



**CITY OF SOMERVILLE, MASSACHUSETTS**  
**MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT**  
**JOSEPH A. CURTATONE**  
**MAYOR**

MICHAEL F. GLAVIN  
EXECUTIVE DIRECTOR

PLANNING DIVISION  
**ZONING BOARD OF APPEALS MEMBERS**  
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RICHARD ROSSETTI, *CLERK*  
DANIELLE EVANS  
ELAINE SEVERINO  
JOSH SAFDIE  
ANNE BROCKELMAN, (ALT.)

**Case #: ZBA 2018-83**  
**Site: 11 Sanborn Avenue**  
**Date of Decision:** October 24, 2018  
**Decision:** *Petition Approved with Conditions*  
**Date Filed with City Clerk:** October 29, 2018

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**ZBA DECISION**

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**Applicant Name:** Tony Dopazo  
**Applicant Address:** P.O. Box 339, Somerville, MA 02143  
**Owner Name:** Tony Dopazo  
**Owner Address:** P.O. Box 339, Somerville, MA 02143  
**Alderman:** Ben Ewen-Campen

Legal Notice: 11 Sanborn Avenue (ZBA 2018-83): Applicant and Owner, Anthony Dopazo, seeks special permits to alter an existing, non-conforming structure including, but not limited to, relief under §4.4.1 of the SZO for non-conforming front and side yard setbacks, Article 9 for parking. RB zone\*. Ward 3.

<u>Zoning District/Ward:</u>	3
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	June 14, 2018
<u>Date(s) of Public Hearing:</u>	9/5, 9/17, 10/3, 10/17, 10/24
<u>Date of Decision:</u>	October 24, 2018
<u>Vote:</u>	5-0

This was correctly noted in the staff report as being in the RA zone.

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Appeal #ZBA 2018-83 was opened before the Zoning Board of Appeals at the East Somerville Community School on October 24, 2018. 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. On October 24, 2018 the Zoning Board of Appeals took a vote.



CITY HALL • 93 HIGHLAND AVENUE • SOMERVILLE, MASSACHUSETTS 02143  
(617) 625-6600 EXT. 2500 • TTY: (617) 666-0001 • FAX: (617) 625-0722  
[www.somervillema.gov](http://www.somervillema.gov)

**DESCRIPTION:**

The Applicant proposes retaining the two-family use of the building. The existing, exaggerated hip roof will be removed to make way for the construction of a front-facing gable roof with associated cross-gable. Two shed dormers will be added to the rear cross gable. First and second story rear decks will be constructed within the right side yard setback. Regarding the left side yard setback, the setbacks all comply with zoning. There is a right-of-way located between the left property line and the left façade of the house that will not be encroached upon as a result of this project.

**FINDINGS FOR SPECIAL PERMIT (SZO §4.4.1 & Article 9):**

*In order to grant a special permit, the SPGA must make certain findings and determinations as outlined in §4.4.1 of the SZO. This section of the report goes through §4.4.1 in detail.*

**1. Information Supplied:**

The Board finds that the information provided by the Applicant with regard to the interior arrangement of the structure and exterior elevations conforms to the requirements of §4.4.1 of the SZO.

**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."*

**Regarding §4.4.1 and §9.13 of the SZO**

*Section 4.4.1 states that "[l]awfully existing nonconforming structures other than one- and two-family dwellings may be enlarged, extended, renovated or altered only by special permit authorized by the SPGA in accordance with the procedures of Article 5. The SPGA must find that such extension, enlargement, renovation or alteration is not substantially more detrimental to the neighborhood than the existing nonconforming building. In making the finding that the enlargement, extension, renovation or alteration will not be substantially more detrimental, the SPGA may consider, without limitation, impacts upon the following: traffic volumes, traffic congestion, adequacy of municipal water supply and sewer capacity, noise, odor, scale, on-street parking, shading, visual effects and neighborhood character."*

The Board finds that the proposed alterations of this two-unit structure will not be substantially more detrimental to the site or neighborhood than current conditions. The Board finds that the proposed alterations to the structure, along with the proposed landscaping on the parcel will constitute an improvement to the visual appearance of the site and the usability of the building.

