



**CITY OF SOMERVILLE, MASSACHUSETTS**  
**MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT**  
**JOSEPH A. CURTATONE**  
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EXECUTIVE DIRECTOR

**PLANNING DIVISION STAFF**

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MONIQUE BALDWIN, *ADMINISTRATIVE ASSISTANT*

**Case #:** ZBA 2017-50/R1-130  
**Date:** April 3, 2019  
**Recommendation:** Amend condition

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**PLANNING STAFF MEMO**

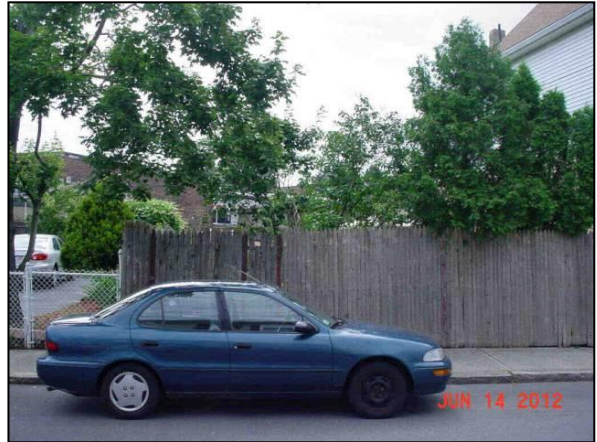
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**Site:** 84 Franklin Street

**Applicant & Owner Name:** 84 Franklin LLC  
**Applicant & Owner Address:** 12 Oakley Road,  
Belmont, MA  
**Agent:** Chris Poli  
**Agent Address:** 12 Oakley Road Belmont, MA  
02478

**Ward Councilor:** Matthew McLaughlin

**Legal Notice:** Applicant, Novo Development Holdings, LLC, and Owner, 84 Franklin Street, LLC, seek relief under §5.3.8 of the SZO to revise a previously-granted Special Permit. RB zone. Ward 1.



**Dates of Public Hearing:** April 3, 2019

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## **I. DESCRIPTION**

### **Background**

On April 4, 2018, the ZBA granted Special Permits and a Special Permit with Site Plan Review (SPSR) to 84 Franklin Street. The crux of the approval centered around the construction of a second principal structure on the same lot. Twenty-four (24) conditions were attached to the approval. (Decision attached to this staff memo for reference.)

In the intervening months, one of the conditions, condition #13, was violated by the Applicant. Condition #13 of the original approval states as follows:

13	The Applicant shall retain a certified arborist, and show proof to the City thereof, to assess the fruit trees located in the disputed land area with 82 Franklin Street. Irrespective of the outcome of the property dispute, the Applicant shall present to the City a plan that the Applicant shall implement to protect the fruit trees and their root systems from construction impacts.
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The Applicant failed to protect the root system of a peach tree located in the disputed land area with 82 Franklin Street. During and immediately subsequent to excavation for the foundation of the new structure, the root system of this tree was significantly damaged. Informal consultation with the City arborist<sup>1</sup> by Planning Staff confirmed Staff's concerns regarding the future viability of this tree. In the City arborist's opinion, the peach tree may or may not live up to another two or so years due to the damage its root system has experienced.

The Applicant has informed Planning Staff that protecting the tree roots would have prevented them from constructing the foundation of the new building in the required location. Once the excavation work for the foundation was performed, heavy rains ensued. This resulted in site erosion, which exposed the roots of the fruit tree. **Staff notes that the Applicant should have consulted with Planning Staff on this issue prior to undertaking an action that violated a condition of their approval.**

The Applicant is now before the ZBA, as directed by Planning Staff, to amend Condition #13 in order to address the issue of this tree.

#### **Matters Outside of ZBA Purview**

There are other on-going private property disputes between the owners of 84 Franklin and 82 Franklin. These issues involve, among other things, the loss of two raspberry bushes from the 82 Franklin St. property which slid into the foundation pit, and damage to fencing. Neither of these issues are under the purview of the ZBA.

