



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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PLANNING DIVISION

ZONING BOARD OF APPEALS MEMBERS

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Case #: ZBA 2019-122
Site: 916 Broadway
Date of Decision: December 11, 2019
Decision: Petition Approved with Conditions
Date Filed with City Clerk: December 17, 2019

ZBA DECISION

Applicant and Owner Name: Polly Laurelchild-Hertig
Applicant and Owner Address: 916 Broadway, Somerville, MA 02144
Agent Name: Scott Payette
Agent Address: 516 E. 2nd Street Unit 8, Boston, MA 02127

Legal Notice: Applicant and Owner, Polly Laurelchild-Hertig, seek Special Permits under §4.4.1 of the SZO to alter a non-conforming property and under §7.3 of the SZO to undertake a Special Residential Conversion by increasing the number of units from two to three in the RA zone. Parking relief under Article 9 of the SZO. Ward 6.

Zoning District/Ward: RA Ward 6
Zoning Approval Sought: SP §7.3, §9+4.4.1
Date of Application: November 14, 2019
Date(s) of Public Hearing: November 20, 2019; December 11, 2019
Date of Decision: December 11, 2019
Vote: 5-0

Appeal #ZBA 2019-122 was opened before the Zoning Board of Appeals at Somerville City Hall on November 20, 2019. 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 December 11, 2019, the Zoning Board of Appeals took a vote.



DESCRIPTION:

The proposal includes converting the property from a two-family to a three-family through a special residential conversion. The non-conforming lot area per dwelling unit, FAR, and parking non-conformities will also be exacerbated as a result of this project.

All of the dimensional changes that will occur as a result of creating this third unit will take place on the interior of the house. The house will not be enlarged outward or upward, meaning that no additions, dormers, height increases or the like will take place to create this third unit.

The landscaping on the site is mature and will be retained although larger shrubbery and other landscaping elements will be better maintained as a result of this project. In addition, the Applicant will also remove all of the bituminous driveway material that leads from the public sidewalk to the edge of the right elevation bay window. This paving will be replaced with pervious pavers. The ribbon driveway that leads up the remainder of the drive to the garage will remain.

It is after many months of work with insurance companies and city departments that the applicant now appears before the ZBA with a proposal that will leave the exterior of the structure unchanged, but will allow for a third unit to be constructed within the confines of the existing building.

FINDINGS FOR SPECIAL PERMITS SZO (§4.4.1, §7.3 & §9)

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.

Section 4.4.1 states that “[I]awfully existing one-and two-family dwellings which are only used as residences, which are nonconforming with respect to dimensional requirements, may be enlarged, extended, renovated or altered by special permit granted by the SPGA in accordance with the procedures of Article 5.”

The proposal will impact the following nonconforming dimensions: lot area per dwelling unit and FAR.

Dimension	Current	Proposed	Required
Lot area per dwelling unit	1,863 sf per du	1,242 sf per du	2,250 sf per du
Floor area ratio	0.93	1.15	0.75

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. No additions, dormers, height increases, or any other type of upward or outward expansion of the structure



will occur. Since the increase in these dimensionals will be internal to the house only, negative impacts of these dimensional changes are not anticipated on either the site nor the surrounding neighborhood. As the proposed project will improve the landscaping on the site and increase the pervious area through the removal of impervious asphalt, these changes will provide minor environmental and aesthetic upgrades to the parcel.

This area of Broadway is replete with large houses, most of which reside on very small lots in the most restrictive zoning district in the City (the RA zone). While most of the structures in this immediate area of Broadway are two-family in occupancy, two other three-family structures were found in addition to the subject property at 916.

922 Broadway, the abutting property to the right of 916, is also a three-family and 905 Broadway is a 3-family conversion, meaning that the current or former owner of this property also had to petition in order to convert the property from a one- or two-family to a three-family. 905 Broadway is very similar in style, form, and massing to the subject property.

Few properties can exercise the provision found in §7.3 that allows an applicant, under certain circumstances, to petition for a special residential conversion in the RA zone via Special Permit. The Board finds the case brought by this property to be a unique circumstance. The uniqueness is that this particular proposal is based upon the combination of the application for relief from the lot area per unit requirement along with the use of the special residential conversion provisions of the ordinance. Because of the strict limitations of the 'special residential conversion' regulation, the project will not increase the height of the structure, will not enlarge the structure outward in any fashion, including via dormers, additions, stairwells or decks. The bedroom count will remain the same within the building, just re-distributed across the units. The unit count will increase from two to three.

The project has also received numerous letters of support from abutters along with a supportive petition. To date, and at the first hearing on November 20, 2019, no comments opposing the project have been received.

The Board finds that granting approval of the requested Special Permit will not have a detrimental impact on the structure or the surrounding neighborhood and will fit in with the character of the neighborhood.

Article 9: Off-Street Parking and Loading.

SZO §9.13 allows for sites with non-conforming parking to apply for a Special Permit to modify parking requirements if the total number of spaces is less than six. The property is currently nonconforming with respect to the number of required off-street parking spaces as four are required for the existing two-family dwelling and only one is provided.

