



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2018-35
Site: 100 Bartlett Street
Date of Decision: May 16, 2018
Decision: Petition Approved with Conditions
Date Filed with City Clerk: May 30, 2018

ZBA DECISION

Owner Name: Douglas Beaudet
Owner Address: 689 Somerville Avenue, Somerville, MA
Applicant Name: Douglas Beaudet
Applicant Address: 689 Somerville Avenue, Somerville, MA
Alderman: Mark Niedergang

Legal Notice: Applicant and Owner, Douglas Beaudet, seeks Special Permits under §4.4.1 of the SZO to alter a non-conforming 3-family structure by increasing the size of the rear decks, replacing, front façade window with a new entry door (to create a second entry), replace rear windows with doors to decks, convert existing rear doors to windows, replace all windows from 1-over-one to two-over-one. Proposal includes increasing the number of parking spaces from 1 to 3 and creating two bicycle spaces. Parking is addressed under Article 9 of the SZO. RA zone. Ward 5.

<u>Zoning District/Ward:</u>	RA Zone. Ward 5.
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	February 14, 2018
<u>Date(s) of Public Hearing:</u>	May 16, 2018
<u>Date of Decision:</u>	May 16, 2018
<u>Vote:</u>	5-0

Appeal #ZBA 2018-35 was opened before the Zoning Board of Appeals at the VNA, 259 Lowell Street, Somerville, MA 02143 on May 16, 2018. Notice of the Public Hearing was given to persons affected and was published and posted, all as required by M.G.L. c. 40A, sec. 11 and the Somerville Zoning Ordinance. After one hearing of deliberation, the Zoning Board of Appeals took a vote.



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DESCRIPTION:

1. **Subject Property:** The subject property is an existing 3, 252 square-foot, 3-family conversion located in the RA zone on a 4,378 square foot lot. The property currently presents an above-ground pool in the back yard.

2. **Proposal:** The Applicant proposes retaining the 3-family use of this property. Both the interior and exterior of the residential structure will be renovated. The above-ground pool will be removed from the back yard as will an existing retaining wall.

The property will be re-landscaped and three parking spaces will be added behind the dwelling house. However, the parking spaces proposed are non-standard in size. Standard parking spaces are 9x18. The Applicant proposes three parking spaces at a size of 7x18.

A portion of the bituminous driveway will be removed where the driveway abuts the public sidewalk and an apron of permeable pavers will be installed. The Applicant proposes pervious pavers for the three parking spaces but asphalt for the remainder of the driveway save for the entry apron.

The Applicant proposes to remove the concrete walkway leading from the public sidewalk to the front steps of the structure. Pervious pavers are proposed in place of this concrete walkway.

In addition to the above, the Applicant proposes the following:

- Increase the size of the rear decks
- Replace a front façade window with a new entry door so that there are two front entry doors
- Replace rear windows with doors to provide deck access
- Existing rear doors will be replaced with windows
- All existing 1-over-1 windows on the house will be replaced with two-over-one windows

3. **Green Building Practices:**

No information provided on application.

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

In order to grant a special permit, the SPGA must make certain findings and determinations as outlined in §5.1 of the SZO. This section of the report goes through §5.1 in detail.

1. **Information Supplied:**

- The Board finds that the information provided by the Applicant conforms to the requirements of §4.4.1 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 4.4.1 states that “[l]awfully existing one-and two-family dwellings which are only used as residences, which are non-conforming with respect to dimensional requirements, may be enlarged, extended, renovated or altered by special permit granted by the SPGA...”

Under Section 4.4.1 of the SZO:

- The existing structure is a pre-existing, non-conforming 3-unit residential building in a zone where the maximum number of units allowed is two.
- Under the SZO, a property owner/Applicant must petition the Special Permit Granting Authority (SPGA), in this case, the ZBA, to make changes to a 3-unit structure in this zone. The proposed exterior changes are as follows:
 - a. Increase the size of the rear decks
 - b. Replace a front façade window with a new entry door so that there are two front entry doors
 - c. Replace rear windows with doors to provide deck access
 - d. Existing rear doors will be replaced with windows
 - e. All existing 1-over-1 windows on the house will be replaced with two-over-one windows
- According to the submitted application, enlarging the rear decks will not create further encroachment in the right side yard setback. The existing and proposed right side yard setbacks are presented as being 2’ 9”. The egress stairs for these rear decks will be constructed within the right side yard setback and therefore trigger the need for a special permit.

Currently, a small deck resides at 2.9 feet from the right property line. An egress landing resides in the same location a floor above. Thus, there are building elements already encroaching on the side yard setback. The Applicant’s proposal will retain the existing non-conforming setback, but will increase the massing at the rear of the house and within the 2.9-foot setback. While the Board finds the additional massing created by the egress stairway unfortunate, it is an understandable alteration in order to provide egress from the second and third floors.

- The Board finds that, overall the exterior changes proposed for the windows and doors are compatible with both the site and the surrounding area, helping to visually improve the property.