These issues as well and similar might be brought up by the abutter and/or Applicant during the ZBA hearing. However, these issues are **NOT** in the ZBA's purview to assess, negotiate, or alleviate and cannot be entertained by the ZBA. **These are private matters that the City cannot and will not get involved in, the Planning Department, ISD, and the ZBA included.** These and related matters can only be addressed between the conflicting parties (82 and 84 Franklin) and their attorneys.

#### **Matters Within ZBA Purview**

The only item that is under the ZBA's purview is the matter of amending Condition #13. Staff recommends revising Condition #13 as follows (revision language in ***red bold italics*** below):

***Due to violating the original terms of Condition #13, the Applicant shall retain a certified arborist to assess the damage to the root structure of the peach tree. The arborist shall submit to Planning Staff, through CitizenServe, their assessment of the tree. If the arborist determines that, due to the damage done to the tree, it is reasonable to conclude that said damage will result in the imminent death of the***

<sup>1</sup> NOTE: The City Arborist does not and will not assess trees on private property. The City Arborist is responsible only for City-owned trees. The City arborist reviewed photos of the tree root damage as a professional courtesy to Planning Staff colleagues only.

*tree within the next 2 years, then the Applicant shall, at the conclusion of the project, but before the issuance of a Certificate of Occupancy do the following:*

- *Plant a peach tree of the same species in a location mutually-agreeable to the Applicant and the owner of 82 Franklin Street.*
- *The tree shall be of a caliper of 3 inches (no greater than 3 inches). While this is smaller than the caliper of the existing tree, a 3-inch caliper tree requires a minimum three-foot diameter root ball in order to survive transplant.*
- *The Applicant shall enter into a contract with a certified, insured company to regularly water and otherwise maintain the tree for one year, starting at transplant, to help ensure the survival of the transplanted tree.*
- *The Applicant shall upload this signed contract to CitizenServe prior to the issuance of the Certificate of Occupancy.*

## **II. RECOMMENDATION**

Staff recommends that the original Condition #13 be struck from the approval and that the language indicated above for a new Condition #13 be inserted in its place.



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MICHAEL F. GLAVIN  
EXECUTIVE DIRECTOR

PLANNING DIVISION

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**Case #: ZBA 2017-50**  
**Site: 84 Franklin St**  
**Date of Decision: April 4, 2018**  
**Decision: Petition Approved with Conditions**  
**Date Filed with City Clerk: April 18, 2018**

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**ZBA DECISION**

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**Applicant & Owner Name:** 84 Franklin LLC  
**Applicant & Owner Address:** 12 Oakley Road, Belmont, MA  
**Agent:** Sean O'Donovan, Esq.  
**Agent Address:** 741 Broadway, Somerville, MA 02144

**Alderman:** Matthew McLaughlin

Legal Notice: Applicant and Owner, 84 Franklin LLC, seeks a Special Permit with Site Plan Review (SPSR) under §7.1 to erect a second principal structure on the same lot, §7.11 of the SZO to increase the number of units from two to three, §4.4.1 to extend existing non-conformities, including increasing the FAR by more than 25%, and Article 9 for parking relief. RB zone. Ward 1.

<u>Zoning District/Ward:</u>	RB Zone. Ward 1
<u>Zoning Approval Sought:</u>	§4.4.1, §7.1, §7.11
<u>Date of Application:</u>	May 10, 2017
<u>Date(s) of Public Hearing:</u>	1/31/18, 2/14/18, 3/7/18, 3/21/18, 4/4/18
<u>Date of Decision:</u>	April 4, 2018
<u>Vote:</u>	5-0

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Appeal #ZBA 2017-50 was opened before the Zoning Board of Appeals in the Visiting Nurse Association, 3rd Floor Community Room, 259 Lowell Street, Somerville, MA. 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 three hearings of deliberation, the Zoning Board of Appeals took a vote.



