



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2018-117
Site: 22-24 Fountain Avenue
Date of Decision: November 7, 2018
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: November 15, 2018

ZBA DECISION

Applicant Name: Anthony J. Megna
Applicant Address: 11 Wheatland Street, #3, Somerville, MA 02145
Owner Name: Prospect Realty Advisors
Owner Address: 419 Mount Auburn Street, Watertown, MA 02472
Alderman: Matthew McLaughlin

Legal Notice: Applicant, Prospect Realty Advisors, Inc. and Owner, Anthony J. Megna, seek Special Permits under §4.4.1 of the SZO to alter a non-conforming property by increasing the gross floor area (GFA) by more than 25% after moving the existing building to the front of the property and adding a rear addition. Special Permit for a non-conforming rear yard setback. Parking relief under Article 9 of the SZO. RB zone. Ward 1.

<u>Zoning District/Ward:</u>	1
<u>Zoning Approval Sought:</u>	§4.4.1 and Article 9
<u>Date of Application:</u>	August 22, 2018
<u>Date(s) of Public Hearing:</u>	11/7
<u>Date of Decision:</u>	November 7, 2018
<u>Vote:</u>	5-0

Appeal #ZBA 2018-117 was opened before the Zoning Board of Appeals in the Aldermanic Chambers at Somerville City Hall on November 7, 2018. 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 November 7, 2018 the Zoning Board of Appeals took a vote.



CITY HALL • 93 HIGHLAND AVENUE • SOMERVILLE, MASSACHUSETTS 02143
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DESCRIPTION:

The Applicant proposes taking the existing structure and moving it forward on the lot such that it complies with the required front yard setback for the RB zone. A large rear addition will be added to this structure in order to provide a second residential unit on the premises. The front door of the new unit will face the public way. The existing structure will be re-sided, architectural features refreshed and the chimneys retained. The property will be re-landscaped.

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."*

Regarding §4.4.1

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."

Rear yard setback

The existing rear yard setback is 4' ¾" from the property line in a zone where a 20 foot rear yard setback is required. Through this proposal, the Applicant will improve this rear yard setback, increasing the distance from the rear façade of the new addition to the property line by just over seven feet (7). The new rear yard setback will be 11' 6".

Gross Floor Area (GFA)

Section 4.4.1 of the SZO requires a special permit when the Gross Floor Area (GFA) of a property increases by more than 25%. As noted earlier in this report, the Applicant proposes increasing the GFA by 41%. This increase is achieved by increasing the building footprint from 909 square feet to 1,533 square feet. By increasing the building footprint, the Applicant is able to create a second unit on the property that provides meaningful living space for future residents.

Regarding Article 9 of the SZO

Parking

The proposal required parking relief for one (1.0) space, as described by the Board at the outset of this report. Fountain Avenue is located in close proximity to several bus lines and a future T station. Nearby bus lines include the 90 at Cross and Flint Street, the 80 at Pearl and Cross and, slightly further away, the 88 (& 90) at Highland Avenue.



Additional Determinations

In addition to the considerations discussed above, the Board does not anticipate that this proposal will increase noises or odors in this neighborhood. 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 the Engineering Department 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.

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.” The one-to-two unit proposal is consistent with what is allowed in the RB zone from a site density perspective.

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."*

Fountain Avenue contains mostly one- and two-family homes with one three-unit triple decker and a four-unit property on the street as well. Creating a two-family residential structure on the site of 22-24 Fountain Ave is consistent with the use of other residential structures on the street.

22-24 Fountain Avenue has been in need of revitalization for some time. The renovation of the existing building, the proposed addition related site and façade improvements will provide a significant upgrade to this parcel. Moving the existing structure forward onto the lot such that the front façade of the house is in line with those of adjoining residential structures fills a “gap tooth” along the public way, helping to create a clean visual line along the streetscape.

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 will add one more dwelling unit to the City’s housing stock. This proposal also meets the goal of preserving our residential neighborhoods and retaining a property that was deemed to be “historically significant” to the City.

DECISION:

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans, Elaine Severino, and Anne Brockelman. Upon making the above findings, Richard Rossetti made a motion to approve the request for a Special Permit with Site Plan Review and Variance. Elaine Severino seconded the motion. 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 to increase the GFA by more than 25% through the construction of a large, rear addition; improve the non-conforming rear yard setback (but to remain non-conforming); relief for one parking space.	BP/CO	ISD/Plng.							
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>August 22, 2018</td> <td>Application submitted to City Clerk's office.</td> </tr> <tr> <td>October 5, 2018</td> <td>Updated plans submitted to OSPCD</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	August 22, 2018	Application submitted to City Clerk's office.	October 5, 2018	Updated plans submitted to OSPCD
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<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>										
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/Plng							
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 <u>on the project site</u> . 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 easily-visible from the public way for the passing public to see.	During Construction	ISD							
5	Construction shall be limited to M-F 7:30am – 5:00pm. No weekend/holiday construction or construction-related work shall occur.	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 new 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	Engineering/ISD	
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	All exterior lighting on the site shall be downcast and shall not cast light onto surrounding properties in any fashion.	CO	ISD/PIng.	
11	In accordance with City of Somerville ordinances, no grills, barbeques, 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/PIngFP	
Site				
12	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/PIng	
13	No vents shall exit on the front 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/PIng	
14	Utility meters shall not be installed on the front façade of the building.	CO	ISD/PIng	
15	All bituminous material shall be removed from the site.	CO	ISD/PIng	
16	All materials for hardscaping shall be submitted to Planning Staff for their review and approval prior to the issuance of a building permit	BP	ISD/PIng	
17	Vinyl siding, trim, fencing, or decking material shall not be used on this site	CO	ISD/PIng	
18	All mechanicals shall be screened from view from the public way. All screening materials shall be reviewed and approved by Planning Staff prior to installation.	CO	ISD/PIng	
19	The location of mechanicals (such as AC condensers) shall be first reviewed and approved by the Zoning Review Planner prior to their installation.	BP	ISD	
20	Garbage and recycling shall be stored out-of-view from the public way and shall be screened. Screening material and storage location shall first be reviewed and approved by Planning Staff	CO	ISD	
Final Sign-Off				



21	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
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 _____

