



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

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Case #: ZBA 2016-76
Site: 0 Dane Street
Date of Decision: March 1, 2017
Decision: Petition Approved with Conditions
Date Filed with City Clerk: March 3, 2017

ZBA DECISION

Applicant Name:	A Team Somerville, LLC
Applicant Address:	320 Washington Street, Suite #3FF, Brookline, MA 02445
Property Owner Name:	Boston & Maine Railroad
Property Owner Address:	1700 Iron Horse Park, North Billerica, MA 01862
Agent Name:	Richard G. DiGirolamo, Esq.
Agent Address:	424 Broadway, Somerville, MA 02145

Legal Notice: Applicant, A Team Somerville, LLC, and Owner, Boston & Maine Railroad, seek Variances under §5.5 of the SZO to construct a 5-unit residential structure on an undersized lot, with non-conforming front* and rear* yard setbacks and non-conforming landscaped area*. Special Permits under Article 9 are required for a shared driveway and a reduction in parking by reducing the amount of standard-sized parking provided and replacing it with compact spaces.

<u>Zoning District/Ward:</u>	RC zone/Ward 2
<u>Zoning Approval Sought:</u>	§5.5 & Article 9
<u>Date of Application:</u>	July 14, 2016
<u>Date(s) of Public Hearing:</u>	11/2/16 – 3/1/17
<u>Date of Decision:</u>	March 1, 2017
<u>Vote:</u>	5-0



Appeal #ZBA 2016-76 was opened before the Zoning Board of Appeals at the Visiting Nurse Association on November 2, 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 Zoning Board of Appeals took a vote.

DESCRIPTION:

The proposal is to construct a new, 5-unit residential building with 10 inside bicycle spaces and combined inside and outside parking spaces for a total of 9 vehicles. Five (5) standard spaces will be provided and four (4) compact. There are three additional parking spaces shown on the abutting Village Street property, however, those spaces do not count toward the total parking provided for this project.

The proposal also calls for a patio made of permeable pavers. Decks are proposed for some of the units. A roof deck is also proposed.

FINDINGS FOR SPECIAL PERMIT UNDER ARTICLE 9:

In order to grant a special permit, the SPGA must make certain findings and determinations as outlined in Article 9 of the SZO. This section of the report goes through Article 9 in detail.

1. Information Supplied:

The Board finds that the information provided by the Applicant conforms to the requirements of Article 9 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."*

Regarding SZO Article 9

As presented, this proposal requires the Applicant to apply for a Special Permit under SZO §9.13.c which states that an easement must be obtained in order for a driveway on one lot to be used to lead to (a) parking space(s) on another lot. The Applicant must provide a copy of the easement to the City Solicitor for review and approval and file with the Registry of Deeds per the SZO.

This proposal also requires relief for the parking spaces provided for the site under SZO §9.17.2B which allows the SPGA to consider granting a Special Permit to allow for a greater number of compact parking spaces on a project instead of the standard size spaces.

The property is currently a vacant lot filled with trees and other vegetation, thus providing no parking. The 0 Dane Street proposal requires that **8.5 standard-size parking spaces** be provided based on the bedroom count distributed over the five units. The Applicant proposes a total of nine spaces. However only five (5) of those spaces are standard size and four (4) are compact. Ten (10) bicycle spaces are also proposed. One standard space is proposed in the left side yard with another four standard spaces proposed inside under the building. All four compact spaces are proposed for inside the building.

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 purpose of the RC district, which is: “...to 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.

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 of the ordinance Article as set forth in Section 9.1. The Board finds the project proposal to be consistent with those purposes as follows:

a. Promote traffic safety by assuring adequate places for storing of motor vehicles off the street, and for their orderly access and egress to and from the public street;

The Board finds that the proposal provides adequate off-street vehicular parking for the project by providing a combination of compact and standard parking spaces all located on the subject parcel.

b. Increase the traffic-carrying capacity of streets and highways in the City and obtain a more efficient utilization of on-street curbside parking;

The Board finds that this item is not applicable to the project proposal. All parking is provided off-street and on-site. There will be no alterations made to the surrounding city streets.

c. Reduce hazards to pedestrians;

While the project will increase the number of vehicles present in the neighborhood and using the surrounding city streets, Staff finds that the addition of nine (9) vehicles does not comprise a substantial increase in vehicular volume. The vehicles will be entering and exiting from an existing driveway with which the neighborhood is already familiar.

d. Protect adjoining lots and the general public from nuisances and hazards such as:

1) Noise, glare of headlights, dust and fumes resulting from the operation of motor vehicles,

The Board finds that the proposal mitigates these issues by placing all but one of the parking spaces inside the building. There is little to no exterior space that would allow for cars to be on and idling on the property, thus confining any such nuisances to a contained, yet ventilated space inside the building.

