



**CITY OF SOMERVILLE, MASSACHUSETTS**  
**MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT**  
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**Case #:** ZBA 2019-82  
**Date:** October 16, 2019  
**Recommendation:** Unable to recommend

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**PLANNING STAFF REPORT**

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**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.

Dates of Public Hearing: Zoning Board of Appeals – October 16, 2019

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**I. PROJECT DESCRIPTION**

1. 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.
2. 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.



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 adverse to three units on the site.

## **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 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.

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 top of the existing structure that is 1.7 feet away from the right property line will 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.

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
<b>Total</b>	<b>2 spaces</b>		<b>6 spaces</b>	

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. Additionally, the project results in a significant loss of green space. 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** 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. 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** 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.

