



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2016-81
Site: 45 Cameron Avenue
Date of Decision: March 1, 2017
Decision: Petition Approved with Conditions
Date Filed with City Clerk: March 3, 2017

ZBA DECISION

Applicant Name:	Aroli Realty Trust, Menkiti Ifeanyi, Trustee
Applicant Address:	45 Cameron Avenue, Somerville, MA 02144
Property Owner Name:	Aroli Realty Trust, Menkiti Ifeanyi, Trustee
Property Owner Address:	45 Cameron Avenue, Somerville, MA 02144
Agent Name:	Richard G. DiGirolamo, Esq.
Agent Address:	424 Broadway, Somerville, MA 02145

Legal Notice: Applicant and Owner, Aroli Realty Trust and Menkiti Ifeanyi, Trustee, seek Special Permits to alter a non-conforming property under §4.4.1 of the SZO through an upward extension of the right side yard, left side yard, and front side yard setbacks, and an increase in square footage along with a Special Permit under Article 9 of the SZO for parking relief*.

<u>Zoning District/Ward:</u>	RB zone. Ward 5
<u>Zoning Approval Sought:</u>	§4.4.1 & Article 9
<u>Date of Application:</u>	July 14, 2016
<u>Date(s) of Public Hearing:</u>	March 1, 2017
<u>Date of Decision:</u>	March 1, 2017
<u>Vote:</u>	5-0

*Since the publication of the legal notice, it has been determined that no parking relief is needed as all parking spaces will be provided on-site. The explanation for this determination appears in the staff report below.



Appeal #ZBA 2016-81 was opened before the Zoning Board of Appeals at the Visiting Nurse Association on March 1, 2017. 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.

DESCRIPTION:

The Applicant proposes to enlarge the building while retaining the two-family use. To enlarge the structure, the Applicant proposes extending the right, left and front yard setbacks upward in order to gain additional living space. By doing so, the Applicant will also increase the overall square footage, thereby increasing the FAR from .32 to .92. The additional bedroom count will not trigger the need for parking relief as all required parking spaces will be accommodated on-site. The proposal also includes a location for a future lula.

FINDINGS FOR SPECIAL PERMIT (SZO §XXX):

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.

1. 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 in accordance with the procedures of Article 5."

In order to gain additional living space and add a second unit, the Applicant proposes to increase the non-conforming right, left and front yard setbacks through an upward extension thereof. Currently, the left side yard setback is 4.6 feet, the right side yard setback is 1.1 feet and front yard setback is 1.3 feet from the property line. These dimensions will remain the same as the building itself rises from 11.25 feet to 39.3 feet.

The proposed plan improves the parking situation for the property. Currently, there are no parking spaces provided on site for the one unit on the property. The four required parking spaces needed under the proposal will be accommodated on the site itself.

Regarding Article 9 of the SZO

The current zoning code requires residential parking to be calculated based on bedroom count. Since the publication of the legal notice, it has been determined that the changes to the property do not trigger the need for parking relief. The explanation for this appears below:



Unit #	Existing Bedrooms	Old Parking Req.	Proposed Bedrooms	New Parking Req.
1	1	1.5	3	2.0
2	Does not exist	n/a	3	2.0

Total Old Parking Requirement: 1.5 spaces
 Total New Parking Requirement: 4.0 spaces

Because all parking spaces will be provided on-site, no parking relief is needed.

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 by the Board, 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.

The proposal is also consistent with the purposes of the RB zoning district which are, as outlined in Section 6.1.1 of the SZO, "...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." The Applicant's proposal to overhaul the units, keeping the property a two-family, is in keeping with the RB zone.

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."*

45 Cameron Avenue is the odd building in this neighborhood. It is the only single-story structure in the immediate area and clearly reads as a building that was not initially built to be a residential in nature. This property is surrounded by numerous 2 ¾ -story residential structures. These properties are largely uniform in their turn-of-the-20th century style: mostly gable-fronted two- and three-family buildings with a few triple-deckers dispersed among them and one very new, very modern-styled residential structure at 40 Cameron Avenue.

The proposed design differs from the architectural styles in the surrounding neighborhood. That being said, some of the forms presented on the proposed structure - such as the gabled rooflines – are somewhat reflective of the general gabled form in the neighborhood. The proposed design is seen as more in keeping with the overall architectural style of the neighborhood than the new construction located at 40 Cameron Avenue. In general, the proposal provides a much-needed overall for a property that is otherwise someone distressed.

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

The proposal does not add to the City's affordable housing stock.

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 contributes to SomerVision in that it improves a property in this neighborhood.

