



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2019-92
Date: ~~September 18, 2019~~ November 20, 2019
Recommendation: Denial

UPDATED PLANNING STAFF REPORT

Site: 23 Rush Street

Applicant / Owner Name: Electra Realty Corporation c/o Kevin Jackson
Applicant / Owner Address: 215 Washington Street, Somerville, MA 02143
City Councilor: Matt McLaughlin

Legal Notice: Applicant and Owner, Electra Realty Corporation c/o Kevin Jackson, seeks a special permit under SZO §4.5.3 to expand the nonconforming use (carpenters shop) and under §4.4.1 to alter the nonconforming structure by constructing two additional stories. A Variance under §5.5 and §8.5 is also required for exceeding the maximum floor area ratio (FAR). Parking relief under Article 9 is also required. RB Zone. Ward 1.

This staff report has been updated. Items which no longer apply have been struck and updated information has been highlighted in yellow.

Dates of Public Hearing: Zoning Board of Appeals – ~~September 18, 2019~~ November 20, 2019

I. PROJECT DESCRIPTION

1. Subject Property: The subject property consists of a 3,390 square foot lot on the corner of Brook and Rush Streets with no existing landscaping due to the one-story concrete building that composes 3,358 square feet of the lot. The building is used to manufacture building parts and furniture by the means of wood working tools. The use falls under use category 7.11.14.B.1.a. – General Industrial; which was the same category that a previous machine shop manufacturing auto parts fell under that had been operating since the 1930s.

In February 2012, the ZBA approved alterations to each façade but they were never completed. In August 2018, the alterations to each façade were approved again.



2. Proposal: The current proposal is to construct two additional stories atop the existing building to expand the carpenters shop (use category 7.11.14.B.1.a. – General Industrial).

3. Green Building Practices: The application states that the proposal will be adding photovoltaic panels on the roof, planter boxes along the two street facades, a roof top garden, and an electric car charging station.

4. Comments:

City Councilor: Councilor McLaughlin has been informed of this proposal and has yet to comment as of the publication of this report. Councilor McLaughlin has conducted a two neighborhood meetings on this proposal.

II. FINDINGS FOR SPECIAL PERMIT (SZO §4.4.1 and §4.5.3):

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 Staff 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."*

Article 4: Nonconforming Uses and Structures

The structure is currently nonconforming with respect to the following use (7.11.14.B.1.a. – General Industrial) and the following dimensional requirements: lot area, ground coverage, landscaped area, pervious area, front, rear, and both side yard setbacks.

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.”

Section 4.5.3 states that “[the] expansion, alteration, enlargement or extension of a lawfully existing nonconforming use shall be permitted only by the granting of a special permit authorized by the SPGA in accordance with the procedures of Article 5, provided that the SPGA finds that such change is not substantially more detrimental to the neighborhood than the existing degree of nonconformity. In judging detriment, the SPGA may consider, without limitation, impacts upon the following: traffic volumes, traffic congestion, type of traffic, change in traffic patterns and access to the site, adequacy of municipal water supply and sewer capacity, noise, odor, glare, scale, on-street parking, shading, visual effects and neighborhood character.”

The proposal will impact the following nonconforming dimensions: front, rear, left, and right side yard setbacks. The current dimension is 0 feet for all of the setbacks and the proposal is to construct two additional stories atop the existing building. **The proposed two-story addition will be setback 1.3 feet from the existing building edge on all sides except for the rear, which will have a 6 foot setback. The requirement is 10 feet for a three-story structure in the RB district.** This extension of each nonconformity upwards is an alteration to a nonconforming structure that requires the Applicant to obtain special permits under §4.4.1 of the Somerville Zoning Ordinance (SZO).

The proposal will impact the nonconforming use by expanding it into the additional stories to create small general industrial studios. This expansion of this nonconforming use requires the Applicant to obtain special permits under §4.5.3 of the Somerville Zoning Ordinance (SZO).

In considering a special permit under §4.4 and 4.5 of the SZO, Staff finds that the alterations/use proposed **would be substantially more detrimental to the neighborhood than the existing structure/use.** The existing structure is already out of character with respect to its built form and its use as carpenter's shop. The proposal has not been designed with setbacks that minimize impacts to the neighbors and the surrounding area. The visual effects and the neighborhood character will be significantly altered by the proposal tripling the size of the existing building.