**Right and front yard setbacks under §4.4.1 of the SZO**

By enclosing the right-most portion of the first-and second-story front porches on this structure, additional massing will be added to the right elevation of the house. However, a significant portion of the front first and second-story porches will remain open which is consistent with the goals in SomerVision. The Board finds that, taken together, the enclosure of two small portions of the existing front porches will not constitute a negative impact to the site or to the surrounding neighborhood.

By removing the existing, exaggerated hip roof and creating a gable-fronted structure with corresponding cross-gable, an upward extension of the non-conforming right side yard setback is being created. The existing height of the building is 28.2 feet. The RA zone allows for a 2 ½-story building with a maximum height of 35 feet. The Applicant will maintain the 2 ½-stories on the proposed structure and will have a final height of 34' 10 11/16" inches (essentially, 35 feet) as the average building height off of the average finished grade. The proposal meets the dimensional requirements for the RA zoning district.



The proposed rear first- and second-story decks along the right rear façade of the structure will terminate within the right side yard setback. The Board finds that, given the limited outdoor space available on this parcel available for two households in this building, the narrow right yard setback and the limitations on ground use caused by the right-of-way along the left side of the property, the Board finds that the inclusion of these rear decks is a reasonable accommodation to made in order to provide the residents of the second-to-third floor unit access to outdoor living space.

Article 8 of the SZO allows for building components such as stairs descending from the first story, to project into the front yard setback as long as a minimum 10' setback is maintained. The existing front stairs on this structure already break this minimum by terminating less than 10 feet from the front property line. The Applicant proposes removing the existing front stairs and building new ones, to the same height and dimensions, but toward the right corner of the front porch. The Board finds that the rightward shift of the front steps, though maintaining the non-conforming front yard setback and encroaching on the already non-conforming right side yard setback, does not greatly exacerbate the non-conformities already extant on the site.

Parking Article 9 of the SZO

There are no curb cuts to this site therefore vehicular access is not possible under existing conditions. The Board noted earlier in this report under the "Proposal" section above that, even if a new curb cut were made to this property, the only possible space to park one vehicle would be within the right-of-way that has been deeded along the left side of the property. Parking is not allowed within rights-of-way.

Based on the differential between existing and current parking requirements, relief is needed for two (2) parking spaces. Given the site circumstances, the board is supportive of granting relief for these two spaces. The Board finds that the overall proposal will not create undue traffic congestion or necessarily increase traffic volume. The structure is and will remain a two-family residential building. This property is located steps from Broadway and the public bus routes that pass along this main thoroughfare. Future residents of this property also possess the right to obtain resident and visitor parking permits from the parking Division.

In addition to the considerations discussed above, the Board does not anticipate that this proposal will increase noises or odors in this neighborhood on an on-going basis. Regular construction-related noise can be expected on this site as the project is underway. However, this uptick in noises will be temporary in nature. The Board anticipates that any odors associated with this project will be construction-related and, post-construction, will be in keeping with those typically experienced by residents living in close proximity to each other.

Lastly, impacts on the municipal water supply and sewer capacity will be examined by the Engineering Department. Prior to the issuance of any building permit for this project, the Applicant is required to submit full engineering plans to the Engineering Department for their assessment, feedback and approval or denial.

**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 Board finds that the proposed use of and changes to this property are consistent with the purpose of the RA district which is "[t]o establish and preserve quiet neighborhoods of one- and two-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 characteristics of the built and unbuilt surrounding area, including land uses."***



Earlier in this report the Board discussed the proposed alterations to this parcel with respect to their compatibility with the site and neighborhood. The Board concluded that the proposed alterations will result in an improvement to the built environment and to the condition and appearance of the flora on the property.

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

The proposal will not add to the existing stock of affordable housing.

**6. SomerVision:**

The proposal will improve the visual appearance of an existing property.

