



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2018-13

Date: May 2, 2018

Recommendation:

SP: Conditional approval

V: Unable to recommend

PLANNING STAFF REPORT

Site: 292 Beacon Street

Applicant / Owner Name: Kenn Spera

Applicant / Owner Address: P.O. Box 189, Still River, MA 01467

Alderman: J.T. Scott

Legal Notice: Applicant and Owner, Kenn Spera, seeks a determination from the Zoning Board of Appeals (ZBA) on a repetitive petition under SZO §3.2.11 and M.G.L. Chapter 40A, Section 16 that there are specific and material changes in the conditions upon which the previous unfavorable action (ZBA 2007-11-R3-3/2017) by the ZBA was based. A Special Permit is also being sought under SZO §7.11.1.c and §9.13 as well as a Variance under §5.5 and §8.5 to construct a new four-story wood framed structure with five dwelling units. RC Zone. Ward 2.

Dates of Public Hearing: Zoning Board of Appeals – May 2, 2018

I. PROJECT DESCRIPTION

1. Subject Property: The Applicant received special permits in 2007 to redevelop 292 Beacon Street. The property is a 7,500 square foot lot on which sat a 3,850 square foot flat-roofed wood-frame and masonry building previously used for a VFW hall, auto glass repair, and an auto repair shop. The previous structure was in disrepair and has been cited in the past by the City's Neighborhood Impact Team for multiple violations.

Special Permit 2007-11 under SZO §4.4.1, §4.5.1 allowed for the construction of three ground-floor retail/office units, four two-bedroom residential units, and to change the nonconforming use of the driveway access. Special Permit 2007-50 under SZO §7.11.1.c allowed the use as a four-family dwelling as part of the approved mixed-use structure. The Applicant received a revision in 2008 (ZBA 2007-11-R0508), which allowed for alterations to the building footprint and modifications of façade and landscaping and a revision in 2009 (ZBA 2007-11-R0609) which allowed for the modification of the

height and roofline, the material and trim details, and incorporated phases into the project. Another revision was approved in 2009 to phase the project. Phase I included constructing the front portion (1/3rd) of the building and the entire site plan. The rear façade of the front portion of the building would be constructed as an exterior wall. It would be brick with recessed panels and no windows. The foundation and first floor deck of the rear (2/3rd) portion of the building would be constructed and waterproofed. Phase II would include constructing the rest of the building as approved in case # ZBA 2007-11-R0508.

In July of 2011 the ZBA approved a time extension of the Special Permit and construction of the 2 ½ story structure along the street commenced. This building has a 1,920 gross square feet commercial space on the first floor and basement and on the second floor and in the half story is an approximately 1,260 square foot residential unit.

In September of 2015 the ZBA approved another revision to ZBA 2007-11, ZBA 2007-11-R0508, and ZBA 2007-50 to separate the buildings into two by altering and adding to the previous VFW hall foundation with a 6,600 square foot rear structure. The rear structure was approved to be altered from a two-story building to a three-story building. The uses were approved to change from four units and three commercial spaces to five residential units as townhouses and no commercial space. Each townhouse was approved to have a one or two car garage.

In 2017, Phase I of the project was completed with the construction the front portion of the site with a mixed use building that contains one office tenant and one residential unit. Also in 2017, a Special Permit Revision and Variance was petitioned to the Zoning Board of Appeals (ZBA) to alter and add to the previous VFW hall foundation with a four-story mixed use building with four residential units and one commercial office unit. In September of 2017, the ZBA denied the Applicant's request based on a lack of information because an accessibility narrative was requested numerous times and not provided. The accessibility narrative would describe the major accessibility requirements, if any, for the proposed project under federal or state law(s), as well as the applicant's strategies for meeting those requirements.



2. Proposal: The proposal is to alter and add to the previous VFW hall foundation with a four-story building with five residential units and below-grade parking in the basement. The units will include two three-bedroom units and two two-bedroom units. The proposed building will follow a Georgian style of architecture that will complement the existing building on the front of the site. Various site improvements are also proposed. In total the site will include 6 residential units and one commercial space within the two buildings.

3. Green Building Practices: The application states that standard green practices in the field will be used.

4. Comments:

Ward Alderman: Alderman Scott has been informed of this proposal and has yet to provide comments as of the publication of this report.

Fire Prevention: Has been contacted but has yet to provide comments.

Traffic & Parking: In 2015 Traffic and Parking had the following comment, "*The ability to maneuver cars out of a 14 foot wide garage door is questionable; however, the same number of parking spaces from the prior approval would remain, 5, even if each of the garages were designed for just one vehicle.*" This new proposal includes a 16-foot wide garage door and seven parking spaces.

DPW: Detailed and stamped electrical and utility plans must be submitted for review and approval prior to obtaining a building permit.

