback.

The proposal will impact the nonconforming dimension of the left side yard setback. The current dimension is 2 feet, and the proposal to construct a two-story rear deck to the existing structure will extend the nonconformity toward the rear lot line at the same two foot distance. The requirement in the district is 8 feet for a 2.5 story structure. This alteration to a nonconforming structure requires the Applicant to obtain special permits under §4.4.1 of the Somerville Zoning Ordinance (SZO).

Section 4.4.1 states that “[l]awfully existing one-and two-family dwellings which are only used as residences, which are nonconforming with respect to dimensional requirements, may be enlarged, extended, renovated or altered by special permit granted by the SPGA in accordance with the procedures of Article 5.”

In considering a special permit under §4.4 of the SZO, Staff finds that the alterations proposed **would be substantially more detrimental** to the neighborhood than the existing structure. The construction of a two-story deck two feet from the property line would be negatively impactful to the abutting property

owner. **Staff recommends that the proposed deck be constructed in a manner that conforms to setback requirements, which would be six feet from the side property line (accounting for the two foot projection allowed for decks).** Other aspects of the proposal have been designed with setbacks that minimally impact the neighbors and the requirements for lot area, lot area per dwelling unit, ground coverage, landscaped area, pervious area, floor area ratio, height, front yard setback, and rear yard setback, and will continue to be conforming to the requirements of the SZO.

The front porch on the proposed structure projects into the required right side yard more than the allowed distance, which creates a new zoning violation. Staff has informed the Applicant of this violation and the Applicant intends to propose a compliant front porch in the edition of the plans that will be submitted for the next public hearing.

Article 7: Permitted Uses

SZO §7.2 allows for more than one principal structure per lot in the RB zoning district by Special Permit with Site Plan Review granted from the Zoning Board of Appeals.

Section 7.3 states that, “in Residence B districts, the maximum number of dwelling units per lot shall be three (3) units.”

Section 7.3 continues to state that, “In Residence A and Residence B districts, where developments include a minimum of twenty percent (20%) affordable housing units on-site, but in no case less than one (1) affordable unit, as defined by Section 2.2.4, the above standard may be waived by the SPGA through application for special permit with site plan review. In all cases, the minimum lot size, the minimum lot area per dwelling unit and other dimensional and parking requirements of Article 8 and Article 9 shall be met. No incentives for provision of additional affordable housing units as set forth under Article 13, § 13.5, shall be available for those applications requiring a special permit with site plan review under this section.”

In this case, the dimensional requirements of Article 8 for the proposed structure are met and the parking requirements of Article 9 will be met if the Special Permit is granted. Also, 20% of the proposed five units is one; therefore the proposal includes one affordable housing unit.

Article 9: Off-Street Parking and Loading

	<i>Existing</i>		<i>Proposed</i>	
Unit #1	4 BR	2 spaces	4 BR	2 spaces
Unit #2	4 BR	2 spaces	4 BR	2 spaces
Unit #3	-	-	3 BR	2 spaces
Unit #4	-	-	3 BR	2 spaces
Unit #5	-	-	3 BR	2 spaces
Total	4 spaces		10 spaces	

SZO §9.13 allows for sites with nonconforming parking to apply for a Special Permit to modify parking requirements if the total number of spaces is six or fewer. The locus is currently conforming with respect to the number of required off-street parking spaces as four spaces are required, which the site provides. Normally a Variance is required for sites seeking parking relief that currently conform to parking requirements. However, according to SZO Section 9.13.g, projects incorporating inclusionary housing may reduce the total number of parking spaces with a special permit.

SZO §9.5 requires the Applicant to provide ten spaces. The proposal includes five surface parking spaces. Relief is being requested from providing the additional five parking spaces.

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, and upon reaching the findings and determinations set forth in Section 5.1.4”. Given the proximity to the Porter Square Red Line Station, numerous bus route, and bicycle lanes, the Staff finds that granting the requested Special Permit is consistent with the purposes of SZO §9.1 and will not cause detriment to increased traffic volumes, traffic congestion of queuing of vehicles, changes in the type of traffic, change in traffic patterns and access to the site, reduction in on-street parking, or unsafe conflicts of motor vehicles and pedestrian traffic.

3. Purpose of District: *The Applicant has to ensure that the project “is consistent with the intent of the specific zoning district as specified in Article 6”.*

The proposal is consistent with the purpose of the RB district, which is, “to establish and preserve medium density neighborhoods of one-, two- and three-family homes, free from other uses except those which are both compatible with and convenient to the residents of such districts.”

