



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

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REBECCA LYN COOPER
GERARD AMARAL, (ALT.)

Case #: PB 2016-11
Site: 112 Broadway
Date of Decision: October 6, 2016
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: October 18, 2016

PLANNING BOARD DECISION

| | |
|--------------------------------|------------------------------------|
| Applicant Name: | Augusto P. DaCunha |
| Applicant Address: | 8 Jill's Way, Peabody, MA 01960 |
| Property Owner Name: | Augusto P. DaCunha |
| Property Owner Address: | 8 Jill's Way, Peabody, MA 01960 |
| Agent Name: | Richard G. DiGirolamo, Esq. |
| Agent Address: | 424 Broadway, Somerville, MA 02145 |

Legal Notice: Applicant/Owner, Augusto P. DaCunha, seeks a Special Permit under SZO §5.5 and §8.6.5.c to approve a renovation and expansion of a mixed-use 3-story building.

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| <u>Zoning District/Ward:</u> | CCD zone/Ward 1 |
| <u>Zoning Approval Sought:</u> | §5.5 & §8.6.5.c |
| <u>Date of Application:</u> | July 25, 2016 |
| <u>Date(s) of Public Hearing:</u> | October 6, 2016 |
| <u>Date of Decision:</u> | October 6, 2016 |
| <u>Vote:</u> | 5-0 |

Appeal #PB 2016-11 was opened before the Planning Board at Somerville City Hall on October 6, 2016. 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 Planning Board took a vote.



DESCRIPTION:

The application includes renovating and reconfiguring the entire building to finish the rear storage room of the basement, extend the first floor residential unit to capture the square footage of a stair, and expand the second and third floors to the extents of the first floor. The commercial space remains unchanged and the first floor residential is redesigned but remains a 2-bedroom unit. The second and third floor residential will both become 4 bedroom units.

FINDINGS FOR SPECIAL PERMIT (SZO §7.13.A):

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."**Nature of Application:* **CCD-55 – Corridor Commercial District.**

The structure is currently nonconforming with respect to the following use / dimensional requirements:

Street Frontage is only 19.24 feet currently, and this project is a renovation of the existing structure that occupies the entire lot width. There is no change to the frontage dimension but the district requirement is 30' minimum.

Lot Area per Dwelling Unit remains the same in the existing condition and proposed project at 563sf, which is below the minimum requirement of 600sf.

The Ground Coverage of the existing building is 97% which is well over the permitted maximum of 80% and remains unchanged by the proposed project.

Landscaped Area is undersized due to the amount of lot coverage – only 2% exists and is proposed, whereas 10% minimum is required.

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 or 4.5 of the SZO, the Board does not find that the alterations proposed would not be substantially more detrimental to the neighborhood than the existing structure/use. As the existing structure is constrained by the surrounding buildings, the renovation will not have a significant impact on the neighborhood. However, given the rear egress path is not on the subject property, it is critical for the pedestrian easement to remain open and accessible – no steps or obstructions at any time. This will be more critical as adjacent parcels redevelop but no other property should consider the easement as a new egress path.

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 less than six. In considering a special permit under §9.13 of the SZO



the Applicant must be able to demonstrate that granting the requested special permit would not cause detriment to the surrounding neighborhood through any of the criteria as set forth under SZO §9.13. There is no parking provided for the existing residential and no parking is required, but the increase in bedrooms will likely put additional pressures on the demand for on-street spaces.

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 promoting the health, safety, and welfare of the inhabitants of the City of Somerville; providing for and maintaining the uniquely integrated structure of uses in the City; securing safety from fire, panic and other dangers; providing adequate light and air; preventing the overcrowding of land; encouraging the most appropriate use of land throughout the City; and protecting and promoting a housing stock that can accommodate the diverse household sizes and life stages of Somerville residents at all income levels, paying particular attention to providing housing affordable to individuals and families with low and moderate incomes.

The proposal is consistent with the purpose of the district, which is,

“to promote appropriate infill development along heavily traveled transportation corridors, especially where those corridors meet at named Squares. The district recognizes that such corridors present opportunities for an active mix of uses while also addressing development challenges posed by smaller lots and nearby existing residential development and the need to be accessible by multiple modes of transportation. The major objectives of the districts are to:

1. Encourage active mid-rise commercial and residential uses that contribute to a multi-modal-friendly street;
2. Increase commercial investment in high-profile, accessible areas including retail that is largely neighborhood-serving in multi-tenant, mixed use buildings;
3. Preserve and complement historic structures;
4. Discourage inappropriate auto-oriented, significant trip-generating uses along transit corridors; and,
5. Promote pedestrian and bicycle activity.”

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.

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 property is located in the middle of the Broadway commercial corridor in East Somerville. The surrounding buildings are mostly one story commercial

Impacts of Proposal (Design and Compatibility): As this is an existing building and the proposal is a renovation, there is no design impact to the primary street face. However, the structure does meet many of the design guidelines for new construction in a CCD zone as the brick façade does form the streetwall.

The back elevation is the most significant change and will be an improvement from the existing condition. The fenestration of the rear extension and the proposed decks create a consistent appearance for the abutting properties.

