



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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ANNE BROCKELMAN, (ALT.)

Case #: ZBA 2018-75
Site: 24 Dane Avenue
Date of Decision: March 6, 2019
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: March 12, 2019

ZBA DECISION

Site: 24 Dane Avenue
Applicant Name: 24 Dane Ave LLC
Applicant Address: 334 Washington Street, Somerville, MA 02143
Owner Name: 24 Dane Ave LLC
Owner Address: 334 Washington Street, Somerville, MA 02143
City Councilor: J.T. Scott

Legal Notice: Applicant and Owner, 24 Dane Ave., LLC, seeks Special Permits under §4.4.1 of the SZO to alter a non-conforming structure by extending the non-conforming left and right side yard setbacks, increasing the GFA by more than 25%. Unit count to increase from one to three. Parking relief under Article 9. RC zone. Ward 2.

<u>Zoning District/Ward:</u>	RC zone. Ward 2.
<u>Zoning Approval Sought:</u>	SZO §4.4.1 and Article 9
<u>Date of Application:</u>	May 30, 2018
<u>Date(s) of Public Hearing:</u>	7/18, 8/8, 8/22, 9/5, 9/17, 10/3, 10/17, 10/24, 11/7, 11/28, 12/12, 1/9, 1/23, 2/6, 2/20, 3/6
<u>Date of Decision:</u>	March 6, 2019
<u>Vote:</u>	5-0

Case # ZBA 2018-75 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 Applicant proposes to renovate the entire property and re-landscape the site. Specific changes to the property are noted below with modifications requiring special permits noted in parentheses:

- Increase the number of dwelling units from one (1) to three (3)
- Increase the gross floor area (footprint) 168 square feet through rear addition
- Increase the floor area ratio from .49 to .94 (the RC zone allows an FAR of 2.0)
- Parking relief for 2.5 spaces (**Special Permit**)
- Addition within right side yard setback (**Special Permit**)
- Addition within left side yard setback (**Special Permit**)

II. FINDINGS FOR SPECIAL PERMIT (SZO §4.4.1 and Article 9):

Information Supplied:

The Board finds that the information provided by the Applicant conforms to the requirements of §5.1.4 of the SZO and allows the Planning Board to perform an analysis of the proposal for Special Permitting relief.

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.”*

Regarding §4.4.1 and Article 9 of the 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.”

Left and right side yard setbacks

The proposed rear addition maintains the existing right side yard setback of 1’2” and the existing left side yard setback of 5’6” at the front left of the existing building and 5’1” at the left rear of the existing building. A spiral egress staircase will also be constructed within the right side yard setback.

The proposed rear addition and new left elevation dormer will be directly visible by the left abutter. The Applicant has attempted place window openings on the rear addition such that they don’t directly face the abutting residential unit at 20 Dane Avenue. Where new windows on the proposed rear addition directly face 20 Dane Ave, they are significantly reduced in size from the standard-sized windows on the other facades on the structure.



Regarding Article 9 of the SZO

There are no parking spaces provided under existing conditions; neither the left nor right sides of the property have enough width for a driveway, which requires a minimum of 8 feet. There is also currently no curb cut providing access to the property. Given the dimensions of the parcel, there is no possibility of parking being added to this site in the future.

Under existing conditions, the locus should be providing two (2.0) on-site parking spaces. Due to the conditions on the parcel described above, no parking spaces are currently provided. No parking spaces can be provided on-site due to the proposed conditions.

Dwelling Area	Existing Bdrs.	Parking Req.	Dwelling Area	Proposed Bdrs.	Parking Req.
Unit 1	6	2.0	Unit 1	2	1.5
Unit 2	Not extant	Not extant	Unit 2	2	1.5
Unit 3	Not extant	Not extant	Unit 3	1	1.5
Total: 2.0			Total: 4.5		

*Parking formula: New Parking Req. – Old Parking Req. = new spaces required**

24 Dane Ave: $4.5 - 2.0 = 2.5$

Relief for 2.5 spaces is needed.

**When this result is < 1 or a negative number, no parking relief is required.*

Though the bedroom count for the third unit has now been reduced from two to one, the number of parking spaces required remains the same (1.5).

It is always possible that the increase in residential units on a site will increase the amount of traffic on a given street. The Applicant has worked to address neighborhood concerns regarding parking by leasing off-site parking for future residents of the locus. To mitigate neighborhood concerns regarding parking congestion on Dane Avenue, the Applicant has secured a lease at 334 Washington Street for parking for up to five cars of future 24 Dane Avenue residents. (confirmation letter attached to prior report). The Board has conditioned its recommendation such that the Applicant is to provide proof that the leased, off-site spaces are written into rental and/or condo documents for future residents.

Additional Findings

In addition to the considerations discussed above, the Board does not anticipate that this proposal will increase noises or odors in this neighborhood on an on-going basis. This property directly abuts an active rail bed. Regular construction-related noise can be expected on this site as the project is underway. However, this uptick in noises will be temporary in nature. The Board anticipates that any odors associated with this project will be construction-related and, post-construction, will be in keeping with those typically experienced by residents living in close proximity to each other.



Lastly, impacts on municipal water supply and sewer capacity will be examined by Engineering. Prior to the issuance of any building permit for this project, the Applicant is required to submit full engineering plans to the Engineering Department for their assessment, feedback and approval or denial. This is a condition that has been recommended for any approvals given. The Board also approves an increase in GFA of more than 25%.