4. Site and Area Compatibility: *The Applicant has to ensure that the project “(i)s designed in a manner that is compatible with the existing natural features of the site and is compatible with the characteristics of the surrounding area, and that the scale, massing and detailing of the buildings are compatible with those prevalent in the surrounding area”.*

Surrounding Neighborhood: The subject property is located on the east side of Cedar Street close to its intersection with Elm Street. This stretch of Cedar Street is comprised of mostly 2.5 story gable end structures. There are a few three story mansards or flat roof type structures closer to Summer Street.

Impacts of Proposal (Design and Compatibility): The new structure in the rear is proposed to be a 2.5 story gable end structure with a ridge height of 34’-5””, which is two feet shorter than the existing structure. The proposed structure will have a finished basement and two finished floors above grade. One unit is proposed to occupy each floor.

Staff believes that the size of rear buildings should be significantly smaller compared to structures they are positioned behind. The building height could be lowered in an attempt to alleviate shadow impacts. Traditionally the bottom of roof rafters of a gable roof rest a lot closer (no more than two feet) to the finished floor below. Staff believes that if the gable was lowered and constructed at a traditional height the shadow impacts on abutting properties could be lessened. The elevation of the ground floor could also be lowered from 4’ to 3’3” to match that of the existing house. Also, permeable pavers should be used for the parking spaces and the rear driveway to handle stormwater runoff and to enhance the aesthetics of the site.

1. *Buildings should be generally of the same size and proportions as those existing in the neighborhood. This shall apply in cases of multi-family development as well as one-, two-, and three-family units. For example, if relatively small two- and three-family structures are common in a neighborhood where multi-family development is proposed, the multi-family development should be physically broken into components that, from a design perspective, are housed in buildings of similar width, depth, and height as those typically found in the neighborhood.*

Staff believes that the size of rear buildings should be significantly smaller compared to structures they are positioned behind.

2. *Use of traditional and natural materials is strongly encouraged (e.g. wood clapboard, wood shingles, brick).*

The proposed exterior materials are provided on page A7 of the plans. The building are proposed to be clad in cementitious lap siding.

3. *Additions to existing structures should be consistent with the architecture of the existing structure in terms of window dimensions, roof lines etc.*

N/A

4. *Although additions should not clash with or be incompatible to the existing structure, it is acceptable and even desirable for the new construction to be distinguishable from the existing building, perhaps by maintenance of design elements of the original building that would otherwise be lost (e.g. false rakes, fasciae, and the like).*

The proposed new structure maintains design elements of the existing building such as the gable roof, bay, and fenestration. Staff believes that the gable could be lowered, which will make the proposed structure more distinguishable from the existing structure.

5. *Where practical, new or infill building construction should share the same orientation to the street as is common in the neighborhood. When not contrary to any other zoning law, front and side yards should be of similar dimensions as those typical in the area.*

The proposed new structure will be located behind the existing structure and oriented toward a shared private way.

6. *Driveways should be kept to minimal width (perhaps a maximum of twelve feet), and be designed so that no vehicle parked on the drive may straddle the public sidewalk in any way. Low barriers or plantings may be required to separate the parking area from the pedestrian space.*

The proposal will maintain the existing private way to access two parking spaces between the structures and three spaces in a driveway to the right of the proposed structure (in the rear yard). The minimum required aisle width is twelve feet for parallel spaces, which is what is being proposed. Plantings are proposed along the right side yard lining the private way, behind the two parking spaces between the buildings, in front of the proposed structures, and in the rear abutting the parking spaces. A solid wood fence should be including along the left side property lines and the rear property line.

7. *Transformers, heating and cooling systems, antennas, and the like, should be located so they are not visible from the street or should be screened.*

A condition of approval is that any transformers, heating and cooling systems, antennas, and the like, should be located in a manner so that are not visible from the street or should be screened.

8. *Sites and buildings should comply with any guidelines set forth in Article 6 of this Ordinance for the specific base or overlay zoning district(s) the site is located within.*

N/A

5. Functional Design: *The project must meet “accepted standards and criteria for the functional design of facilities, structures, and site construction.”*

The project meets accepted standards and criteria for the functional design of facilities, structures, and site construction.

