



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

MICHAEL F. GLAVIN
EXECUTIVE DIRECTOR

PLANNING DIVISION

ZONING BOARD OF APPEALS MEMBERS

ORSOLA SUSAN FONTANO, CHAIRMAN
RICHARD ROSSETTI, CLERK
DANIELLE EVANS
ELAINE SEVERINO
JOSH SAFDIE
ANNE BROCKELMAN, (ALT.)
POOJA PHALTANKAR, (ALT.)

Case #: ZBA 2018-41
Site: 56 Bonair Street
Date of Decision: June 6, 2018
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: June 13, 2018

ZBA DECISION

Applicant / Owner Name: LaCourt Holdings, LLC c/o Mouhab Rizkallah
Applicant / Owner Address: 30 College Avenue, Somerville, MA 02144
Alderman: Matthew McLaughlin

Legal Notice: Applicant/Owner, LaCourt Holdings, LLC c/o Mouhab Rizkallah, seeks a special permit under §4.4.1, §4.5.1, and §7.11 to alter a nonconforming structure by converting space used as a former auto body shop into an office space and two residential units. The proposal also includes adding roof decks to the top of the single-story building. A special permit for parking relief is also requested under §9.13. RB Zone. Ward 1.

<u>Zoning District/Ward:</u>	RB Zone. Ward 1
<u>Zoning Approval Sought:</u>	§4.4.1, §4.5.1, §7.11 and §9.13
<u>Date of Application:</u>	March 26, 2018
<u>Date(s) of Public Hearing:</u>	June 6, 2018
<u>Date of Decision:</u>	June 6, 2018
<u>Vote:</u>	5-0

Appeal #ZBA 2018-26 was opened before the Zoning Board of Appeals in the Visiting Nurse Association, 3rd floor Community Room, 259 Lowell Street, Somerville, MA. 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.



CITY HALL • 93 HIGHLAND AVENUE • SOMERVILLE, MASSACHUSETTS 02143
(617) 625-6600 EXT. 2500 • TTY: (617) 666-0001 • FAX: (617) 625-0722
www.somervillema.gov

I. DESCRIPTION:

The proposal is to locate two industrial loft style four-bedroom residential units and one office unit within the existing building and to construct three roof decks atop the one-story building. The proposal also includes façade improvements to the Bonair Street elevation.

II. FINDINGS FOR SPECIAL PERMIT (SZO §4.4.1, §4.5.1, §7.11, 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 Board 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 use (auto body shop) and to the following dimensional requirements: lot area, ground coverage, landscaped area, pervious area, front, rear, left, and right yard setbacks, and street frontage.

Section 4.4. - Nonconforming Structures.

The proposal will impact the following nonconforming dimensions: front, rear, left, and right yard setbacks as the building is currently located on the lot lines. The required setbacks are 15 feet for the front, 20 feet for the rear, and 8 feet on both sides. The proposal will maintain the existing building footprint but will include alterations to the front façade to differentiate a commercial entrance from the residential entrance and the construction of head houses and roof decks that are within all of the required setbacks. 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.”

Section 4.5. - Nonconforming Uses.

The existing building is mostly vacant and contains approximately 1,400 square feet of a former auto body shop that was lawfully operating in the adjoining building on Dana Street. The space was used to store an automobile spray painting booth and storage of miscellaneous auto body repair equipment. The



proposal includes changing the use of the building from the nonconforming auto body shop into a nonconforming office unit and two four-bedroom residential units (which are permitted in the RB zoning district).

Section 4.5 of the SZO states that *“a nonconforming use may be changed to another nonconforming use only by special permit authorized by the SPGA in accordance with the procedures of Article 5, provided that the SPGA finds that such change is not substantially more detrimental to the neighborhood than the existing nonconforming use. In judging detriment, the SPGA may consider, without limitation, impacts upon the following: traffic volumes, traffic congestion, type of traffic, change in traffic patterns and access to the site, adequacy of municipal water supply and sewer capacity, noise, odor, glare, scale, on-street parking, shading, visual effects and neighborhood character.”*

In considering a special permit under §4.4 and 4.5 of the SZO, the Board finds that the alterations/use proposed would not be substantially more detrimental to the neighborhood than the existing structure/use. The proposal will allow for the conversion of a former auto body shop into an office space that will be expected to be a less noxious and noisy use in a residential district. The physical alterations to the structure will allow for the proposed units in the building to access outdoor space since there is not enough room on the site for private yard. The proposed façade alterations will enhance the aesthetics of the building and will provide for separate office and residential entrances. The proposal has been designed with setbacks that minimally impact the neighbors and the requirements for lot area per dwelling unit and floor area ratio (FAR) will continue to be conforming to the requirements of the SZO.

