



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2018-135
Site: 1244 Broadway
Date of Decision: March 6, 2019
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: March 12, 2019

ZBA DECISION

Applicant Name: Patricia Birchem
Applicant Address: 6 Cowdry Ln, Wakefield, MA 01880
Owner Name: 1244 Broadway Real Estate Partners LLC
Owner Address: 6 Cowdry Ln, Wakefield, MA 01880
Agent Name: Richard G. DiGirolamo, Esq.
Agent Address: 424 Broadway, Somerville, MA 02145
City Councilor: Katjana Ballantyne

Legal Notice: Applicant, Patricia Birchem, and Owner, 1244 Broadway Real Estate Partners LLC, seeks a special permit under SZO §4.4.1 to alter a nonconforming structure and a special permit under SZO §9.13 for parking relief to demolish a portion of the building, construct two additional stories, and change the use from a laundromat/dry cleaning drop-off to a mix of uses including retail and three residential units. RC Zone. Ward 7.

<u>Zoning District/Ward:</u>	RC Zone. Ward 7.
<u>Zoning Approval Sought:</u>	SZO §4.4.1 and SZO §9.13
<u>Date of Application:</u>	October 9, 2018
<u>Date(s) of Public Hearing:</u>	1/23, 2/6, 2/20, 3/6
<u>Date of Decision:</u>	March 6, 2019
<u>Vote:</u>	5-0

Case # ZBA 2018-135 was opened before the Zoning Board of Appeals in the Council Chambers at Somerville City Hall. 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. On March 6, 2019 the Zoning Board of Appeals took a vote.



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I. PROJECT DESCRIPTION

The proposal is to demolish a rear portion of the existing structure and construct two additional stories. The use will change from the laundromat/dry cleaning drop-off to a mix of uses including retail and three residential units. The proposal also includes adding parking spaces to the site at-grade in the rear of the building.

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 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 following dimensional requirements: lot area, ground coverage, landscaped area, pervious area, front yard setback, rear yard setback, left side yard setback, right side yard setback, and parking.

The proposal will impact the following nonconforming dimensions: front yard setback, rear yard setback, left side yard setback, and right side yard setback. The current dimensions will not change as a result of the proposal but they will be altered by the two-story upward extension of each dimension. This alteration 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.”

In considering a special permit under §4.4 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 would convert a dry cleaner into a retail store, create three new housing units, and add four parking spaces to a site that currently has zero. The proposal has been designed with setbacks that minimally impact the neighbors and the requirements for lot area per dwelling unit, floor area ratio (FAR), and building height will continue to be conforming to the requirements of the SZO.



Article 7: Permitted Uses

Per the SZO §7.11 Table of Permitted Uses, three dwelling units are allowed as-of-right in the RC district. There are also certain retail uses that are allowed as-of-right and some that require a special permit. Since a tenant has not been selected as of the time of permitting, depending on the specific retail category of the future tenant a special permit may or not be needed.

Article 9: Off-Street Parking and Loading

	<i>Existing</i>		<i>Proposed</i>	
Laundromat / Dry Cleaning Drop-Off	1,968 s.f	4.4 spaces	481 s.f	1.1 spaces
Retail	--	--	--	--
Unit #1	--	--	2 BR	1.5 spaces
Unit #2	--	--	3 BR	2 spaces
Unit #3	--	--	2 BR	1.5 spaces
Total	4 spaces		6 spaces (rounded down from 6.1)	

The site currently provides no parking spaces for the laundromat/dry cleaning drop-off store. Therefore, the site is nonconforming with respect to the number of required off-street parking 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 proposal is to add three dwelling units and convert the commercial space into a smaller retail unit, which will increase the number of required parking spaces to six. The proposal is to provide four additional spaces (two standard size and two compact spaces) on the site rather than the two additional spaces required. Therefore the proposal conforms to the number of required parking spaces. However, a special permit is required for the two compact spaces as they do not meet the minimum requirements (9’x18’) prescribed in the SZO. SZO §9.13 allows for sites with nonconforming parking to apply for a Special Permit to modify parking design requirements.

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 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 lessen congestion in the streets; to protect health; to secure safety from fire, panic and other dangers; to avoid undue concentration of population; to conserve the value of land and buildings; 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 subject property is located in West Somerville on the southern side of Broadway on the block between Garrison Avenue and Farragut Avenue. This stretch of Broadway is primarily residential with a few retail/commercial storefronts.

Impacts of Proposal (Design and Compatibility):The proposal

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><i>SomerVision Summary</i></u>	<u><i>Existing</i></u>	<u><i>Proposed</i></u>
<i>Dwelling Units:</i>	0	3
<i>Commercial Sq. Ft.:</i>	1,968 sf	481 sf
<i>Estimated Employment:</i>	unknown	unknown
<i>Parking Spaces:</i>	0	4

III.DECISION:

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



#	Condition	Timeframe for Compliance	Verified (initial)	Notes						
1	Approval is for the construction of a two story addition atop the existing building to establish three dwelling units and change the commercial unit into retail. 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>October 9, 2018</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>February 11, 2019</td> <td>Plans submitted to OSPCD (A-000, A-020, A-021, EX-100, A-100, A-101, A-102, A-300, A-301, and AV1-AV3)</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	October 9, 2018	Initial application submitted to the City Clerk's Office	February 11, 2019	Plans submitted to OSPCD (A-000, A-020, A-021, EX-100, A-100, A-101, A-102, A-300, A-301, and AV1-AV3)
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Any changes to the approved site plan, elevations, or uses 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 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.							
5	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.							
6	The Applicant shall develop a demolition plan in consultation with the City of Somerville Inspectional Services Division. Full compliance with proper demolition procedures shall be required, including timely advance notification to abutters of demolition date and timing, good rodent control measures (i.e. rodent baiting), minimization of dust, noise, odor, and debris outfall, and sensitivity to existing landscaping on adjacent sites.	Demolition Permitting	ISD							
Construction Impacts										



7	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.	
8	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, benches, trash receptacles, mailboxes, 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	
9	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	
10	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				
11	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.	
12	The Applicant must submit a revised ground floor plan to be reviewed and approved by Planning Staff that includes a dedicated area for trash storage for the retail space that is separate from the residential trash storage room.	BP	Plng.	
Site				
13	Landscaping shall be installed and maintained in compliance with the American Nurserymen's Association Standards;	Perpetual	Plng. / ISD	
14	Snow accumulations of 3 inches or greater shall be removed from the site.	Cont.	ISD.	
15	The Applicant must install a planter box on the subject property adjacent to the sidewalk in front of the residential unit.	CO	Plng	
Miscellaneous				
16	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	

17	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.	
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	Notification must be made, within the time period required under applicable regulations, to the Massachusetts Department of Environmental Protection (DEP) if there is any release of oil, hazardous materials, or regulated hazardous substances at the site. The City's OSE office, Fire Department and the Board of Health shall also be notified.	At time of release	OSE/FP/ BOH	
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	Plng.	
Signage				
23	Signage will be limited in size and location to that shown in the elevation diagrams and lighting after 10p.m. facing residential property will be turned down or off.	CO/Cont.	Plng.	
Final Sign-Off				
24	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*
Danielle Evans, *Clerk*
Elaine Severino
Richard Rossetti
Josh Safdie
Anne Brockelman

Attest, by the Administrative Assistant:

Monique Baldwin

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 _____

