



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2018-109
Site: 11 Fiske Avenue
Date of Decision: February 20, 2019
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: February 27, 2019

ZBA DECISION

Site: 11 Fiske Avenue
Applicant Name: Jason Santana/North America Development, LLC
Applicant Address: 93 Broadway, Somerville, MA 02145
Owner Name: Genevieve M. Belew
Owner Address: 11 Fiske Avenue, Somerville, MA
City Councilor: Mark Niedergang

Legal Notice: Applicant, Jason Santana, North American Development, LLC, and Owner, Genevieve M. Belew, seek special permits under §4.4.1 of the SZO to alter a non-conforming structure through the upward and linear extension of the non-conforming left side yard setback, increasing the GFA by more than 25%. Number of units to increase from one to two. Parking relief under Article 9 of the SZO. RB zone. Ward 5.

<u>Zoning District/Ward:</u>	RB zone. Ward 5.
<u>Zoning Approval Sought:</u>	SZO §4.4.1 and Article 9
<u>Date of Application:</u>	August 2, 2018
<u>Date(s) of Public Hearing:</u>	10/3, 11/7, 11/28, 12/12, 1/9, 1/23, 2/6, 2/20
<u>Date of Decision:</u>	February 20, 2019
<u>Vote:</u>	4-0

Case # ZBA 2018-109 was opened before the Zoning Board of Appeals in the Aldermanic 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 February 20, 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, single-family residential structure situated on a 3,085 square foot lot in the RB zone. The property is one street in from Medford Street and the heart of Magoun Square. The property directly abuts the Olde Magoun’s Saloon locale at the rear. Fiske Avenue is a one-way street that flows toward Lowell.

2. Proposal: The entire property will be overhauled. The Applicant proposes increasing the number of units from one to two. The gable roof will be removed and a Mansard style roof constructed. The overall height of the building will increase from 28’2” to 33’4”.

Left side yard setback

The left side yard setback is currently 3’6” from the property line. The proposal to raise the height of the building will result in the upward extension of this non-conforming setback.

Gross Floor Area (GFA)

Due to the increased square footage being added through the construction of the Mansard-style roof along with the rear addition, the GFA of the property will increase by more than 25%.

Parking

The property is non-conforming with regard to legal parking spaces and contains only one legal parking space. Only one parking space can be provided under the proposed conditions. Parking relief for two (2.0) spaces is needed.

3. Green Building Practices:

The application states the following: “Limitation of demo material, recycling where possible to reduce solid waste disposal. Use of water saving plumbing fixtures. Use of energy efficient lighting. Reduction of non-permeable asphalt paving. Addition of non-invasive species landscape planting.”

4. Comments:

Councilor Niedergang is aware of this project and sponsored two neighborhood meetings on this project.

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.”

Left side yard setback

The RB zone requires a left yard setback of 8 feet. The existing setback is non-conforming at at 3’6” from the property line. The upward extension of this non-conformity will increase the massing along the left elevation of the property and increase shadowing on the left-abutting property. This left-abutting structure is also non-conforming with regard to its distance from their right property line.

Gross Floor Area (GFA)

When the GFA of a property is increased by more than 25%, a special permit is required. Due to the increased space created by the construction of a full third story along with the increase in footprint and living area due to an addition at the rear of the building, the GFA will increase by more than 25%.

Parking

The Board noted in the “Proposal” section of this report that the property is already non-conforming with regard to legal parking spaces. The Applicant proposes that the property continue to be non-conforming with regard to parking. The assessment regarding relief for number of parking spaces appears below:

Unit #	Existing BDR	Existing Req. Pkg.	Proposed BDR	Proposed Req. Pkg.
1	3	2.0	3	2.0
2	n/a	n/a	3	2.0

TOTAL: 2.0

TOTAL: 4.0

Formula: *new parking requirement – old parking requirement = # additional spaces needed*

11 Fiske: 4.0 – 2.0 = 2.0 spaces of relief needed

Other determinations

Fiske Avenue is a one-way street bound by Medford Street, Lowell Street and Hinckley Street. Single and two-family residential structures, mostly of gable-fronted styling are found along the street. The Board has provided an aerial view of 11 Fiske to illustrate the immediate location and the general massing of the immediately-surrounding structures.

