



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

GEORGE J. PROAKIS, AICP
EXECUTIVE DIRECTOR

PLANNING DIVISION STAFF

SARAH LEWIS, *DIRECTOR OF PLANNING*
DANIEL BARTMAN, *SENIOR PLANNER*
SARAH WHITE, *PLANNER/PRESERVATION PLANNER*

Case #: ZBA 2019-82
Date: ~~October 16, 2019~~, December 11, 2019
Recommendation: ~~Unable to recommend~~
Conditional Approval

UPDATED PLANNING STAFF REPORT

Site: 87 Jaques Street

Applicant Name: North America Development
Applicant Address: 93 Broadway, Somerville, MA 02145
Owner Name: Nelia DaCova-Pissarra, Trustee of the DaCova Family Trust
Owner Address: 87 Jaques Street, Somerville, MA 02143
City Councilor: Jesse Clingan

Legal Notice: Applicant, North America Development, and Owner, Nelia DaCova-Pissarra, Trustee of the DaCova Family Trust, seek a special permit under SZO §4.4.1 to alter the nonconforming structure by constructing a single story addition atop the existing structure and by constructing a three-story addition in the rear that will increase the existing structures gross floor area by greater than 25%. A special permit under SZO §9.13 for parking relief is also required. The proposal will result in three dwelling units being located on the site. RB Zone. Ward 4.

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 – ~~October 16, 2019~~, December 11, 2019

I. PROJECT DESCRIPTION

- Subject Property:** The subject property consists of one parcel totaling 6,052 square feet that contains a single family dwelling. The structure is a two-story flat roof building with a rear deck. The site includes a large landscaped back yard.
- Proposal:** The proposal is to construct ~~a single story addition atop the existing structure making it a three-story flat roofed building and constructing~~ a three-story addition in the rear **and flatten the roof**



atop the existing structure.

3. Green Building Practices: The application states that there will be a limitation of demolition material, recycling where possible to reduce solid waste disposal, use of water saving plumbing fixtures, use of energy efficient lighting, reduction of non-permeable asphalt paving, and planning of non-invasive species.

4. Comments:

City Councilor: Councilor Clingan conducted two neighborhood meetings on the proposal. The neighborhood seems to be averse to three units on the site. A third neighborhood meeting is scheduled for Monday, December 9th to present the updated proposal.

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."*

Article 4: Nonconforming Uses and Structures

The structure is currently nonconforming with respect to the dimensional requirements for lot area, front yard setback, and right side yard setback.

The proposal will impact the nonconforming dimensions of the front yard setback and the right side yard setback. The proposed addition to flattening of the top of the existing structure will be within the nonconforming front yard setback, which is currently 9.9 feet and will remain as such. It will also be within the nonconforming right yard setback, which is currently 1.7 feet and will remain as such. The required front yard setback is 15 feet and the required side yard setback is 10 feet for a three-story structure.

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 total increase in gross floor area (GFA) will be greater than 25%; however only net floor area (NFA) calculations were provided. The existing NFA is 1,724 s.f and the proposal is to add 2,853 s.f that will

increase the NFA to 4,577 s.f. or 165% of the existing structure. The Applicant needs to provide GFA calculations.

The total increase in gross floor area (GFA) will be greater than 25%. The existing GFA is 3,584 s.f. and the proposal is to add 2,275 s.f. that will increase the GFA to 5,859 s.f. or 63% of the existing structure.

Section 4.4.1 also states that “alteration, reconstruction, extension or structural change to a nonconforming one- or two-family structure not affecting the nonconforming aspect of the one- or two-family structure and where the alteration, reconstruction, extension, or structural change will comply with all current dimensional requirements of the zoning ordinance, and provided any such alteration, reconstruction, extension or structural change does not increase the Gross Floor Area of the dwelling by more than twenty-five percent (25%).”

In considering a special permit under §4.4 of the SZO, Staff cannot find that the alterations proposed would not be substantially more detrimental to the neighborhood than the existing structure. The proposed additional massing on flattening of the top of the existing structure that is 1.7 feet away from the right property line will not be substantially more detrimental to the neighborhood than the existing structure. Staff cannot find that the proposal has been designed with setbacks that minimally impact the neighbors. The requirements for number of units, lot area per dwelling unit, ground coverage, landscaped area, pervious area, floor area ratio (FAR), rear yard setback, left side yard setback, and street frontage will continue to be conforming to the requirements of the SZO. Staff finds that the additional GFA proposed for this project offers a contextual way to provide more housing in a way that would not be substantially more detrimental to the neighborhood than the existing structure.

It is unclear if the proposal contains three or four stories in the existing portion of the building. The maximum allowed number of stories is three in the RB zoning district. The SZO §2.2.14, defines a basement as “a story with at least forty (40) percent of its height below finished grade. However, for purposes of determining compliance to the height limit requirements of this Ordinance, a basement shall not be considered a story unless its ceiling is five (5) feet or more above the average finished grade abutting the building.” The Applicant does provide an average grade plane within the plan set; however, it is unclear if the ceiling is less than five feet above the average finished grade abutting the building. If the ceiling is greater than five feet above the average finished grade than it will be considered a story and will require a Variance for a fourth story or the plans will have to be revised to comply with the height requirement.