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## **I. DESCRIPTION:**

The Applicant proposes to construct a new, 2 ½-story, narrow single-family residential structure in the left side yard of the combined 84-86 Franklin street properties. A new curb cut will be needed to support one new on-site parking space. This curb cut must be approved through the combined review of ISD/Planning, Engineering, and Highways.

## **II. FINDINGS FOR SPECIAL PERMIT with SITE PLAN REVIEW (SZO §5.2) and FINDINGS FOR SPECIAL PERMITS (SZO §4.4.1, §7.11, Article 9)**

*In order to grant a special permit, the SPGA must make certain findings and determinations as outlined in §5.1.4 of the Somerville Zoning Ordinance (SZO). Also, in order to grant a special permit with site plan review, the SPGA must make certain findings and determinations as outlined in §5.2.5 of the SZO. This section of the report goes through §5.1.4 and 5.2.5 in detail.*

### **1. Information Supplied:**

The Board finds that the information provided by the Applicant conforms to the requirements of §5.2.3 of the SZO and allows for a comprehensive analysis of the project.

**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 with site plan review.”*

In circumstances where more than one principal structure is proposed in the RB zone, a Special Permit with Site Plan Review (SPSR) is required.

### **Nature of Application:**

#### **FAR (§4.4.1 of the SZO)**

The property is located in the RB zoning district where the FAR is 1.0. The property currently presents an FAR of .42. The Applicant proposes increasing the FAR on the property by more than 25% to .83 through the construction of the single-family dwelling house. This increase of more than 25% of FAR triggers a special permit request.

#### **GFA (§4.4.1 of the SZO)**

Similarly, the gross floor area (GFA) will increase by more than 25% due to the construction of the single-family dwelling house. The current GFA is represented as 926 square feet. This will be increased to 1,629 square feet, an increase of more than 25%, thus triggering a special permit request.

#### **Increase number of dwelling units (§7.11 of the SZO)**

The applicant proposes increasing the number of dwelling units on the property from two to three.

#### **Erect second principal structure on the same lot (§7.1 of the SZO)**

In order to have more than one principal structure on the same lot in the RB zone, an Applicant must request a special permit to do so. The request to construct the single family home in the left side yard triggers the need for this relief.



Parking (§9.13 of the SZO)

The data and calculations for parking appear below:

Dwelling Area	Existing Bdrs.	Parking Req.	Dwelling Area	Proposed Bdrs.	Parking Req.
Unit 1	2	1.5	Unit 1	2	1.5
Unit 2	2	1.5	Unit 2	2	1.5
Unit 3 (new structure)	n/a	n/a	Unit 3 (new structure)	3	2.0
<b>Total: 3</b>			<b>Total: 5</b>		

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

**84 (86) Franklin Street:**  $5 - 3 = 2$

The new site can provide one additional parking space. Therefore, relief for one (1) parking space is needed.

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

**§4.4.1 of the SZO**

**This portion of the SZO 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...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.”**

While the existing structure on the lot is non-conforming with regard to many of its setbacks, the Applicant’s proposed new, single-family structure will be compliant with all setbacks for the RB zone, as evidenced below:

- Right side yard:** 27.7 feet (distance from new structure to the right property line)
- Left side yard:** 8 feet
- Front yard:** 10 feet
- Rear yard:** 20.1 feet

The Applicant requires relief under §4.4.1 of the SZO to increase both the FAR and the GFA by more than 25%. The increases in both of these numbers result from the construction of a free-standing single-family dwelling house in what has become the left side yard of the combined properties. The increase in FAR from .42 to .86 leaves the property under the maximum allowable FAR of 1.0 for this zone. The increase in GFA is produced by the construction of the new structure. The construction of this building will change the visual effect of the neighborhood by its very presence. The updated proposal presents a flat roof structure that is more “modern” in its style than the gable-fronted buildings currently extant on this street. However, the single-family use of this structure and its newly-diminished scale are in keeping with other uses in the neighborhood and with the scale/massing of other residential structures nearby.