The sides of the building are somewhat visible as the adjacent structures are only one-story. Currently the siding is white - a stark contrast to the red brick of the front. The proposal does not show material color but Staff recommends that a darker color would be more appropriate. Also, all windows should be replaced with double hung units to be consistent throughout the building and detailed with trim surrounds (not shown on elevations). Additional



trim should be added in the form of corner boards to add articulation to the building mass and a cap, or trim board, at the top of the parapet wall. Material and color samples should be submitted prior to construction (Condition #10).

5. Adverse environmental impacts: *The proposed use, structure or activity will not constitute an adverse impact on the surrounding area resulting from: 1) excessive noise, level of illumination, glare, dust, smoke, or vibration which are higher than levels now experienced from uses permitted in the surrounding area; 2) emission of noxious or hazardous materials or substances; 3) pollution of water ways or ground water; or 4) transmission of signals that interfere with radio or television reception.*

Impacts of Proposal (Environmental): There are no adverse environmental impacts associated with this project.

6. Vehicular and pedestrian circulation: *The circulation patterns for motor vehicles and pedestrians which would result from the use or structure will not result in conditions that create traffic congestion or the potential for traffic accidents on the site or in the surrounding area.*

Impacts of Proposal (Circulation): There are no increases in circulation patterns associated with this project.

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

Impacts of Proposal (Housing): This project will not create adverse impacts on the housing stock.

8. 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.*

Impacts of Proposal (SomerVision): This project has no negative impact on any of the applicable goals, policies and actions of the SomerVision plan.



DECISION:

Present and sitting were Members Joseph Favalaro, Michael Capuano, Dorothy Kelly Gay, Rebecca Lyn Cooper and Gerard Amaral with Kevin Prior absent. Upon making the above findings, Michael Capuano made a motion to approve the request for a Special Permit. Dorothy Kelly Gay seconded the motion. Wherefore the Planning Board voted **5-0** to **APPROVE** the request. In addition the following conditions were attached:

| # | Condition | Timeframe for Compliance | Verified (initial) | Notes | | | | |
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| 1 | <p>Approval is for additions to the mixed-use existing structure to accommodate the renovation and expansion of 3 residential units. This approval is based upon the following application materials and the plans submitted by the Applicant:</p> <table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>July 25th, 2016</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> </tbody> </table> <p>Any changes to the approved plan and elevations that are not <i>de minimis</i> must receive SPGA approval.</p> | Date (Stamp Date) | Submission | July 25 th , 2016 | Initial application submitted to the City Clerk's Office | BP/CO | ISD/PIng. | |
| Date (Stamp Date) | Submission | | | | | | | |
| July 25 th , 2016 | Initial application submitted to the City Clerk's Office | | | | | | | |
| Pre-Construction | | | | | | | | |
| 2 | 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. | | | | | |
| 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 | | | | | |
| 4 | New sanitary connection flows over 2,000 GPD require a removal of infiltration and/or inflow by the Applicant. This will be achieved by submitting a mitigation payment, established by the City Engineers Office, to the City based on the cost per gallon of I/I to be removed from the sewer system and a removal ratio of 4:1. If a different ratio of removal or mitigation payment amount is adopted by the Board of Aldermen prior to the Applicant receiving a Certificate of Occupancy, payment will be adjusted to the BOA rate. The Applicant shall work with Engineering and meet this condition before a certificate of occupancy is issued. | BP | Eng. | | | | | |



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| 5 | 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 | | | | |
| 6 | 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. | |
| 7 | Approval is subject to the Applicant's and/or successor's right, title and interest in the property. | Cont. | Plng. | Deed submitted & application formed signed |
| 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, 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 | |
| Design | | | | |
| 10 | Applicant shall provide updated elevation drawings and final material samples for siding, trim, windows, and doors to Planning Staff for review and approval prior to construction. | BP | Plng. | |
| 11 | An exterior light and electrical receptacle is required for all levels of the rear deck. | Final sign off | Wiring Inspector | |
| Site | | | | |
| 12 | The adjacent pedestrian way easement that serves as the means of egress from the rear of the building must remain open and accessible at all times with no steps or obstructions of any type. | Perpetual | Plng. / ISD | |
| 13 | The electric, telephone, cable TV and other such lines and equipment shall be placed underground from the source or connection. The utilities plan shall be supplied to the Wiring Inspector before installation. | Installation of Utilities | Wiring Inspector | |
| Miscellaneous | | | | |



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| 14 | 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 | |
| 15 | Any antenna that is not operated continuously for a period of twelve (12) months shall be considered abandoned, and the owner of such antenna shall remove the same. Failure to remove may result in a fine or penalty. | CONT. | ISD | |
| Public Safety | | | | |
| 16 | The Applicant or Owner shall meet the Fire Prevention Bureau's requirements. | CO | FP | |
| 17 | Any transformers should be located as not to impact the means of egress. | Electrical permits & CO | | |
| 18 | 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. | |
| 19 | The Applicant shall provide notice of intent to strictly comply with applicable State and Federal regulations regarding air quality including without limitation continuous dust control during demolition and construction. | CO | Plng/OSE | |
| Signage | | | | |
| 20 | Signage will be limited to the existing awning in size and location. | CO/Cont. | Plng. | |
| Final Sign-Off | | | | |
| 21 | 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 Planning Board:



Joseph Favaloro



Michael A. Capuano, Esq.


Dorothy A. Kelly Gay

Rebecca Lyn Cooper



Gerard Amaral

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 _____