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 that the subject property is already non-conforming with regard to the lot size, left and right side yard setbacks, and parking. An Applicant may request to maintain, improve, or intensify these existing non-conformities under Special Permit.

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 Applicant’s proposal maintains the “traditional” appearance of the main body of the house while including a left elevation dormer to provide additional living space on the third floor. Retention of the original building helps to maintain a consistent character to the streetscape along Dane Avenue. The Applicant has modified the design of the rear addition to be more “traditional” in nature, as seen in the renderings and description provided earlier in this report. The design, form, and massing of the rear addition are such that it will be minimally visible from the public way. It will be most visible from the active rail bed, 20 Dane Avenue, and the next abutting property to its left on Hodgdon Place (see photo below).

Dane Avenue is a one-way street that is populated with 1 ½- and 2 ½-story, and 3-story residential structures, the long, two-story concrete length of a commercial/industrial building. Building styles include traditionally-styled triple-deckers, gable-fronted, and structures that have been added to and converted into condominium buildings that run “shotgun” down the length of their lots.

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

The proposal will not add to the existing stock of affordable housing.

6. SomerVision:

The proposal will improve the visual appearance of an existing property and adds two more residential units to the City’s available housing stock.

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 to construct a rear addition, a linear and vertical extension of the non-conforming right and left side yard setbacks, , special permit for parking relief,	BP/CO	ISD/PIng.															
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>May 30, 2018</td> <td>Application submitted to City Clerk's office.</td> </tr> <tr> <td>September 13, 2018</td> <td>Confirmation letter securing off-site parking submitted to OSPCD</td> </tr> <tr> <td>September 24, 2018</td> <td>Updated plan set submitted to OSPCD</td> </tr> <tr> <td>October 1, 2018</td> <td>Updated zoning data sheet submitted to OSPCD</td> </tr> <tr> <td>November 8, 2018</td> <td>Updated plans and zoning data sheet submitted to OSPCD</td> </tr> <tr> <td>January 14, 2019</td> <td>Updated plans and zoning data sheet submitted to OSPCD</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	May 30, 2018	Application submitted to City Clerk's office.	September 13, 2018	Confirmation letter securing off-site parking submitted to OSPCD	September 24, 2018	Updated plan set submitted to OSPCD	October 1, 2018	Updated zoning data sheet submitted to OSPCD	November 8, 2018	Updated plans and zoning data sheet submitted to OSPCD	January 14, 2019	Updated plans and zoning data sheet submitted to OSPCD
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Any changes to the approved site plan or elevations that are not <i>de minimis</i> must receive SPGA approval. Whether or not a change is <i>de minimis</i> in nature must be determined by the Planning Office.																		
Design																		
1	All materials, including, but not limited to windows, exterior finishes, siding, and similar shall be submitted to, reviewed and approved by Planning Staff prior to the issuance of a building permit.	BP	ISD/PIng															
Construction Impacts																		
2	The Applicant shall, at his 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															



3	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/ISD	
4	The name(s) and contact information of all entities working on the site shall be posted in an area of the job site such that passers-by can easily read the information without leaving the public way.	During Construction	ISD	
5	Construction shall be limited to M-F 7:30am – 5:00pm. No weekend or holiday construction or construction-related work shall occur. This includes deliveries.	During Construction	ISD	
6	Prior to the issuance of a building permit, the Applicant shall submit full engineering plans to the Engineering Department for their review and approval.	BP	ISD/Plng/Eng.	
7	The applicant must comply with the “Policy for 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	ISD/Eng.	
Public Safety				
8	The Applicant or Owner shall meet the Fire Prevention Bureau’s requirements.	CO	FP	
9	All smoke detectors shall be hard-wired.	CO	Fire Prevention / ISD	
10	The building shall be sprinkled.	CO	Fire Prevention / ISD	
11	All exterior lighting on the site shall be downcast and shall not cast light onto surrounding properties in any fashion.	CO		
12	In accordance with City of Somerville ordinances, no grills, barbecues, chimineas or the like shall be allowed on decks and porches. These requirements shall be written into any rental agreements or condo documents. Proof of the inclusion of this language shall be shown to Planning Staff prior to the issuance of a CO.	CO/Perpetual	ISD/PlngFP	
Site				
13	All plantings and their locations along with all hardscaping materials, design and location for driveways, walkways, fencing, etc., shall first be reviewed and approved by Planning Staff prior to the issuance of a building permit.	BP	ISD/Plng	
14	No vents shall exit on the Dane Avenue façade of the structure. All venting, pipes, conduits and the like shall be painted or wrapped the same color as the exterior of the structure from which they protrude.	CO	ISD/Plng	
15	Utility meters shall not be installed on the front façade of the building Dane Avenue façade.	CO	ISD/Plng	
16	All bituminous material shall be removed from the site.	CO	ISD/Plng	



Miscellaneous				
17	The Applicant shall secure leased, off-site parking for future residents of 24 Dane Avenue. The Applicant shall provide written proof to Staff that the location of said off-site parking has been codified in future rental agreements and/or future condo documents.	CO/Perpetua l	ISD/PIng	
Final Sign-Off				
18	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	PIng.	



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 _____