DECISION:

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans, Elaine Severino and Pooja Phaltankar with Josh Safdie and Anne Brockelman absent. 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 upward extension of the right, left and front yard non-conforming setbacks and for the increase in FAR.	BP/CO	ISD/ Plng.							
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>July 14, 2016</td> <td>Initial application submitted to city clerk's office</td> </tr> <tr> <td>November 7, 2016</td> <td>Updated plans received by OSPCD</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	July 14, 2016	Initial application submitted to city clerk's office	November 7, 2016	Updated plans received by OSPCD
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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.										
2	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 1 st to April 1 st and there is a list of streets that have additional opening restrictions.	BP	Eng/ISD							
3	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							
4	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 shall include delivery windows for construction equipment and materials.	BP	T&P / ISD							
5	The Applicant shall present a demolition plan to the Inspectional Services Division (ISD) and shall follow that department's procedures for demolition and neighborhood notification thereof exactly.	BP	ISD							



6	The entire property is being overhauled. ALL materials used on the exterior of the structure including, but not limited to, siding, windows, trim, fencing, hardscape, decking, etc., shall be submitted to Planning Staff for their review and approval PRIOR TO the issuance of a building permit and prior to their installation.	BP	Plng/ISD	
7	Engineering and Highways division shall review and sign off on the proposed curb cut prior to the building permit being issued.	BP	Eng/Highways/ISD verification	
Construction Impacts				

8	The applicant shall post the name and phone number of the general contractor and all sub-contractors at the site entrance where it is visible to people passing by.	During Construction	ISD	
9	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.	During Construction	ISD	
10	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	
11	Approval is subject to the Applicant's and/or successor's right, title and interest in the property.	Cont./perpetual	Plng.	Deed submitted & application formed signed
12	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, wheelchair 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	
13	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

14	NO vinyl shall be used for clapboard, trim, decking, fencing, windows or the like.	CO	ISD/Plng	
15	Windows shall be two-over two, with muntins applied to the glass. No between-the-glass muntins shall be allowed. No reflective or tinted glass shall be used. Dark spacers shall be used. Window sash, muntins, casing, stile and rail shall be dark colored. Vinyl windows shall not be allowed.	CO	ISD/Plng	
16	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	



17	Windows that are installed on any portion of the building that is 3 feet or less from the lot line shall be inoperable, fire-rated windows that comply exactly with ISD / building code requirements. The Applicant shall work directly and closely with ISD to ensure compliance.	CO/Perpetual	ISD/Plng	
18	All venting shall be painted or wrapped to match the color of the portion of the building from which it exits.	CO	ISD/Plng	
Site				
19	Parking areas shall be made of grasscrete.	CO	ISD/Plng	
20	Because the entire property is being overhauled, the Applicant is required to submit a landscaping plan. Said plan must be submitted to Planning Staff for their review and approval prior to its installation.	CO	Plng/ISD	
21	ALL landscaping materials, including hardscape, shall be submitted to Planning Staff for their review and approval prior to installation	CO	ISD/Plng	
22	Since the entire property is being overhauled, a full landscaping plan must be submitted to Planning Staff for their review and approval prior to installation of plantings and hardscape.	CO	ISD/Plng	
23	All at-grade mechanical equipment shall be screened with evergreen vegetation (no arborvitae). Planning Staff shall approve vegetative screening prior to installation.	CO/Perpetual	ISD/Planning	
24	All trash and recycle areas shall be screened with cedar wood lattice or similar screening. Planning Staff shall approve such screening. No dumpsters shall be permitted on site (after the construction period is complete).	CO/Perpetual	ISD/Planning	
25	ALL utilities shall be buried underground.	CO/Perpetual	Lights & Lines	
Public Safety				
26	The Applicant and/or Owner(s) shall meet the Fire Prevention Bureau's requirements.	CO	FP	
27	All smoke/fire detectors shall be hard-wired.	CO	FP/ISD	
28	As per Somerville regulations, no grills or similar cooking/heating apparatus shall be permitted on decks. Condo docs or rental agreements shall state as such.	Perpetual	ISD/FP	
29	All lighting on the property shall be downcast and shall not cast/spill onto abutting or nearby properties in any way.	CO/Perpetual	ISD/Fire Prevention	
30	All fire/smoke detectors shall be hard-wired.	CO/Perpetual	ISD	
Final Sign-Off				
31	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.	Final sign off	ISD/Plng.	

Attest, by the Zoning Board of Appeals:

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

Attest, by the Administrative Assistant:

Dawn M. Pereira

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 _____