II. FINDINGS ON REPETITIVE PETITION (SZO §3.2.11 and M.G.L. Ch. 40A, Sect. 16)

The Applicant has submitted a new application to construct a four story building with five dwelling units. On Sunday, April 1, 2018, an accessibility narrative was emailed to Planning Staff to supplement the application.

Massachusetts General Laws Ch. 40A, Sect. 16 states that no application that has been unfavorably acted upon shall be acted favorably upon within two years after the date of final unfavorable action unless said special permit granting authority (ZBA) finds, by a vote of four members of a five member board, that there are specific and material changes in the conditions upon which the previous unfavorable action was based and unless all but one of the members of the Planning Board consents thereto.

On April 5, 2018, the Planning Board voted unanimously to determine that there are specific and material changes in the conditions upon which the previous unfavorable action was based since the Applicant has since submitted an accessibility narrative.

III. FINDINGS FOR SPECIAL PERMIT (SZO §4.4.1, §7.11.1.c 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."*

Section 4: Nonconforming Uses and Structures

There is an existing nonconforming portion of the previous VFW hall structure in the rear of the site. The table below provides zoning data and indicates the nonconforming nature of each requirement.

	Existing (2007)	Original approval (2007)	Proposed revision (2017)	2018 Proposal	Required	
Lot Size	7,500	7,500	7,500	7,500	7,500	complies
Lot Area/Dwelling Unit	n/a	1,875	1,500	1,250	875	complies
Ground Coverage	52%	44%	41%	40%	70%	complies
Landscaped Area	0%	0%	11%	11%	25%	nonconforming
FAR	0.51	0.67	1.04	unknown	2.0	complies
Height (feet)	unknown	unknown	40	40	40	complies
Height (stories)	1	2.5	4	4	3	new violation
Front Yard	0	0	0	0	15	nonconforming
Left Yard	21	20	9	14	13.3	complies
Right Yard	1.1	1.1	5	5	13.3	nonconforming
Rear Yard	2.5	7	20	20	20	complies
Frontage	50	50	50	50	50	complies
Pervious Area	0%	0%	24.6%	31.4%	30	complies

The landscaping area is currently nonconforming and will continue to be nonconforming; however, the proposal does include an increase in the amount of landscaping compared to the previously approved revision. The current proposal is to increase the existing right side yard from 1.1 feet (location of the previous foundation) to 5 feet. New zoning violations that will be created as a result of the proposal will be the number of stories.

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 proposed would not be substantially more detrimental to the neighborhood than the existing structure nor the previously approved revision. The proposal has been designed with setbacks that minimally impact the neighbors and the other nonconforming dimensions will not be altered and will continue to be nonconforming to the requirements of the SZO.

Article 7: Permitted Uses

SZO 7.11.1.c requires a Special Permit for the establishment of five residential units in the RC zoning district.

Article 9: Off-Street Parking and Loading

	<i>Existing</i>		<i>Proposed</i>	
Unit #1	-	-	3 BR	2 spaces
Unit #2	-	-	3 BR	2 spaces
Unit #3	-	-	2 BR	1.5 spaces
Unit #4	-	-	2 BR	1.5 spaces
Unit #5	-	-	2 BR	1.5 spaces
Unit #6 (front bldg.)	3 BR	2 spaces	3 BR	2 spaces
Office	1,960 s.f	3.92 spaces	1,960 s.f	3.92 spaces
Total	6 spaces (rounded up from 5.92)		14 spaces (rounded down from 14.42)	

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 six spaces are required and only one is provided on the site. The proposal increases the parking requirement by eight spaces. The Applicant/Owner is proposing seven parking spaces.

Since the locus does not currently have sufficient off-street parking and there is an increase in net floor area, SZO §9.4.2 requires the Applicant to provide the eight additional required parking spaces. The proposed plans show an increase in seven parking spaces (6 in the below grade garage and one at the end of the driveway). A special permit is being requested from providing the one additional required parking space that is not being provided.

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 avoid undue concentration of population; 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; and to preserve and increase the amenities of the municipality.

The proposal is consistent with the purpose of the RC district, which is, “to establish and preserve a district for multi-family residential and other compatible uses which are of particular use and convenience to the residents of the district.”

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 locus is located on the southwestern side of Beacon Street in a neighborhood with a mix of residential structures, mixed use structure with ground floor retail, and a supermarket. Building height varies in the neighborhood from one story to seven stories; however, two and three story buildings are the most common building height. Additionally, flat and gable roof types are common in this particular neighborhood.

Impacts of Proposal (Design and Compatibility): The proposed design will follow that of a Georgian style building and will be located in the rear of the site behind an existing Georgian style building. The building will include many hand crafted detailed architectural features. The site plan will be compatible to the site and the neighborhood as parking is provided underground with the exception of one space behind the commercial structure. The site will include a 1,000 square foot private perennial flower garden in the rear with a lilac shrub perimeter that includes a brick courtyard, lawn space, and a fountain. A new cedar fence will surround the perimeter of the site. Overall, Staff finds that the proposal would enhance the urban design of Beacon Street as it would improve a vacant and overgrown swath of land.