The left side yard is a small, narrow grassy area that, as a stand-alone lot, would be unbuildable. As noted at the outset of this report, since this lot and 86 Franklin are now under common ownership, they are considered combined for zoning purposes. This situation allows the owner to petition to put a second principal structure on the combined lot.

The 2-story structure being proposed presents a narrow width when compared to other residential structures in the neighborhood. It might be argued that the narrowness of this structure will help reduce any impact of bulk and massing along the street front.

***traffic volumes, traffic congestion, adequacy of municipal water supply and sewer capacity, noise, odor, scale, on-street parking, shading, visual effects and neighborhood character***

As proposed, the project site will be able to support two legal parking spaces for three units. Unless, after the project is complete, occupants of the units work out a tandem parking agreement amongst themselves, it is possible that one car will be added to any available on-street parking.

Regarding impacts on the municipal water supply and sewer capacity, the addition of one more 3-bedroom structure alone will not have a significant impact on these city systems. That said, the Applicant will be required to submit all of their civil plans to the Engineering Division where all impacts on water/sewer and storm water management will be reviewed for compliance/impacts. The Engineering Division will determine if the proposal is in compliance with their requirements.

During the construction phase, the neighborhood can expect to experience the normal odors, dust, and noise typically associated with construction projects. After the build is complete, the Board anticipates that any odor/dust/noise volumes will be typical for life in an urban setting.

**3. Purpose of District: *The Applicant has to ensure that the project "is consistent with the intent of the specific zoning district as specified in Article 6".***

The Board finds that the proposal conforms with the purpose of the RB zone which is: *"to 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."*

**4. Site and Area Compatibility: *The Applicant has to ensure that the project "(i)s designed in a manner that is compatible with the existing natural features of the site and is compatible with the characteristics of the surrounding area, and that the scale, massing and detailing of the buildings are compatible with those prevalent in the surrounding area".***

***Surrounding Neighborhood:*** The subject property is three parcels up from Washington Street, a major thoroughfare in the City. The surrounding neighborhood on Franklin Street and Franklin Avenue presents multiple 2 ½-story gable-front one-and-two-family residential structures along with a couple of multi-family properties. Interspersed with the residential structures are two large, single-story commercial buildings onto which this property backs. A community garden is located a couple of parcels away. Michael's Bar is sited at the corner of Franklin and Washington and the Capuano Early Childhood Learning Center and its associated large school building and field is also located just a couple of parcels from the project site.



*Impacts of Proposal (Design and Compatibility):* The proposed flat roof and “modern,” more minimalist styling sets this building apart from others in the neighborhood. As noted earlier, however, narrower form and, now, overall smaller size will help lessen the visual impact of the new structure. The immediate area contains gable-fronted residential structures as well as low commercial buildings, a school and some multi-family buildings. Though this new building may present updated styling to this neighborhood, this does not mean that this cannot be complimentary to the immediate community.

Applications for Special Permits with Site Plan Review in Residence Districts must meet the design guidelines under SZO §5.2.4. The design guidelines for residential districts are as follows:

- a. ***Buildings should be generally of the same size and proportions as those existing in the neighborhood. This shall apply in cases of multi-family development as well as one-, two-, and three-family units. For example, if relatively small two- and three-family structures are common in a neighborhood where multi-family development is proposed, the multi-family development should be physically broken into components that, from a design perspective, are housed in buildings of similar width, depth, and height as those typically found in the neighborhood.***

The proposed structure is narrower than similar structures extant in the neighborhood. The height of the new proposed building is less than that of immediately surrounding buildings. The Board finds that overall the proposed massing of this structure works well with the immediate neighborhood and does not overwhelm abutting properties.

- b. ***Use of traditional and natural materials is strongly encouraged (e.g. wood clapboard, wood shingles, brick).***

The new building is contemporary in its styling. A combination of metals, brick, wood and cementitious-based products are proposed.