2) Glare and heat from parking lots,

There will be no parking lots on this property.

3) Lack of visual relief from expanses of paving, ,

There will be no paving on this parcel. All hardscapes walkable, parkable, or drivable surfaces will be conditioned to constructed of pervious pavers, natural stone or similar materials.

4) Accelerated run-off of surface water from land covered by impervious materials; and

The Board finds that there will be a minimum amount of pervious material on the site. (Conditions have been included in this report that to require stormwater mitigation plans to be presented to and approved by the Engineering department.)

e. Increase the number of locations bicycles can be safely secured in order to:



- 1) *Promote bicycle use throughout the City as a means to reduce motor vehicle traffic congestion, and*
- 2) *Encourage more active lifestyles as a means to improve public health and welfare, and*
- 3) *Prevent theft and vandalism of bicycles.*

The Board finds that the proposal to include 10 bicycle spaces inside the underground garage allows for residents to securely store their bicycles and helps to passively encourage more active lifestyles and bicycle use in the City.

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 between the intersection of Dane Street, Village Street and Dane Avenue and the railroad bridge on Dane Street. The entirety of Dane Street is an eclectic mix of older, single-story former industrial buildings and single-, double-, and three-family, wood-framed residential properties built in a traditional style (pitched roofs with gables fronting Dane Street and flat-topped triple decker). With the exception of one of two buildings of more contemporary styling on Village Street, the proposed structure would be the first of its style in the area.

Impacts of Proposal (Design and Compatibility):

The proposed structure would bring a completely different residential design style to the streetscape. There are myriad residential and commercial styles along Dane Street. Though this structure will be the only "modern" design in the immediate Dane Street area, the proposed structure is an opportunity to provide visual interest and visual relief from the oft-graffitied backsides of the commercial buildings lining the rail bed opposite this parcel.

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):

No adverse environmental impacts on the surrounding area are anticipated as a result of this project. The neighborhood can anticipate typical construction noise and related dust and dirt during the construction process. It would appear that the active railroad track which this property abuts might provide a greater means of bringing noise and depositing pollutants and other disagreeable materials and substances to the area than the construction and later habitation of the proposed structure would cause.

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):

The Board does not find that 9 additional motor vehicles on this street will be significantly more detrimental to the traffic situation in this location as not all vehicles will enter and exit the property at the same time. Circulation patterns on Dane Street will remain the same. The vehicles will be entering and



exiting the property via an existing driveway known to the neighborhood and will have access to sufficient on-site parking.

The plan also calls provides for separate paths for pedestrian access to the building including a handicapped-accessible ramp facing Dane Street.

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

This project will not add any additional affordable housing units to the City's affordable housing stock.

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.*

This proposal will add five new residential units to the City's housing stock.

FINDINGS FOR A VARIANCE

5.5.3. Authorization and Conditions for Variances. A variance from the requirements of this Ordinance may be authorized by the Board of Appeals only for reasons of practical difficulty and substantial hardship, and only where the Board finds that all of the following conditions apply:

(a)

There are special circumstances relating to soil conditions, shape or topography of land or structures which especially affect such land or structures but not affecting generally the zoning district in which it is located, causing a substantial hardship, financial or otherwise.

Applicant Narrative: The existing lot is existing non-conforming as to minimum lot size and requires a variance for any proposed work. The proposed work would dimensionally comply to the zoning ordinance with respect to density and massing.

Board's Response: In the RC zone, the minimum lot size required is 7,500 square feet. This parcel is just shy of that amount at 7,295+/- square feet. The Applicant has provided documentation that this parcel was the subject of a land taking approximately 30 years ago, resulting in the loss of a few hundred square feet of land. As a result of this taking, the property was rendered unbuildable according to the SZO. The Board finds that this taking constitutes a hardship under item A of the variance criteria.

(b)

The specific variance as may be granted by the Board is the minimum variance that will grant reasonable relief to the owner, and is necessary for a reasonable use of the building or land.



Applicant Narrative: The existing lot is existing non-conforming as to minimum lot size and requires a variance for any proposed work. The proposed work would dimensionally comply to the zoning ordinance with respect to density and massing.

Board's Response: The granting of this Minimum Lot Size Variance is the minimum variance that would allow any owner to build on the lot. This Variance is necessary for any reasonable use of the land that involves building a structure.

(c)

The granting of the variance will be in harmony with the general purpose and intent of this Ordinance and will not be injurious to the neighborhood or otherwise detrimental to the public welfare. In addition to considering the character and use of the nearby buildings, the Board, in making its findings, shall take into account the number of persons residing or working in such buildings or upon such land, and the present and probable future traffic conditions.

