



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2018-70
Date: July 18, 2018
Recommendation: Conditional Approval

PLANNING STAFF REPORT

Site: 27 Everett Avenue

Applicant / Owner Name: Solomon Mezgebu
Applicant / Owner Address: 27 Everett Avenue, Somerville, MA 02145
Agent Name: Richard G. DiGirolamo, Esq.
Agent Address: 424 Broadway, Somerville, MA 02145
Alderman: Matthew McLaughlin

Legal Notice: Applicant/Owner, Solomon Mezgebu, seeks a Special Permit under SZO §4.4.1 to alter a nonconforming structure and §9.13 for parking relief to legalize an existing third dwelling unit. RB Zone. Ward 1.

Dates of Public Hearing: Zoning Board of Appeal – July 18, 2018

I. PROJECT DESCRIPTION

1. Subject Property: The subject site is comprised of one 5,000 square foot lot that contains a legal two-family dwelling. The structure is a gable-end structure with an attached garage in the rear.

In March of 2012, the property was issued a violation letter by the Inspectional Services Department (ISD) for an illegal third unit in the garage. In May of 2012, there was an application made to ISD to legalize that third unit. The application was denied by ISD in June of 2012 because a special permit for parking would have been required.



2. Proposal: The applicant is seeking parking relief to legalize the third unit in the basement.
3. Green Building Practices: The application states that the proposal will not exceed the stretch energy code.
4. Comments:

Ward Alderman: Alderman McLaughlin has been informed of this proposal and does not have any objections.

II. FINDINGS FOR SPECIAL PERMIT (SZO §4.4.1 and §9.13):

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."*

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

The proposal will not impact any of the nonconforming dimensional requirements. Exterior alterations will be limited to the right side of the house, which conform to setback requirements. Various interior alterations are also proposed. These alterations 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 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.”

In considering a special permit under §4.4 of the SZO, Staff finds that the alterations/use proposed would not be substantially more detrimental to the neighborhood than the existing structure/use. The proposal is to legalize what has already been existing on the property for years. Any impacts of such have already been experienced by the neighborhood. The proposal has been designed with setbacks that minimally impact the neighbors and the requirements for lot area per dwelling unit, ground coverage, floor area ratio (FAR), building height, right side yard setback, and street frontage will continue to be conforming to the requirements of the SZO.

Article 9: Off-Street Parking and Loading

	Existing		Proposed	
Unit #1	4 BR	2 spaces	2 BR	1.5 spaces
Unit #2	4 BR	2 spaces	4 BR	2 spaces
Unit #3	-	-	2 BR	1.5 spaces
Total	4 spaces		5 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 nonconforming with respect to the number of required off-street parking spaces as four spaces are required and two are provided on the site. The proposal increases the parking requirement by one space.

Since the locus does not currently have sufficient off-street parking and a unit is being added to the property that increases the parking requirement by one space, SZO §9.4.1 requires the Applicant to provide the required additional space. Relief is being requested from providing the additional one parking space that cannot be accommodated in the site plan.

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”. 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. 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 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; and to preserve and increase the amenities of the municipality.

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 characteristics of the built and unbuilt surrounding area, including land uses."*

Surrounding Neighborhood: Everett Avenue is a residential street located between McGrath Highway and Cross Street. It is comprised of single, two-, and three-family dwellings.

Impacts of Proposal (Design and Compatibility): There will be minimal exterior alterations that will not have an impact on the design and compatibility of the structure.

7. Housing Impact: Will not create adverse impacts on the stock of existing affordable housing.
8. 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.

III. RECOMMENDATION

Special Permit under §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 **CONDITIONAL APPROVAL** of the requested **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.

#	Condition	Timeframe for Compliance	Verified (initial)	Notes						
1	Approval is to legalize a third unit. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	ISD/Plng.							
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>May 16, 2018</td> <td>Initial application submitted to the City Clerk’s Office</td> </tr> <tr> <td>May 7, 2018</td> <td>Plans submitted to OSPCD (CI, A-000, A-020, A-021, A-022, A-101, A-300, EX-100, and EX-101)</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	May 16, 2018	Initial application submitted to the City Clerk’s Office	May 7, 2018	Plans submitted to OSPCD (CI, A-000, A-020, A-021, A-022, A-101, A-300, EX-100, and EX-101)
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Any changes to the approved elevations/use that are not <i>de minimis</i> must receive SPGA approval.										
Construction Impacts										
2	The applicant shall post the name and phone number of the general contractor at the site entrance where it is visible to people passing by.	During Construction	Plng.							
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							
Design										
4	Applicant shall provide final material samples for siding, trim, windows, and doors to Planning Staff for review and approval prior to the issuance of a building permit.	BP	Plng.							
Site										

5	Landscaping shall be installed and maintained in compliance with the American Nurserymen's Association Standards;	Perpetual	Plng. / ISD	
Miscellaneous				
6	Granting of the applied for use or alteration does not include the provision for short term rental uses, such as AirBnB, VRBO, or the like. Separate approvals are needed for the aforementioned uses.	Ongoing	ISD / Plng.	
7	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	
Public Safety				
8	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
9	Per Somerville fire safety regulations, grills, barbecues, chimineas and the like are NOT permitted on decks or porches.	Perpetual	FP/ISD	
10	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	Plng.	
Final Sign-Off				
11	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.	