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



Due to the conversion of the structure from a single-family to a two-family, the introduction of another residential unit on the site along with the inclusion of additional bathrooms and added persons living on the parcel, there will be more demand placed on the City's water supply and sewer system. 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.

In general, taken independently, the increase of one residential unit, even one with one or more vehicles associated with it, would not substantially increase the traffic volume in the immediate area. Due to residents coming and going from any property at staggering times, additional traffic congestion is not anticipated. It is certainly possible that there will be additional cars parked along Fiske Street. There will be enough space in the driveway for two cars, however, these cannot be considered legal parking spaces for zoning purposes. That said, this property is around the corner from the heart of Magoun Square and close to Broadway. Both areas are very well served by public transportation.

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 RB zone which are "[t]o 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."

There is no part of this proposal, as conditioned, that the Board finds to be inconsistent with the purposes of the RB 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 add one residential unit to the City's available housing stock.

III.DECISION:

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans, and Elaine Severino. 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 increase the number of dwelling units from one to two, upward extension of the non-conforming left side yard setback, increase in GFA by more than 25%, relief for two parking spaces.	BP/CO	ISD/Plng.							
	<table border="1"> <thead> <tr> <th>Date</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>August 2, 2018</td> <td>Application submitted to City Clerk's office.</td> </tr> <tr> <td>December 13, 2018</td> <td>Updated plans submitted to OSPCD</td> </tr> </tbody> </table>				Date	Submission	August 2, 2018	Application submitted to City Clerk's office.	December 13, 2018	Updated plans submitted to OSPCD
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December 13, 2018	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 including, but not limited to I/I payments.</p>	BP	Engineering/ISD							
3	The Applicant must comply with all Engineering requirements pertaining to finishing basements.	BP/CO	Engineering/ISD							
Design										
4	<p style="color: red;"><u>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. Vinyl-based products will not be considered.</u></p>	BP	ISD/Plng							
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	<u>The name(s) and contact information of all entities working on the site shall be posted in an area easily-visible from the public way for the passing public to read.</u>	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	
Site				
9	The driveway and parking area shall be constructed of permeable pavers or pea stone.	BP	ISD/PIng	
10	All hardscaping to be used on the property shall first be reviewed and approved by Planning Staff prior to the issuance of a building permit.	BP	ISD/PIng	
11	All bituminous material and/or cement used for driveways, walkways, parking areas, patios, and the like shall be removed from the property.	CO	ISD/PIng	
12	All garbage and recycling shall be stored out-of-view of the public way and shall be screened.	Perpetual	ISD/PIng	
Public Safety				
13	The Applicant or Owner shall meet the Fire Prevention Bureau’s requirements.	CO	FP	
14	All exterior lighting on the site shall be downcast and shall not cast light onto surrounding properties in any fashion.	CO	ISD	
15	In accordance with City of Somerville ordinances, no grills, barbeques, chimineas or the like shall be allowed on decks and porches. This shall be written into any rental agreements or condo documents. Proof thereof shall be presented to Planning Staff/ISD prior to the issuance of a Certificate of Occupancy (CO)	CO/Perpetual	ISD/PIngFP	
Miscellaneous				
16	Venting and piping shall be painted or wrapped the same color as the exterior of the house from which they protrude.	CO	ISD/PIng	



17	Utility meters shall not be installed on the front façade of the structure.	CO	ISD/Plng	
18	All new or enlarged window openings that are located 3 feet or less from a property line are required to be fire-rated, inoperable per building code. The Applicant shall work with ISD to ensure compliance.	CO	ISD	
19	The Applicant shall test the left-abutting property for any moisture-related issues along the left elevation of the abutting property only. The Applicant shall perform this test prior to the start of the construction process in order to obtain a baseline for any moisture issues. The Applicant shall install a moisture monitoring system that will track moisture in this part of the structure in the future so that the left-abutting property owner can monitor moisture levels.	Prior to start of construction/CO	ISD	
Final Sign-Off				
20	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/Plng.	



Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Chairman*
Danielle Evans, *Clerk*
Elaine Severino
Richard Rossetti

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 _____