- c. ***Additions to existing structures should be consistent with the architecture of the existing structure in terms of window dimensions, roof lines etc.***

N/A

- d. ***Although additions should not clash with or be incompatible to the existing structure, it is acceptable and even desirable for the new construction to be distinguishable from the existing building, perhaps by maintenance of design elements of the original building that would otherwise be lost (e.g. false rakes, fasciae, and the like).***

- e. N/A

- f. ***Where practical, new or infill building construction should share the same orientation to the street as is common in the neighborhood. When not contrary to any other zoning law, front and side yards should be of similar dimensions as those typical in the area.***

The proposed structure has its front façade oriented to the street as do the other properties of similar form, style and massing in the neighborhood. The proposed structure will also conform to front, rear, left and right side yard setbacks.





- g. *Driveways should be kept to minimal width (perhaps a maximum of twelve (12) feet), and be designed so that no vehicle parked on the drive may straddle the public sidewalk in any way. Low barriers or plantings may be required to separate the parking area from the pedestrian space.*

The proposed driveway off of Franklin Street will be 9 feet wide, which is the required width for a standard parking space (8 feet is the minimum width required for a driveway). The proposed drive/parking space will not cause a vehicle to straddle the public sidewalk and will allow the car owner to park the vehicle such that it does not break the front plane of the house.

- h. *Transformers, heating and cooling systems, antennas, and the like, should be located so they are not visible from the street or should be screened.*

This decision has been conditioned to address these concerns.

- i. *Sites and buildings should comply with any guidelines set forth in Article 6 of this Ordinance for the specific base or overlay zoning district(s) the site is located within.*

The RB portion of this proposal conforms with the purpose of the RB zone which is: “to 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 proposal includes a studio, one-, two- and three-family residential units which the Board finds to be compatible with and convenient to the residents of the district.

**5. Functional Design: *The project must meet “accepted standards and criteria for the functional design of facilities, structures, and site construction.”***

The site meets the acceptable standards for a functional design. The site is designed with short driveway leading to a 9x18 standard parking space that will be created with pervious pavers.

**6. Impact on Public Systems: *The project will “not create adverse impacts on the public services and facilities serving the development, such as the sanitary sewer system, the storm drainage system, the public water supply, the recreational system, the street system for vehicular traffic, and the sidewalks and footpaths for pedestrian traffic.”***

There will be some increase in the utilization of the City’s street system given that a new dwelling structure is being added to the municipality.

**7. 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.”***

The proposed residential use will not adversely impact the environment. No new noise, glare, smoke, vibration, nor emissions of noxious materials, nor pollution of water ways or ground water, nor transmission of signals that interfere with radio or television reception are anticipated as part of the



proposal. Typical construction noise for a project this size can be expected. That said, from a noise perspective, the ZBA should note that the property is very close to Washington Street, a major thoroughfare and is flanked by several non-residential uses.

**8. Consistency with Purposes:** *“Is consistent with: 1) the purposes of this Ordinance, particularly those set forth in Article 1 and Article 5; and 2) the purposes, provisions, and specific objectives applicable to the requested special permit with site plan review which may be set forth elsewhere in this Ordinance, such as, but not limited to, those at the beginning of the various sections.”*

The Board finds that the proposal is consistent with the general purposes of the Ordinance as set forth under §1.2, which includes, but is not limited to to promote the health, safety, and welfare of the inhabitants of the City of Somerville; to provide for and maintain the uniquely integrated structure of uses in the City; to protect health; to secure safety from fire, panic and other dangers; to provide adequate light and air; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements; to conserve the value of land and buildings; to adequately protect the natural environment; to encourage the most appropriate use of land throughout the City; to protect and promote a housing stock that can accommodate the diverse household sizes and life stages of Somerville residents at all income levels, paying particular attention to providing housing affordable to individuals and families with low and moderate incomes; and to preserve and increase the amenities of the municipality.

