



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

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Case #: ZBA 2019-78
Site: 7 Dane Street
Date of Decision: October 2, 2019
Decision: *Approved with Conditions*
Date Filed with City Clerk: October 16, 2019

ZONING BOARD OF APPEALS DECISION

Site: 7 Dane Street

Applicant Name: 7 Dane Street, Somerville, MA 02143
Applicant Address: 6 Lexington Street, 3rd floor, Waltham, MA 02452
Owner Name: same as applicant
Owner Address: same as applicant

Legal Notice: Applicant and Owner, 7 Dane Street, Somerville, MA 02143, seek special permits under §4.4.1 to substantially alter a non-conforming property including increasing the GFA by more than 25%, creating an upward extension of the non-conforming right, left, and rear yard setbacks. Increase the number of units from three to four. Parking relief under Article 9, including shared access drive. RC zone. Ward 2.

<u>Zoning District/Ward:</u>	RC Zone. Ward 2.
<u>Zoning Approval Sought:</u>	SZO §4.4.1, Article 9
<u>Date of Application:</u>	July 16, 2019
<u>Date(s) of Public Hearing:</u>	October 2, 2019
<u>Date of Decision:</u>	October 2, 2019
<u>Vote:</u>	5-0

Case number ZBA 2019-78 was opened before the Zoning Board of Appeals in the Council Chambers of City Hall at 93 Highland Avenue. 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 October 2, 2019, the Zoning Board of Appeals took a vote.



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I. PROJECT DESCRIPTION

1. Subject Property: The locus presents a 2 ½-story, two-unit dwelling structure in the RC zoning district. The parcel is almost completely paved and shares a driveway with the left rear abutting property at 11R Dane Street. To the right of the property is a large, single-story institutional building associated with the St. Anthony's School building. The two buildings are separated by only a couple of feet. At the rear, the property abuts a through-block asphalt parking lot. The lot is 4,613 square feet.

2. Proposal: The applicant proposes a complete overhaul of the property. Key components of the project are listed below and the triggers for special permitting are identified:

- Improve the left side yard setback from non-conforming to conforming
- Upward extension of the non-conforming right yard setback (**special permit**)
- Upward extension of the non-conforming rear yard setback (**special permit**)
- Increase the GFA by more than 25% (**special permit**)
- Increase the pervious area from 0% to 20.5%
- Increase building height from 26.03 feet to 28.08 feet
- Shared access drive with 11R Dane Street (**special permit**)
- Parking relief for two (2) spaces (**special permit**)

4. Green Building Practices:

The Applicant has included the following information relative to green building practices:

"Will not exceed stretch code."

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

In order to grant a special permit, the SPGA must make certain findings and determinations as outlined in §4.4.1 of the SZO. This section of the report goes through §4.4.1 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.

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."*

Section 4.4.1 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.”

Increase the GFA by more than 25%

Due to the reconfiguration of the interior space (including finishing the basement), along with the construction of the rear addition and full third floor, the GFA of the property will increase by more than 25%.

Right side yard setback

The RB zone requires a right side yard setback of 8 feet. The existing right side yard setback is .58 feet. The applicant proposes constructing a rear addition within the right side yard setback. The applicant proposes an upward extension of the non-conforming right side yard setback. This will add a third floor that will rise fully above the roof of the abutting building. The abutting building to the right is a single-story masonry-constructed function hall. This property and area is so challenged that the Board fully supports the upward extension of the non-conforming setback and does not support having the applicant step in the main façade of the building further. The Board does not find that the upward extension of this non-conforming setback will be detrimental to the site or neighborhood. The overall project will provide a much-needed visual improvement to the area while upgrading the quality of housing available here.

Rear yard setback

The existing rear yard setback is 13 feet in a zone where 20 feet is normally required. The applicant proposes an upward extension of this non-conforming setback through the construction of two stories above the existing single-story rear addition. Rear decks will also be added but will not violate the non-conforming setback further.

Relief for parking spaces:

Relief is required for two (2) parking spaces The analysis is immediately below:

Dwelling Unit	Existing Bdrs.	Existing Parking Req.	Dwelling Unit	Proposed Bdrs.	Parking Req.
Unit 1	2	1.5	Unit 1	2	1.5
Unit 2	1	2.0	Unit 2	2	1.5
Unit 3	n/a	n/a	Unit 3	2	1.5
Unit 4	n/a	n/a	Unit 4	2	1.5

Total 4.0 Total: 6.0

New parking requirement - Old parking requirement = # spaces of relief needed
 6.0 – 4.0 = **2 parking spaces of relief**

Relief for shared access drive

Section 9.9.a of the SZO states, in part, that “...[parts] of a driveway may be partly on another lot or may straddle a lot line where there is a recorded easement or lease allowing such right of use and provided the SPGA grants a special permit...” There is an existing shared access drive situation between 7 Dane Street and 11R Dane Street. However, because of the development proposal on this property and the need to continue this shared access situation, this requirement of a recorded easement must be met if shared access is granted by the SPGA. The Board is supportive of continuing this shared access situation with a recorded easement.