In addition to the dimensional relief needed under §4.4.1 and §8.5, at one (1) space, the parking is also currently non-conforming. Though the overall bedroom count on the property is being decreased by one (1), the distribution of the bedroom count per unit is changing, resulting in the need to request one (1) parking space of relief. The breakdown in bedroom and parking count appears below:

Unit #	Existing BDR	Required PKG	Unit #	Proposed BDR	Required PKG
1	4	2.0	1	4	2.0
2	4	2.0	2	3	2.0
3	n/a	n/a	3	2	1.5

TOTAL 4.0

TOTAL 5.0



Formula: new parking requirement – old parking requirement = # of new spaces needed

916 Broadway: 5.0 – 4.0 = 1.0 spaces of relief needed

There is currently only one legal parking spot on the site and no room to provide an additional space. Therefore, the applicant requires relief from providing one (1.0) additional parking space.

The Board also makes the following findings with regard to a special permit for parking relief:

1. Increase in traffic volumes

Broadway already experiences steady volumes of traffic. The increase in one residential unit is not expected to have a negative impact on traffic volumes.

2. Increased traffic congestion or queuing of vehicles

This is an increase in one residential unit. Even if there is to be one additional parking space on the street utilized, this will not have an impact on traffic congestion or queuing of vehicles to or from the site nor along the intersections of nearby streets such as Chandler and Billingham.

3. Change in the types of traffic

Construction traffic can be expected during the construction phase of the project. Broadway already sees large volumes of residential and commercial-focused traffic. By not providing one additional parking space and by adding one residential unit to the site, a change in the type of traffic to and from this site is not anticipated.

4. Change in traffic patterns and access to the site

The site will continue to be accessed from Broadway. There will be no change in traffic patterns as a result of this project.

5. Reduction in on-street parking

As-proposed, the one legal on-site parking space shall remain as the property is unable to legally accommodate more.

6. Unsafe conflict of motor vehicle and pedestrian traffic

The property will continue to allow the same number of vehicles entering and existing the parcel as current.

Article 7: Permitted Uses.

Section 7.3 states “In Residence A districts, the maximum number of dwelling units per lot shall be two (2) units, except where conversion for up to three (3) dwelling units is authorized by special permit under Section 7.11.” Section 7.11, the table of permitted uses, indicates that an existing dwelling converted for up to three dwelling units shall require a special permit in the RA zoning district. Section 2.2.138, the definition for a residential conversion, states that a, “Conversion within an existing dwelling which increases the number of dwelling units but does not increase the gross floor area of the dwelling. Residential conversions shall not change the footprint of the existing dwelling and shall not extend the dwelling upward or outward.”



As described earlier in this report, the Board finds that the Applicant's proposal meets the above provisions. The proposal will not increase the gross floor area of the dwelling, and will not change the footprint nor will it extend the dwelling upward or outward beyond its current footprint.

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 Board finds 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 encourage the most appropriate use of land throughout the City; and to preserve and increase the amenities of the municipality.

The Board finds that the proposal is consistent with the purpose of the district, which is, "[t]o 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."

The Board finds that the proposed use as a three-family is compatible with and convenient 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."*

The Board finds that:

Surrounding Neighborhood: The surrounding neighborhood is a mix of one-, two-, and three family districts on Broadway which transitions from the commercial uses of Powderhouse Circle, to residential buildings, and back to a mixed-use area at Teele Square.

Impacts of Proposal (Design and Compatibility): There will be no exterior changes to the structure in terms of upward or outward extension. The design of the building will remain the same. The overall improvements planned for the property, including the landscaping and new pervious area, will provide additional visual and environmental benefits to the immediate area.

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

The Board finds that The proposal will not additional affordable/inclusionary housing units.

7. 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.*



<i>SomerVision Summary</i>	<i>Existing</i>	<i>Proposed</i>
<i>Dwelling Units:</i>	2	3

DECISION:

Present and sitting were Members Orsola Susan Fontano, Danielle Evans, Anne Brockelman, Elaine Severino, and Drew Kane. Josh Safdie was absent. Upon making the above findings, Danielle Evans 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 and the conversion into a three-unit dwelling and parking relief. 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>November 11, 2019</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>November 15, 2019</td> <td>Plan set submitted to OSPCD (Cover, A0.1, A0.2, A0.3, A1, A2, A3, A4, A5, A6, A7, A8)</td> </tr> <tr> <td>November 14, 2019</td> <td>Plan set submitted to OSPCD (Plot Plan)</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	November 11, 2019	Initial application submitted to the City Clerk's Office	November 15, 2019	Plan set submitted to OSPCD (Cover, A0.1, A0.2, A0.3, A1, A2, A3, A4, A5, A6, A7, A8)	November 14, 2019	Plan set submitted to OSPCD (Plot Plan)
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Any changes to the elevations/use that are not <i>de minimis</i> must receive SPGA approval.												
Construction Impacts												
3	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									
4	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												



5	Applicant shall provide final material samples for siding, trim, windows, and doors to Planning Staff for review and approval prior to construction.	BP	Plng.	
Site				
6	Landscaping shall be installed and maintained in compliance with the American Nurserymen's Association Standards. Existing bushes shall be trimmed prior to receiving a CO.	CO/ Perpetual	Plng. / ISD	
Miscellaneous				
7	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	
8	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.	
Engineering				
9	The Applicant must contact the Engineering Department to obtain a street address for all units in the building prior to a building permit being issued.	BP	Eng	
10	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. Waterproofing of the basement may be required by the Engineering Division.	BP	Eng.	
11	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.	
12	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.	CO	Eng.	
Public Safety				
13	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
14	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				
15	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*
Anne Brockelman
Elaine Severino
Josh Safdie
Drew Kane, *Alternate*

Attest, by the Administrative Assistant

Karen Reynolds

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 _____