**9. Preservation of Landform and Open Space:** *The Applicant has to ensure that “the existing land form is preserved in its natural state, insofar as practicable, by minimizing grading and the erosion or stripping of steep slopes, and by maintaining man-made features that enhance the land form, such as stone walls, with minimal alteration or disruption. In addition, all open spaces should be designed and planted to enhance the attractiveness of the neighborhood. Whenever possible, the development parcel should be laid out so that some of the landscaped areas are visible to the neighborhood.”*

The current site is largely flat and will remain as such after the project is complete. As noted in other portions of this report, the Applicant proposes formal landscaping as part of this project.

**10. Relation of Buildings to Environment:** *The Applicant must ensure that “buildings are: 1) located harmoniously with the land form, vegetation and other natural features of the site; 2) compatible in scale, design and use with those buildings and designs which are visually related to the development site; 3) effectively located for solar and wind orientation for energy conservation; and 4) advantageously located for views from the building while minimizing the intrusion on views from other buildings.”*

The proposed use of the site, which is residential, is a compatible use with the surrounding residential neighborhood. The structure is designed at a scale and with features that visually relate in height, massing, and general form to many extant residential buildings in the immediate surrounding area.

**11. Stormwater Drainage:** *The Applicant must demonstrate that “special attention has been given to proper site surface drainage so that removal of surface waters will not adversely affect neighboring properties or the public storm drainage system. Storm water shall be removed from all roofs, canopies, and paved area, and routed through a well-engineered system designed with appropriate storm water management techniques. Skimming devices, oil, and grease traps, and similar facilities at the collection or discharge points for paved surface runoff should be used, to retain oils,*



*greases, and particles. Surface water on all paved areas shall be collected and/or routed so that it will not obstruct the flow of vehicular or pedestrian traffic and will not create puddles in the paved area. In larger developments, where practical, the routing of runoff through sheet flow, swales or other means increasing filtration and percolation is strongly encouraged, as is use of retention or detention ponds. In instances of below grade parking (such as garages) or low lying areas prone to flooding, installation of pumps or other devices to prevent backflow through drains or catch basins may be required.”*

The proposed project will increase the ground coverage on the property. That said, the Applicant proposes formal landscaping on the site as well. The Applicant is required by city regulations (and by a condition of this report) to provide the Engineering Division with all civil plans, including approach to storm water management. Engineering must sign off on a final proposal with which it is comfortable prior to the issuance of a building permit.

**12. Historic or Architectural Significance:** *The project must be designed “with respect to Somerville’s heritage, any action detrimental to historic structures and their architectural elements shall be discouraged insofar as is practicable, whether those structures exist on the development parcel or on adjacent properties. If there is any removal, substantial alteration or other action detrimental to buildings of historic or architectural significance, these should be minimized and new uses or the erection of new buildings should be compatible with the buildings or places of historic or architectural significance on the development parcel or on adjacent properties.”*

N/A

**13. Enhancement of Appearance:** *The Applicant must demonstrate that “the natural character and appearance of the City is enhanced. Awareness of the existence of a development, particularly a non-residential development or a higher density residential development, should be minimized by screening views of the development from nearby streets, residential neighborhoods of City property by the effective use of existing land forms, or alteration thereto, such as berms, and by existing vegetation or supplemental planting.”*

The Applicant proposes formal landscaping to the site which will contribute to the natural character of neighborhood and City.

**14. Lighting:** *With respect to lighting, the Applicant must ensure that “all exterior spaces and interior public and semi-public spaces shall be adequately lit and designed as much as possible to allow for surveillance by neighbors and passersby.”*

The Board has included a condition that all exterior lighting must be confined to the subject property, cast light downward and must not intrude, interfere or spill onto neighboring properties.

**15. Emergency Access:** *The Applicant must ensure that “there is easy access to buildings, and the grounds adjoining them, for operations by fire, police, medical and other emergency personnel and equipment.”*

The proposed structure will be accessible from the front and sides in the same way as the other 2/1-story gable-fronted structures on this street are accessed.