Additional findings

Additional shading from the project is anticipated to be minimal. Further, the right-abutting building is a single-story functional building with few windows. The windows that it does have face the parking lot. The left-abutting building at the rear of the neighboring lot is owned by a related entity and has no objection to the project. The rear addition will be visible from left, right, and rear-abutting properties as well as the public way of Somerville Avenue. The neighborhood is a mixture of one-, two-, and multi-unit properties of various styles and in various stages of repair. The neighborhood also presents a church, institutional building, and various other commercial structures. There is an unprecedented amount of pavement on the parcels surrounding this site. A through-block bituminous parking lot to the rear of this building overwhelms the area. Overall, the proposal is not detrimental to the neighborhood but be a significant upgrade to both the structure and the site of an existing property.

Abutters can expect typical noises and odors associated with the construction phase of a project.

Because this project will need to be reviewed by the Engineering Department prior to the granting of a building permit, they will determine if any measures need to be taken by the Applicant to address any impacts on the public sewer or water supply. Lastly, as the property is remaining a two-family, the Board does not anticipate any change in traffic volume, queueing, or congestion as a result of this project.

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 that the proposal is consistent with the purposes of the RC zone which are “[t]o 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.”*

The Board has addressed the question of site and area compatibility in a previous section.

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 allow for the improvement of an existing property. The permeability of the property will be improved with the removal of all bituminous material and an upgraded landscaping scheme.

III. DECISION

Present and sitting were, Susan Fontano, Danielle Evans, Anne Brockelman, Elaine Severino, Josh Safdie, and Drew Kane. Upon making the above findings, Danielle Evans made a motion to approve the requested 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:



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#	Condition	Timeframe for Compliance	Verified (initial)	Notes						
1	Approval is the increase in GFA of more than 25%, upward extension of the non-conforming right and rear yard setbacks, shared access drive, and 2 spaces of parking relief.	BP/CO	ISD/PIng.							
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>July 16, 2019</td> <td>Application submitted to City Clerk's office.</td> </tr> <tr> <td>August 22, 2019</td> <td>Updated plans submitted to OSPCD</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	July 16, 2019	Application submitted to City Clerk's office.	August 22, 2019	Updated plans submitted to OSPCD
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August 22, 2019	Updated plans submitted to OSPCD									
<p style="color: red;">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.</p>										
Engineering										
2	<p>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."</p> <p>The Applicant shall work with Engineering to meet this condition and provide the required fees/mitigation.</p>	BP	Engineering/ISD							
3	The proposed basement finished floor elevation shall not be less than 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.	BP	Eng.							
Design										
4	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										
5	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							
6	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							



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 on the public way.	During Construction	ISD	
8	<u>Construction shall be limited to M-F 7:30am – 5:00pm. No weekend construction or construction-related work shall occur.</u>	During Construction	ISD	
9	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	ISD/DPW	
Public Safety				
10	The Applicant or Owner shall meet all of the Fire Prevention Bureau’s requirements.	CO	FP	
11	In accordance with City of Somerville ordinances, no grills, barbeques, chimineas or the like shall be allowed on decks and porches.	CO/Perpetua l	ISD/PlngF P	
Site				
14	All bituminous material shall be removed from the property.	CO	Plng/ISD	
15	Landscaping shall be installed and maintained in compliance with the American Nurserymen’s Association Standards;	Perpetual	Plng. / ISD	
16	Trash and recycling shall be stored behind the house and shall be screened with a cedar enclosure. The enclosure shall present a cedar roof as well. Latched doors shall secure the enclosure.	CO	Plng. / ISD	
Miscellaneous				
17	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.	Perpetual	ISD / Plng.	
18	All exterior lighting shall be confined to the subject property, case light downward and must not intrude, interfere, or spill onto neighboring properties.	Perpetual	ISD	
Final Sign-Off				
19	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	ISD/Pln g.	



Attest, by the Zoning Board of Appeals:

Susan Fontano, *Chair*
Danielle Evans, *Clerk*
Josh Safdie
Anne Brockelman
Elaine Severino
Drew Kane (Alt.)

Attest, by Planner:

Alexander Mello

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 _____