Applicant Narrative: Any work on the existing non-conforming lot requires a variance. The proposal will comply with the zoning ordinance dimensionally with respect to density and massing. The proposal will be in character with its residential surrounding and in scale with its neighboring multi-family developments.

Board's Response: The proposal is consistent with the zoning ordinance for uses and dimensions in RC zones in every way except for total lot area. Granting a Variance to allow for the construction of this 5-unit residential property will not be detrimental to the public welfare. Instead, the proposal will activate a lot that directly abuts an active rail bed - a challenging location on which to create a palatable experience for residents. As noted earlier in this staff report, though the design of the proposed building differs from that of other residential structures in the area, the multi-family residential use is compatible with the RC zone and with the surrounding neighborhood. Earlier findings in this report determined that the increased number of vehicles on the street (9) would not negatively impact the traffic situation currently extant on the street.

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 Variance and 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 special permit and variance to build on an undersized lot, to build 5 units in an RC Zone and for relief to provide more compact parking. 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>2/1/2016</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>6/09/2016</td> <td>Modified plans submitted to OSPCD (1-16)</td> </tr> <tr> <td>November 30, 2016</td> <td>Final Plans submitted to OSPCD</td> </tr> <tr> <td>February 10, 2017</td> <td>Updated final plan set submitted to OSPCD</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	2/1/2016	Initial application submitted to the City Clerk's Office	6/09/2016	Modified plans submitted to OSPCD (1-16)	November 30, 2016	Final Plans submitted to OSPCD	February 10, 2017	Updated final plan set submitted to OSPCD
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Any changes to the approved site plan or elevations/use that are not <i>de minimis</i> must receive SPGA approval.														
Pre-Construction														
2	The Applicant must contact the Engineering Department to obtain a street address prior to a building permit being issued.	BP	Eng.											
3	The Applicant shall provide a copy of the easement that was secured in order for residents of 0 Dane to access their parking area from the abutting property prior to the issuance of a building permit.	BP	City Solicitor/ proof to Plng & ISD											
4	The Applicant will be required to demonstrate that the updated project plans meet the current City of Somerville stormwater policy. Utility, grading, and drainage plans must be submitted to the Engineering Department for review and approval before a building permit will be issued.	BP	Eng.											
5	The Applicant shall submit a proposed grading and drainage plan, stamped by a registered PE in Massachusetts that demonstrates compliance with the City's stormwater policy. This plan shall be reviewed and approved by the Engineering Department prior to the issuance of a building permit.	BP	Eng.											



6	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	
7	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	Lights & lines / wiring	
8	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.	
9	The Applicant shall provide their parking plan to the Traffic & Parking division for their review and approval prior to receiving a building permit.	BP	T&P	
10	The Applicant will 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 will include delivery windows for construction equipment.	BP	T&P	
Construction Impacts				
11	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	Plng.	
12	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
13	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	
14	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	



15	The Applicant will 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.	BP	T&P	
Design				
16	Applicant shall provide final material samples for siding, trim, windows, and doors to Planning Staff for review and approval prior to construction and prior to the issuance of a building permit.	BP	Plng.	
17	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	
18	Windows shall not present a reflective quality in any way.	Final Sign off / CO	ISD/Plng	
Site				
19	Landscaping shall be installed and maintained in compliance with the American Nurserymen's Association Standards.	CO – installation / Perpetual - maintenance	Plng. / ISD	
20	Applicant shall present a landscaping plan to Planning Staff for their review and approval prior to the issuance of a Building Permit. ANY changes to said plan shall be reviewed and approved by Planning Staff prior to installation.	BP	Plng./ ISD	
21	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	
22	Applicant shall supply secure inside bicycle parking on-site for 10 bicycles (this doesn't include space within the units).	CO	Plng.	
23	All exterior drivable, parkable or walkable surfaces (meaning sidewalks) shall be constructed of pervious pavers, stone, or similar. No asphalt shall be used in any way on this project.	CO	Plng.	
Traffic & Parking				
24	The Applicant shall engage Design Consultants to re-design the curb cut to prevent left-hand turns out of the property. Signage indicating as such may also be included. Planning, Engineering, Traffic & Parking and Highways shall all review and sign off on this part of the proposal prior to any activity to implement this traffic controls being undertaken.	BP and re-check upon CO		
Public Safety				
25	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
26	Any transformers shall be located as not to impact the historic building or landscaped area, and shall be fully screened.	Electrical permits & CO		
27	The building shall be sprinkled.	CO	FP/ISD	
Final Sign-Off				



28	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.	
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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 _____