**16. Location of Access: *The Applicant must ensure that “the location of intersections of access drives with the City arterial or collector streets minimizes traffic congestion.”***

The applicant proposes a new curb cut which will need to undergo a combined review and approval process with ISD/Planning, Engineering, and Highways.

**17. Utility Service: *The Applicant must ensure that “electric, telephone, cable TV and other such lines and equipment are placed underground from the source or connection, or are effectively screened from public view.”***

There is a condition that any new lines shall be placed underground in accordance with the SZO and the policies of the Superintendent of Lights and Lines.

**18. Prevention of Adverse Impacts: *The Applicant must demonstrate that “provisions have been made to prevent or minimize any detrimental effect on adjoining premises, and the general neighborhood, including, (1) minimizing any adverse impact from new hard surface ground cover, or machinery which emits heat, vapor, light or fumes; and (2) preventing adverse impacts to light, air and noise, wind and temperature levels in the immediate vicinity of the proposed development.;*”**

Bituminous material will be removed from the site and pervious pavers shall be used for the drive/parking area. The proposal includes formal landscaping for the single-family site. The Board has conditioned this report to require the submission of a formal landscaping plan prior to the issuance of a building permit.

**19. Signage: *The Applicant must ensure that “the size, location, design, color, texture, lighting and materials of all permanent signs and outdoor advertising structures or features shall reflect the scale and character of the proposed buildings.”***

N/A

**20. Screening of Service Facilities: *The Applicant must ensure that “exposed transformers and other machinery, storage, service and truck loading areas, dumpsters, utility buildings, and similar structures shall be effectively screened by plantings or other screening methods so that they are not directly visible from either the proposed development or the surrounding properties.”***

The Board has conditioned this report to address the screening of mechanicals, trash, and recycling.

**21. Screening of Parking: *The Applicant must ensure that “the parking areas should be screened or partitioned off from the street by permanent structures except in the cases where the entrance to the parking area is directly off the street.”***

The parking area will be separate from the street but the parking will not be able to be screened from the public way.

**21. 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. The areas in the SomerVision map that are designated as enhance and transform should most significantly contribute towards the SomerVision goals that are outlined in the table below. The areas marked as conserve are not expected to greatly increase the figures in the table since these areas are not intended for large scale change.*

<b><i>SomerVision Summary</i></b>	<b><i>Existing</i></b>	<b><i>Proposed</i></b>
<i>Dwelling Units:</i>	2	3 total
<i>Affordable Units:</i>	0	0
<i>Commercial Sq. Ft.:</i>	0	0
<i>Estimated Employment:</i>	0	Temporary construction
<i>Parking Spaces:</i>	1	2 total

**22. Impact on Affordable Housing:** *In conjunction with its decision to grant or deny a special permit for a structure of four or more units of housing, the SPGA shall make a finding and determination as to how implementation of the project would increase, decrease, or leave unchanged the number of units of rental and home ownership housing that are affordable to households with low or moderate incomes, as defined by HUD, for different sized households and units.*

The proposal will not increase the number of affordable units in the City’s affordable housing stock.

**DECISION:**

**Special Permit with Site Plan Review and Special Permits under (Article 5, §4.4, §7.1, §7.11, Article 9)**

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Elaine Severino, Danielle Evans, Josh Safdie, Anne Brockelman and Pooja Phaltankar. Upon making the above findings, Richard Rossetti made a motion to approve the request for 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:

<b>#</b>	<b>Condition</b>	<b>Timeframe for Compliance</b>	<b>Verified (initial)</b>	<b>Notes</b>