Article 9: Off-street parking and loading

The 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 two spaces are required by the auto body use and none are provided.

The SZO §9.4.1 allows *“an existing use or lot which does not have sufficient parking or loading spaces to meet the requirements of this Ordinance, including a use which has no off-street parking or loading, is changed to a different type of use for which a different number of parking spaces or loading bays is required”* shall follow the below formula:

proposed parking requirement - existing parking requirement = new requirement

If the new use is calculated to require two (2) or more additional parking spaces or one (1) or more loading bays than the existing (or previous) use, then fifty percent (50%) of this additional requirement shall be provided, but in no case less than one (1) parking space (or loading bay).

Proposed parking req.	<i>minus</i>	Existing parking req.	<i>equals</i>	New req.	<i>equals</i>	50% of new req.
6 spaces		2 spaces		4 spaces		2 spaces

There is no room on the site for the applicant to provide parking spaces; therefore the application is requesting relief from providing the two additional 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”*. The



Board finds that, as conditioned, 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: *The subject property is located on the south side of Bonair Street between the blocks of Dana Street and Wigglesworth Street. Bonair Street is residential in nature, except for the subject site.*

Impacts of Proposal (Design and Compatibility): The proposal will make alterations to the existing structure to make it feel more like a residential structure.

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

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 areas in the SomerVision map that are designated as enhance and transform should most significantly contribute towards the SomerVision goals that are outlined in the table below. The areas marked as conserve are not expected to greatly increase the figures in the table since these areas are not intended for large scale change.*

<u>SomerVision Summary</u>	<u>Existing</u>	<u>Proposed</u>
<u>Dwelling Units:</u>	0	2



DECISION:

Special Permit under §4.4.1, §4.5.1, §7.11, and §9.13

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Elaine Severino, Danielle Evans, and Anne Brockelman. Upon making the above findings, Richard Rossetti made a motion to approve the request for a Special Permit. Elaine Severino seconded the motion. Wherefore the Zoning Board of Appeals voted **5-0** to **APPROVE** the request. In addition the following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes								
1	Approval is for the establishment of two residential units and an office space as well roof decks. 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>March 26, 2018</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>May 11, 2018</td> <td>Existing plans submitted to OSPCD (certified plot plan, A-01, A-03, and A-04)</td> </tr> <tr> <td>May 11, 2018</td> <td>Proposed plans submitted to OSPCD (A-01, A-03 proposed roof decks, A-03 proposed elevations, and A-04)</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	March 26, 2018	Initial application submitted to the City Clerk's Office	May 11, 2018	Existing plans submitted to OSPCD (certified plot plan, A-01, A-03, and A-04)	May 11, 2018	Proposed plans submitted to OSPCD (A-01, A-03 proposed roof decks, A-03 proposed elevations, and A-04)
	Date (Stamp Date)				Submission							
	March 26, 2018				Initial application submitted to the City Clerk's Office							
May 11, 2018	Existing plans submitted to OSPCD (certified plot plan, A-01, A-03, and A-04)											
May 11, 2018	Proposed plans submitted to OSPCD (A-01, A-03 proposed roof decks, A-03 proposed elevations, and A-04)											
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 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												
4	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.									



5	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	
6	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				
7	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.	
Miscellaneous				
8	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	
9	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.	
10	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.	
11	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.	
12	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	
13	The front portion of the roof deck shall have a railing perpendicular to the front façade set back 5-8 feet from the left edge of the building.	BP/CO	Plng.	
Public Safety				



14	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
15	Per Somerville fire safety regulations, grills, barbecues, chimineas and the like are NOT permitted on decks or porches.	Perpetual	FP/ISD	
16	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				
17	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.	



Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Chairman*
Richard Rossetti, *Clerk*
Elaine Severino
Daniel Evans
Anne Brockelman (*Alt.*)

Attest, by City Planner: _____

Alexander Mello

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 _____