6. 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.*

Impacts of Proposal (Circulation): Vehicles are intended to pull off of Beacon Street and either park behind the front building where there is one spot designated for the residential unit in the front building or pull straight ahead into the site and underneath the rear building to access six parking spaces that are also reserved for residential units.

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, transform key opportunity areas, 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; and, make Somerville a regional employment center with a mix of diverse and high-quality jobs.*

<i>SomerVision Summary</i>	<i>Existing</i>	<i>Proposed</i>
<i>Dwelling Units:</i>	1	6
<i>Commercial Sq. Ft.:</i>	1,960	1,960
<i>Estimated Employment:</i>	10	10
<i>Parking Spaces:</i>	1	7

III. FINDINGS FOR VARIANCE

A Variance (§5.5) is sought for a fourth story with a total height of 40 feet on the proposed rear structure where the maximum requirement is three stories.

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: Due to the configuration of the lot with its narrow width and small size, a Variance for a 4th story will be necessary so that the owner can provide a desirable three-bedroom unit, the overall height of the building will still meet the 40 foot maximum height limit for the zoning district.

Staff’s response: The width of the site is narrow for a lot that allows multifamily housing and is along a major thoroughfare through the City. The proposal is able to get parking in a garage under the building with this narrow lot but the building is a story taller than what is allowed in the district; however it is within the 40 foot height requirement.

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: The fourth story Variance will be the minimum variance necessary to provide relief to the owner so that he may make available a mix of household sizes in this new residential building. Larger units allow families to reside in the neighborhood as well as provide options for housing people with a desire to live with others.

Staff’s response: The number of residential units included in the development is allowed under the lot area per dwelling unit and the proposal includes three two-bedroom units and two three-bedroom units, which are desired in the City. Three bedroom units are becoming harder to find as houses are carved into condominium units and new development typically includes one- and two-bedroom units. Larger units allow for families to come to or stay in Somerville.

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: The granting of the Variance will allow the construction of a building in conformance with the zoning ordinance and in harmony with the revitalization of the surrounding neighborhood.

Staff’s response: The building will not be injurious to the surrounding area due to the extra story. The fourth floor is set back from the front and side façades making it appear as a penthouse and not a full fourth floor. The structure will remain within the 40 foot height requirement.

IV. RECOMMENDATION

Special Permit under (§4.4.1, §7.11.1.c and §9.13) and Variance under (§5.5 and §8.5)

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**. Staff is **UNABLE TO MAKE A RECOMMENDATION** on the requested **VARIANCE**.

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 for the construction of five residential units. 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>February 1, 2018</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>April 5, 2018</td> <td>Plan Set</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	February 1, 2018	Initial application submitted to the City Clerk's Office	April 5, 2018	Plan Set
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Any changes to the approved site plan or elevations/use 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 complete the Site Plan Review Checklist and supply the information to the Engineering Office. The plans must comply with the City's Stormwater Management Policy.	BP	Eng.							
4	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.							
5	The Applicant must contact the Engineering Department to coordinate the timeline for cutting or opening the street and/or sidewalk for utility connections or other construction. There is a moratorium on opening streets from November 1st to April 1st and there is a list of streets that have additional opening restrictions.	BP	Eng.							
Construction Impacts										
6	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.							
7	The Applicant shall at their 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 Planning Staff for review and approval prior to the issuance of a building permit.	BP	Plng.	
10	The height of the structure shall be no higher than 40 feet.	Cont.	Plng. / ISD	
Site				
11	Landscaping shall 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	All new sidewalks will be installed by the Applicant in accordance with the specifications of the Highway Superintendent. Specifically, all driveway aprons shall be concrete;	CO	Plng.	
14	Applicant will supply bicycle parking spaces at a location to be reviewed and approved by Planning Staff.	CO	Plng.	
Miscellaneous				
15	Gas and electric meters shall not be on the front of the structure. Gas and electric meters may be located on the side of the structure but shall be screened from the street by a hardy, staff approved evergreen planting. Utilities shall not be located adjacent to windows and shall not impact any parking, landscaping, or egress. The provisions of this condition may be waived by staff if the applicant submits a letter from the utility, signed by a utility representative, on utility letterhead, indicating that there is no feasible alternative to placing meters in violation of this condition.	CO	ISD	
16	Electrical conduits on the exterior facades of buildings shall be painted to match the wall material to which they are attached. Conduits are not allowed on the front of any structure.	CO	Plng.	
17	Garbage and recycling locations shall be clearly indicated on site plans. Storage areas shall be inside of the structure or shall be fully screened from view from both the public way and abutters by an appropriate material reviewed and approved by staff. The location shall not impact any parking, landscaping, or egress.	BP	Plng.	
18	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.	

19	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				
20	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
21	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				
22	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.	