6. Impact on Public Systems: *The project will “not create adverse impacts on the public services and facilities serving the development, such as the sanitary sewer system, the storm drainage system, the public water supply, the recreational system, the street system for vehicular traffic, and the sidewalks and footpaths for pedestrian traffic.”*

The proposal is not expected to create adverse impacts on the public services and facilities serving the locus, such as the sanitary sewer system, the storm drainage system, the public water supply, the recreational system, the street system for vehicular traffic, and the sidewalks and footpaths for pedestrian traffic.

7. Environmental Impacts: *“The proposed use, structure or activity will not constitute an adverse impact on the surrounding area resulting from: 1) excessive noise, level of illumination, glare, dust, smoke, or vibration which are higher than levels now experienced from uses permitted in the surrounding area; 2) emission of noxious or hazardous materials or substances; 3) pollution of water ways or ground water; or 4) transmission of signals that interfere with radio or television reception.”*

The proposal is not expected to create an adverse impact on the environment.

8. Consistency with Purposes: *“Is consistent with: 1) the purposes of this Ordinance, particularly those set forth in Article 1 and Article 5; and 2) the purposes, provisions, and specific objectives applicable to the requested special permit with site plan review which may be set forth elsewhere in this Ordinance, such as, but not limited to, those at the beginning of the various sections.”*

With the changes recommended, Staff believes that the proposal would consistent with the general purposes of the Ordinance as set forth under §1.2, which includes, but is not limited to promote the health, safety, and welfare of the inhabitants of the City of Somerville; to provide for and maintain the uniquely integrated structure of uses in the City; to lessen congestion in the streets; to protect health; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to conserve the value of land and buildings; to encourage the most appropriate use of land throughout the City; to protect and promote a housing stock that can accommodate the diverse household sizes and life stages of Somerville residents at all income levels, paying particular attention to providing housing affordable to individuals and families with low and moderate incomes; and to preserve and increase the amenities of the municipality.

9. Preservation of Landform and Open Space: *The Applicant has to ensure that “the existing land form is preserved in its natural state, insofar as practicable, by minimizing grading and the erosion or stripping of steep slopes, and by maintaining man-made features that enhance the land form, such as stone walls, with minimal alteration or disruption. In addition, all open spaces should be designed and planted to enhance the attractiveness of the neighborhood. Whenever possible, the development parcel should be laid out so that some of the landscaped areas are visible to the neighborhood.”*

The proposal will involve minimal grading and the amount and quality of open space will be enhanced from its current state.

10. Relation of Buildings to Environment: *The Applicant must ensure that “buildings are: 1) located harmoniously with the land form, vegetation and other natural features of the site; 2) compatible in scale, design and use with those buildings and designs which are visually related to the development site; 3) effectively located for solar and wind orientation for energy conservation; and 4) advantageously located for views from the building while minimizing the intrusion on views from other buildings.”*

Staff finds that the scale of the building in the rear is not compatible in scale or design with other buildings that are visually related to the development.

11. Housing Impact: *Will not create adverse impacts on the stock of existing affordable housing.*

The proposal will create one affordable housing unit.

12. SomerVision Plan: Complies with the applicable goals, policies and actions of the SomerVision plan, including the following, as appropriate: Preserve and enhance the character of Somerville’s neighborhoods and preserve and expand an integrated, balanced mix of safe, affordable and environmentally sound rental and homeownership units for households of all sizes and types from diverse social and economic groups.

<u>SomerVision Summary</u>	<u>Existing</u>	<u>Proposed</u>
<i>Dwelling Units:</i>	2	5
<i>Affordable Units:</i>	0	1

13. Impact on Affordable Housing: *In conjunction with its decision to grant or deny a special permit for a structure of four or more units of housing, the SPGA shall make a finding and determination as to how implementation of the project would increase, decrease, or leave unchanged the number of units of rental and home ownership housing that are affordable to households with low or moderate incomes, as defined by HUD, for different sized households and units.*

The proposal will create one affordable housing unit in perpetuity. If this project were to be approved Staff would recommend a condition of approval that the Applicant will work with the OSPCD Housing Division on an Affordable Housing Implementation Plan (AHIP) to ensure that the proposed affordable unit is made available to households of low or moderate income in perpetuity.

III. RECOMMENDATION

Special Permit with Site Plan Review under (SZO §7.2 and §7.3) and Special Permit (SZO §4.4.1 and §9.13)

Based on the materials submitted by the Applicant, the above findings and subject to the following conditions, the Planning Staff **RECOMMENDS THAT REVISIONS BE MADE** of the requested **SPECIAL PERMIT with SITE PLAN REVIEW and 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.