Under Article 9 of the SZO:

- The parking relief needed for this application is to provide non-standard parking spaces. A standard parking space is sized at 9x18. The Applicant proposes parking spaces at 7x18, two feet shorter in width than a standard space, yet the length of the space is proposed at that of a standard space.
- In addition to being non-compliant, the Board finds the proposed 7-foot width to be extremely narrow. The Applicant team must decide if they wish to request relief for providing fully compact parking spaces (at 8x16) or reduce the overall number of standard parking spaces they provide and update their plans accordingly. In either



situation, the Applicant shall install additional landscaping in the area previously taken up by proposed parking area. If the ZBA agrees with this Staff assessment, Staff recommends that the ZBA add another condition to their decision addressing the parking/landscaping issue.

- Despite the addition of more bedrooms to the structure, parking relief for the number of parking spaces provided is not needed. The explanation for this appears immediately below:

Unit	Existing BDR	Existing Pkg. Req.	Proposed BDR	Proposed Pkg. Req.
Unit 1	2	1.5	3	2.0
Unit 2	1	1.5	2	1.5
Unit 3	1	1.5	2	1.5
Total: 4.5			Total: 5.0	

Formula: New parking requirement - Old parking requirement = # new spaces required*

100 Bartlett: **5.0 - 4.5 = .5** (no relief for parking spaces required)

* When the result of this calculation is less than 1.0 or a negative number, then no parking relief is required.

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, as conditioned, is consistent with the general purposes of the Ordinance as set forth under §1.2, which includes, but is not limited to promoting the health, safety, and welfare of the inhabitants of the City of Somerville; to secure safety from fire, panic and other dangers; and to encourage the most appropriate use of land throughout the City.
- According to Section 6.6.1 of the SZO, the purpose of the RA zoning district is "...to establish and preserve quiet neighborhoods of one- and two-family homes, free from other uses except those which are both compatible with and convenient to the residents of such districts." Three-unit residential structures are not allowed in an RA district. However, in the case of 100 Bartlett, this is a pre-existing, non-conforming use. Because of its pre-existing non-conformity, the 3-unit use is allowed to continue.

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."*



- The Board finds that the proposed alterations will visually improve the property. The enlargement of the rear decks will allow for future residents of this structure to have additional space to enjoy the outdoors in a congested urban setting.
- The Board finds that it is difficult to tell from the proposed plans if the front façade second story deck railings and balusters will be changed to match the wood railings/balusters on the first floor. The Board has added a condition that they match.
- The Board has added conditions to this proposal to ensure further site/area compatibility.

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

- The proposal does not provide any affordable housing units or payments.

6. **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.***

- The proposal will upgrade an existing property in need of rehabilitation. As conditioned, the project would further contribute to City goals in terms of creating quality outdoor space and site permeability/stormwater management.

III. DECISION

Special Permit under §4.4.1 & Article 9 of the SZO

Based on the materials submitted by the Applicant, the above findings and subject to the following conditions, the ZBA **CONDITIONALLY APPROVES** of the requested **SPECIAL PERMIT**. Those conditions appear below:



#	Condition	Timeframe for Compliance	Verified (initial)	Notes										
1	Approval is for exterior changes to a 3-unit residential structure in the RA zone and 3 on-site parking spaces.	BP/CO	ISD/ PIng.											
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>March 15, 2018</td> <td>Initial application submitted to city clerk's office</td> </tr> <tr> <td>April 23, 2018</td> <td>Updated plot plan submitted to OSPCD</td> </tr> <tr> <td>May 9, 2018</td> <td>Existing and proposed plot plans submitted to OSPCD</td> </tr> <tr> <td>May 10, 2018</td> <td>Right elevation and landscaping schematic submitted to OSPCD</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	March 15, 2018	Initial application submitted to city clerk's office	April 23, 2018	Updated plot plan submitted to OSPCD	May 9, 2018	Existing and proposed plot plans submitted to OSPCD	May 10, 2018	Right elevation and landscaping schematic submitted to OSPCD
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<p>ANY changes to the approved plans, other than those changes made specifically to conform with the conditions below, must first be submitted to the Planning Division to determine whether or not they are <i>de minimis</i> in nature or whether they require review by the SPGA.</p>														
2	The Applicant shall be required to demonstrate that the project plans meet the current City of Somerville stormwater policy. Utility, grading, and drainage plans <u>must be submitted to the Engineering Department for review and approval before a building permit will be issued.</u>	BP	Eng/ISD											
3	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. <u>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.</u>	BP	Eng/ISD											
4	The Applicant shall present their electrical plan to lights and lines/wiring for their review and approval prior to the issuance of a Building Permit.	BP	Wiring/ISD											
5	The Applicant shall provide the Traffic & Parking Division with a plan for construction traffic management for that division's review and approval prior to the issuance of a building permit. This plan will include delivery windows for construction equipment	BP	T&P / ISD											
Construction Impacts														
6	The Applicant shall post the name and phone number of the general contractor and all sub-contractors at the site entrance <u>where it is easily visible to people passing by.</u>	During Construction	ISD											