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 **NOT** 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 facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements; to conserve the value of land and buildings; to preserve the historical and architectural resources of the City; to adequately protect the natural environment; 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.

The proposal is **NOT** consistent with the purpose of the 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 characteristics of the built and unbuilt surrounding area, including land uses."*

Surrounding Neighborhood: The subject property is located in East Somerville at the northwest intersection of Rush Street and Brook Street. This is a residential neighborhood located between Broadway and the East Somerville Community School. The neighborhood is made up of buildings with story heights that range from one-story to three-stories.

Impacts of Proposal (Design and Compatibility): The proposal is not designed in a manner that is compatible with the characteristics of the built and unbuilt surrounding area or land uses. The design makes no attempts to reducing the massing/bulk as it abuts residential properties.

5. Housing Impact: Will not create adverse impacts on the stock of existing affordable housing.
6. SomerVision Plan: **Does not** comply 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.

III. FINDINGS FOR VARIANCE (§5.5, §8.5 and Article 9)

A Variance (§5.5) is sought to violate the maximum allowed floor area ratio (FAR) and for parking relief of seven spaces.

Article 8: Dimensional Requirements

Maximum allowed FAR: 1.0 or 3,390 net square feet

Existing FAR: 0.99 or 3,358 net square feet

Proposed FAR: 2.91 or 9,870 net square feet

Article 9: Off-Street Parking and Loading

	Existing		Proposed	
General	3,358 s.f	3.4 spaces	9,870 s.f	9.9 spaces
Industrial				
Total		3 spaces		10 spaces (rounded up from 9.9)

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 nonconforming with respect to the number of required off-street parking spaces as three spaces are required and none are provided. The proposal increases the parking requirement by seven spaces and no new spaces are being created.

Since the locus does not currently have sufficient off-street parking and square footage is being added to the property that increases the parking requirement by seven spaces, **Article 9 of the SZO requires the Applicant to provide the required additional spaces or seek relief in the form of a Variance.**

In order to grant a variance the Board must make certain findings and determinations as outlined in §5.5.3 of the SZO.

1. *There are “special circumstances relating to soil conditions, shape or topography of land or structures which especially affect such land or structures but not affecting generally the zoning district in which it is located, causing substantial hardship, financial or otherwise.”*

Applicant’s response: Constructed approximately 100 years ago, this existing structure was built to the property lines on all four sides, using the entire allowable FAR (1.0) within its single story. The neighborhood in which it is located is entirely 2 1/2 and 3 story structures. The existing zero-lot line construction therefore limits the building to a height that is not in harmony with the surrounding neighborhood. Any enlargement would require demolition of the existing historic structure.

Staff's response: The shape of the structure that sits on the land is a special circumstance that is unique for the district.

2. *"The variance requested is the minimum variance that will grant reasonable relief to the owner, and is necessary for a reasonable use of the building or land."*

Applicant's response: An increase in FAR beyond 1.0 is the only relief required for the additional stories, as the existing zero lot line setback condition could be extended vertically via special permit (only) and the resulting height would conform with allowable zoning, as well as be on par with several other 3 story buildings in the neighborhood. The existing historic garage / shop building is unique to the neighborhood in terms of style and use. The enlarged building would continue and be in harmony with this status.

Staff's response: Staff understands that any request for additional square footage will necessitate the need for a Variance. However, Staff believes that the proposal is NOT the minimum relief necessary that will grant reasonable relief to the owner and is necessary for a reasonable use of the building or land.

3. *"The granting of the variance would be in harmony with the general purpose and intent of this Ordinance and would not be injurious to the neighborhood or otherwise detrimental to the public welfare."*

Applicant's response: Allowing the FAR to exceed 1.0 would of course be creating a new non-conformity with the Somerville Zoning Ordinance - a condition shared with many neighboring buildings. The proposed project maintains a height in harmony with the surrounding streetscape, with a massing and style that is meant to be harmonious with the historic structure and use of the site.

Staff's response: Staff does not find that the granting of the Variance would be in harmony with the general purpose and intent of this ordinance. The proposed design will be injurious to the neighborhood.

IV. RECOMMENDATION

Special Permit under (SZO §4.4.1 and §4.5.3) and Variance (§5.5, §8.5 and Article 9)

Based on the materials submitted by the Applicant, the above findings and subject to the following conditions, the Planning Staff recommends **DENIAL** of the requested **SPECIAL PERMITs and VARIANCES**.

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.