**DECISION:**

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans, Elaine Severino, and Josh Safdie. Upon making the above findings, Richard Rossetti made a motion to approve the request for a Special Permit with Site Plan Review and Variance. Elaine Severino seconded the motion. 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 to construct a rear addition, raise the roof height by 24 inches, add left elevation dormers, increase the GFA by more than 25%, parking relief and general exterior modifications	BP/CO	ISD/PIng.																			
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>June 14, 2018</td> <td>Application submitted to City Clerk's office.</td> </tr> <tr> <td>August 8, 2018</td> <td>Updated plans submitted to OSPCD</td> </tr> <tr> <td>August 9, 2018</td> <td>Landscaping plans submitted to OSPCD</td> </tr> <tr> <td>September 10, 2018</td> <td>Sketch proposals submitted to OSPCD</td> </tr> <tr> <td>September 13, 2018</td> <td>Elevations submitted to OSPCD</td> </tr> <tr> <td>September 25, 2018</td> <td>Updated plans submitted to OSPCD</td> </tr> <tr> <td>October 3, 2018</td> <td>Updated plans submitted to OSPCD</td> </tr> <tr> <td>October 8, 2018</td> <td>Updated plans submitted to OSPCD</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	June 14, 2018	Application submitted to City Clerk's office.	August 8, 2018	Updated plans submitted to OSPCD	August 9, 2018	Landscaping plans submitted to OSPCD	September 10, 2018	Sketch proposals submitted to OSPCD	September 13, 2018	Elevations submitted to OSPCD	September 25, 2018	Updated plans submitted to OSPCD	October 3, 2018	Updated plans submitted to OSPCD	October 8, 2018	Updated plans submitted to OSPCD
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<p>Any changes to the approved site plan or elevations that are not <i>de minimis</i> must receive SPGA approval. Whether or not a change is <i>de minimis</i> in nature must be determined by the Planning Office.</p>																						



<b>Design</b>				
1	All materials, including, but not limited to windows, exterior finishes, siding, and similar shall be submitted to, reviewed and approved by Planning Staff prior to the issuance of a building permit.	BP	ISD/PIng	
<b>Construction Impacts</b>				
2	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	
3	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/ISD	
4	The name(s) and contact information of all entities working on the site shall be posted in an easily-visible area at the job site.	During Construction	ISD	
5	<u>Construction shall be limited to M-F 7:30am – 5:00pm. No weekend/holiday construction or construction-related work shall occur.</u>	During Construction	ISD	
6	Prior to the issuance of a building permit, the Applicant shall submit full engineering plans to the Engineering Department for their review and approval.	BP	ISD/PIng/Eng.	
7	The applicant must comply with the “Policy for new connections to and modifications to existing connections to the municipal sewer and drainage system stormwater management and infiltration/inflow mitigation.”  The Applicant shall work with Engineering to meet this condition and provide the required fees/mitigation.	BP	Engineering/ISD	
<b>Public Safety</b>				
8	The Applicant or Owner shall meet the Fire Prevention Bureau’s requirements.	CO	FP	
9	All smoke detectors shall be hard-wired.	CO	Fire Prevention / ISD	
10	All exterior lighting on the site shall be downcast and shall not cast light onto surrounding properties in any fashion.			
11	In accordance with City of Somerville ordinances, no grills, barbecues, chimineas or the like shall be allowed on decks and porches. These requirements shall be written into any rental agreements or condo documents. Proof of the inclusion of this language shall be shown to Planning Staff prior to the issuance of a CO.	CO/Perpetual	ISD/PIng/FP	



<b>Site</b>				
12	All plantings and their locations along with all hardscaping materials, design and location for driveways, walkways, fencing, etc., shall first be reviewed and approved by Planning Staff prior to the issuance of a building permit.	BP	ISD/Plng	
13	No vents shall exit on the Sanborn Avenue façade of the structure. All venting, pipes, conduits and the like shall be painted the same color as the exterior of the structure from which they protrude.	CO	ISD/Plng	
14	Utility meters shall not be installed on the front façade of the building (Sanborn Avenue façade)	CO	ISD/Plng	
15	All bituminous material shall be removed from the site.	CO	ISD/Plng	
16	Vinyl siding, trim, fencing, or decking material shall not be used on this site.	CO	ISD/Plng	
17	All mechanicals shall be screened from view from the public way. All screening materials shall be reviewed and approved by Planning Staff prior to installation.	CO	ISD/Plng	
18	The location of mechanicals (such as AC condensers) shall be first reviewed and approved by the Zoning Review Planner prior to their installation.	CO	ISD/Plng	
19	Garbage and recycling shall be stored out-of-view from the public way and shall be screened. Screening material and storage location shall first be reviewed and approved by Planning Staff	CO	ISD	
<b>Final Sign-Off</b>				
20	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	Plng.	

Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Chairman*  
Richard Rossetti, *Clerk*  
Danielle Evans  
Elaine Severino  
Josh Safdie

Attest, by the Administrative Assistant:

\_\_\_\_\_  
Monique Baldwin

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 \_\_\_\_\_