7	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	
9	Deliveries to the construction site shall be limited to 9am to 3pm so as not to interfere with the comings and goings of neighborhood residents during peak commute times.	During Construction	ISD/T&P	
10	Approval is subject to the Applicant's and/or successor's right, title and interest in the property.	Cont./perpetua l	Plng.	Deed submit ted & applica tion formed signed
11	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/ISD	
12	All construction materials and equipment shall 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 Division must be obtained.	During Construction	T&P	
Design				
13	The entire property is being overhauled inside and out, including the grounds. Therefore, the building shall be resided in a wood clapboard or cementitious-based material.			
14	The Applicant shall provide material samples for siding, trim, windows, and doors to Planning Staff for review and approval prior to construction and prior to the issuance of a building permit. Planning Staff shall have final determination and approval over all materials used on the exterior of this structure. Lighting styles, location and design, along with roofing/gutter, façade, samples shall also be provided for Staff approval.	CO	ISD/Plng	
15	No vinyl material shall be used for exterior trim, siding, railings, or the like.	CO	ISD/Plng	
16	Any vents or pipes exiting the house shall be either wrapped or painted to match the color of the house portion from which they protrude. <u>Under no circumstances shall any pipes or vents evacuate onto the public way.</u>	CO	ISD/Plng	
17	All exterior lighting on the site shall be downcast and shall not, in any way, spill onto abutting properties.	Final sign off / Perpetual	Wiring Inspector	



18	The front façade deck railing and deck balusters shall match in design, material, and dimension on both the first and second floors. Materials, style, dimensions shall be presented to Planning Staff for review and approval prior to installation.	CO	Plng/ISD	
Site				
19	All trash and recycle areas shall be screened with cedar wood lattice, similar screening or year-round plant material. Planning Staff shall approve such screening. No dumpsters shall be permitted on site after the construction period is complete.	CO/Perpetual	ISD/Planning	
20	All asphalt/bituminous material shall be removed from the site and pervious pavers shall be used in its stead.	CO	ISD/Plng	
21	All mechanical equipment shall be screened. A/C condensers shall not be located within a setback and shall not be placed in the front yard of the property. Plng staff shall review and approve all screening material.	CO	ISD/Plng	
Public Safety				
22	The Applicant and/or Owner(s) shall meet the Fire Prevention Bureau's requirements.	CO	FP	
23	Per City of Somerville regulations, no barbecues, grills, chimineas or the like shall be permitted on decks at any time. These requirements shall be clearly stated in any rental agreements or condo documents.	CO	FP/ISD	
24	All fire/smoke detectors shall be hard-wired.	CO/Perpetual	ISD	
25	The building shall be sprinkled.	CO	FP	
Final Sign-Off				
26	<u>The Applicant shall contact Planning Staff at least five (5) 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.</u>	Final sign off	ISD/Plng.	

Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Chairman*
Richard Rossetti
Danielle Evans
Elaine Severino
Josh Safdie
Pooja Phaltankar (*Alt*)

Attest, by City Planner: _____

Sarah White

Copies of this decision are filed in the Somerville City Clerk's office.
Copies of all plans referred to in this decision and a detailed record of the
SPGA proceedings are filed in the Somerville Planning Dept.

CLERK'S CERTIFICATE

Any appeal of this decision must be filed within twenty days after the date this notice is filed in the Office of the City Clerk, and must be filed in accordance with M.G.L. c. 40A, sec. 17 and SZO sec. 3.2.10.

In accordance with M.G.L. c. 40 A, sec. 11, no variance shall take effect until a copy of the decision bearing the certification of the City Clerk that twenty days have elapsed after the decision has been filed in the Office of the City Clerk and no appeal has been filed, or that if such appeal has been filed, that it has been dismissed or denied, is recorded in the Middlesex County Registry of Deeds and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title.

Also in accordance with M.G.L. c. 40 A, sec. 11, a special permit shall not take effect until a copy of the decision bearing the certification of the City Clerk that twenty days have elapsed after the decision has been filed in the Office of the City Clerk and either that no appeal has been filed or the appeal has been filed within such time, is recorded in the Middlesex County Registry of Deeds and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The person exercising rights under a duly appealed Special Permit does so at risk that a court will reverse the permit and that any construction performed under the permit may be ordered undone.

The owner or applicant shall pay the fee for recording or registering. Furthermore, a permit from the Division of Inspectional Services shall be required in order to proceed with any project favorably decided upon by this decision, and upon request, the Applicant shall present evidence to the Building Official that this decision is properly recorded.

This is a true and correct copy of the decision filed on _____ in the Office of the City Clerk, and twenty days have elapsed, and

FOR VARIANCE(S) WITHIN

_____ there have been no appeals filed in the Office of the City Clerk, or
_____ any appeals that were filed have been finally dismissed or denied.

FOR SPECIAL PERMIT(S) WITHIN

_____ there have been no appeals filed in the Office of the City Clerk, or
_____ there has been an appeal filed.

Signed _____ City Clerk Date _____