Article 9: Off-street Parking and Loading

	<i>Existing</i>		<i>Proposed</i>	
Unit #1	3 BR	2 spaces	3 BR	2 spaces
Unit #2	--	--	3 BR	2 spaces
Unit #3	--	--	3 BR	2 spaces
Total	2 spaces		6 spaces	

For sites with a nonconforming number of parking spaces, SZO 9.4.2 only requires a proposal to provide the number of required spaces for what is being added to the site. The site currently provides two parking spaces for the single family dwelling. The proposal requires six parking spaces and one additional space is being provided. The site will be nonconforming with respect to the number of required off-street parking spaces as four additional spaces are required but only one is being provided. 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. Relief is being requested from providing the additional three required 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”. 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 ~~not~~ consistent with the general purposes of the Ordinance as set forth under §1.2, which includes, but is not limited to provide for and maintain the uniquely integrated structure of uses in the City; to provide adequate light and air; to prevent the overcrowding of land; 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 RB 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 on the north side of Jaques Street on the block between Fenwick Street and Temple Street behind Mystic public housing development.

Impacts of Proposal (Design and Compatibility): Three units would be compatible with the neighborhood. ~~However, more information related to the average grade and the basement height to determine whether or not the additional story creates a fourth story or not. The additional story should also be pulled in from the right property line to respect the right side abutter.~~ **The proposed design respects the character and form of the neighborhood. Additionally, Although the project results in a significant loss of green space, the proposal will result in 33% of landscaped area where 25% is required.** ~~The Applicant should consider sacrificing the ground floor finished area in the rear to locate vehicles under two stories of finished space. Staff believes that the proposed units are quite large and could be reduced in their size to limit the loss of green space.~~

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

6. SomerVision Plan: **Does not** **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 is **UNABLE TO RECOMMEND** 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 for the construction of a rear addition that will result in three units on the site. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	ISD/PIng									
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>July 18, 2019</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>October 23, 2019</td> <td>Plans submitted to OSPCD (G0.1, L1.1, Z1.1, AX1.1, AX1.2, AX2.1, A1.1-A1.4, A2.1, and A2.2)</td> </tr> <tr> <td>December 2, 2019</td> <td>Plans submitted to OSPCD (G0.1, Sheet No 1, L1.1, Z1.1, AX1.1, AX1.2, AX2.1, A1.1-A1.4, A2.1, and A2.2, Sheet No 2)</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	July 18, 2019	Initial application submitted to the City Clerk's Office	October 23, 2019	Plans submitted to OSPCD (G0.1, L1.1, Z1.1, AX1.1, AX1.2, AX2.1, A1.1-A1.4, A2.1, and A2.2)	December 2, 2019	Plans submitted to OSPCD (G0.1, Sheet No 1, L1.1, Z1.1, AX1.1, AX1.2, AX2.1, A1.1-A1.4, A2.1, and A2.2, Sheet No 2)
	Date (Stamp Date)				Submission							
	July 18, 2019				Initial application submitted to the City Clerk's Office							
October 23, 2019	Plans submitted to OSPCD (G0.1, L1.1, Z1.1, AX1.1, AX1.2, AX2.1, A1.1-A1.4, A2.1, and A2.2)											
December 2, 2019	Plans submitted to OSPCD (G0.1, Sheet No 1, L1.1, Z1.1, AX1.1, AX1.2, AX2.1, A1.1-A1.4, A2.1, and A2.2, Sheet No 2)											
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 proposed basement finished floor elevation shall not be less than is 1 foot above the Seasonal High Ground Water elevation. The seasonal high ground water elevation shall be determined by a Massachusetts certified soil evaluator and stated on a signed soil test pit log.	BP	Eng.									
4	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.									
5	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.									

6	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	
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	Eng.	
Construction Impacts				
8	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	PIng.	
9	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	
10	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	
11	For the convenience of and respect for the neighborhood, during the construction phase, construction work shall not begin prior to 7:30am and shall finish no later than 5pm Monday through Friday. There shall be no construction or construction-related work performed on weekends or holidays.	During Construction	ISD	
Design				
12	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	PIng.	
13	Floor plans proposed for the basement/lower level of the project will remain open and free-flowing with no obstructions to the rest of the unit.	Perpetual	PIng/ ISD	
Site				
14	Landscaping shall be installed and maintained in compliance with the American Nurserymen's Association Standards;	Perpetual	PIng. / ISD	
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	PIng.	
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	PIng.	
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 / PIng.	
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	Per Somerville fire safety regulations, grills, barbecues, chimineas and the like are NOT permitted on decks or porches.	Perpetual	FP/ISD	
22	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	PIng.	
Final Sign-Off				
23	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	PIng.	