1	Approval is to construct a new, detached 2 -story single-family structure, thereby adding an additional unit and second principal structure to the property.	BP/CO	ISD/Plng.									
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>August, 2017</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>November 2, 2017</td> <td>Updated plans submitted to OSPCD</td> </tr> <tr> <td>March 22, 2018</td> <td>Updated plans submitted to OSPCD</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	August, 2017	Initial application submitted to the City Clerk's Office	November 2, 2017	Updated plans submitted to OSPCD	March 22, 2018	Updated plans submitted to OSPCD
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March 22, 2018	Updated plans submitted to OSPCD											
<p>Any changes to the approved site plan or elevations/use must be reviewed by Planning Staff PRIOR TO their implementation on the site. Planning Staff will determine whether such changes are <i>de minimis</i> in nature or if they will need to go back to the ZBA for approval.</p> <p><u>ANY</u> changes to the conditions set forth by the ZBA in their decision, must be remanded to the ZBA for their review and approval.</p>												
<b>Construction Impacts</b>												
2	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.	During Construction	Plng.									
3	Approval is subject to the Applicant's and/or successor's right, title and interest in the property.	Perpetual	Plng.	Deed submitted & application formed signed								
4	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/ISD/Plng									
5	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	ISD/T&P									
<b>Site</b>												



6	Fencing around the property shall be appropriate to the style of the house, made of wood and shall not present a "ladder" effect. The proposed fencing, including design and materials, shall be presented to Planning Staff for their review and approval prior to the issuance of a building permit.	BP	Plng./ISD	
7	All asphalt/bituminous material shall be removed from the property.	CO/perpetual	ISD/Plng	
8	All fencing, hardscape and similar materials to be used around the parcel shall be presented to Planning Staff on a materials board for their review and approval prior to the issuance of a building permit.	BP	ISD/Plng	
9	All final planting proposals shall be presented to Planning Staff for their review and approval prior to installation of the plantings. No arborvitae. Special attention shall be given to plants native to this part of Massachusetts.	Prior to installation/ CO	ISD/Plng	
10	All mechanicals, trash and recycling areas shall be screened. Screening shall be submitted to Planning Staff for their review and approval prior to installation.	BP	IS/Plng	
11	The Applicant shall submit a full landscaping plan to Planning Staff for their review and approval prior to the issuance of a building permit.	BP	ISD/Plng	
12	The Applicant shall receive permission from the Engineering Department for a new curb cut prior to the issuance of a building permit	BP	ISD/Eng	
13	The Applicant shall retain a certified arborist, and show proof to the City thereof, to assess the fruit trees located in the disputed land area with 82 Franklin Street. Irrespective of the outcome of the property dispute, the Applicant shall present to the City a plan that the Applicant shall implement to protect the fruit trees and their root systems from construction impacts.	BP	ISD/Plng	
<b>Design</b>				
14	All materials used on the exterior of this structure shall be submitted to Planning Staff on a materials board for their review and approval prior to the issuance of a building permit.	BP	Plng./ISD	
15	Any exterior lighting installed shall be downcast and not spill onto the public way or shine into/onto abutting properties at any time.	Final sign off/Perpetual	Wiring Inspector/ISD/Plng	
<b>Public Safety</b>				
16	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
17	No grills, barbeques, chimineas, or similar shall be stored or used on decks or porches per City fire regulations. This shall be written into all condo documents or rental agreements and proof of this shall be provided to the City prior to any CO being issued.	CO/Perpetual	ISD/Plng	
<b>Miscellaneous</b>				
18	The Applicant shall obtain formal address/unit numbers from the Engineering Department for each of the three units prior to the issuance of a building permit	BP	Eng/ISD	



19	All utilities and lines shall be buried underground.	CO	ISD/Lights & Lines	
20	There is a moratorium on opening the street from November through March. The Applicant shall receive approval from the City to open the street prior to commencing any such work.	Prior to opening street.	Highways/ISD/Engineering	
21	Meters shall not be located on the front façade of the building. Meters shall be screened after installation.	CO	ISD/Plng	
22	All venting and pipes shall be wrapped or painted to match the color of the building from which it protrudes.	CO	ISD/Plng	
23	Vents and pipes shall not protrude from the front façade of the building.	CO	ISD/Plng	
<b>Final Sign-Off</b>				
24	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.	





Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Chairman*  
Richard Rossetti, *Clerk*  
Elaine Severino  
Daniel Evans  
Josh Safdie

Attest, by City 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 \_\_\_\_\_

