



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

MICHAEL F. GLAVIN  
EXECUTIVE DIRECTOR

PLANNING DIVISION

**ZONING BOARD OF APPEALS MEMBERS**

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**Case #: ZBA 2017-106**  
**Site: 86 Fremont Street**  
**Date of Decision:** December 13, 2017  
**Decision:** *Petition Approved with Conditions*  
**Date Filed with City Clerk:** December 14, 2017

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**ZBA DECISION**

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**Applicant Name:** Feng Zhao, manager of Pinnacle Development, LLC  
**Applicant Address:** 12244 Main Campus Drive, Lexington, MA 02421  
**Property Owner Name:** Pinnacle Development  
**Property Owner Address:** 12244 Main Campus Drive, Lexington, MA 02421  
**Agent Name:** None

**Legal Notice:** Applicant, Feng Zhao, and Owner, Pinnacle Development, LLC, seek a Special Permit under SZO §4.4.1 to perform alterations to the nonconforming three-family dwelling including constructing an addition in the rear and modifying the front entry porch. The Applicant and Owner also seek a Special Permit under SZO §9.13 for parking relief.

**Zoning District/Ward:** RA Zone. Ward 4.  
**Zoning Approval Sought:** §4.4.1 and §9.13  
**Date of Application:** October 5, 2017  
**Date(s) of Public Hearing:** 11/29/17 and 12/13/17  
**Date of Decision:** December 13, 2017  
**Vote:** 5-0

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Appeal #ZBA 2017-106 was opened before the Zoning Board of Appeals in the Aldermanic Chambers of Somerville City Hall, 93 Highland Avenue. Notice of the Public Hearing was given to persons affected and was published and posted, all as required by M.G.L. c. 40A, sec. 11 and the Somerville Zoning Ordinance. After two hearings of deliberation, the Zoning Board of Appeals took a vote.



CITY HALL • 93 HIGHLAND AVENUE • SOMERVILLE, MASSACHUSETTS 02143  
(617) 625-6600 EXT. 2500 • TTY: (617) 666-0001 • FAX: (617) 625-0722  
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**DESCRIPTION:**

The proposal is to construct an addition in the rear of the structure that will add living space to each of the three existing dwelling units. The proposed addition will add 1,752 square feet of gross floor area to the structure. The front entry area is also proposed to be reconfigured. Various site improvements are proposed that will add parking spaces in the rear.

**FINDINGS FOR SPECIAL PERMIT (SZO §4.4.1 and §9.13):**

In order to grant a special permit, the SPGA must make certain findings and determinations as outlined in §5.1.4 of the SZO. This section of the report goes through §5.1.4 in detail.

1. **Information Supplied:**

The Board finds that the information provided by the Applicant conforms to the requirements of §5.1.2 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."**Article 4: Nonconforming Uses and Structures.*

The total increase in gross floor area (GFA) will be greater than 25%. The existing GFA is 4,816 s.f and the proposal is to add 1,752 s.f to increase the GFA to 6,568s.f, or 36% of the existing structure.

Section 4.4.1 states that *"Alteration, reconstruction, extension, or structural change to a one- or two-family structure that complies with the dimensional requirements of the zoning ordinance in effect at the time of the application, but is located on a lot with insufficient area, and provided any such alteration, reconstruction, extension or structural change remains in compliance with all current dimensional requirements and does not increase the Gross Floor Area (GFA) of the dwelling by more than twenty-five percent (25%)."*

Section 4.4.1 also 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."*

The structure is currently nonconforming with respect to the following dimensional requirements: number of dwelling units, lot area, lot area per dwelling unit, front yard setback, left side yard setback, street frontage, and the number of parking spaces. Given the nonconforming nature of the structure, the proposed alterations require a special permit.

The proposed rear addition will conform to both side yard setbacks and the rear yard setbacks.



The proposal is to also make alterations to the nonconforming front yard by reconfiguring the front entry area. The existing condition includes stairs that come down to the sidewalk and include a platform that lead to another perpendicular set of stairs that lead to the porch. The proposal will change the orientation so that there is one stairway that leads straight to the front porch. This alteration to a nonconforming structure requires the Applicant to obtain special permits under §4.4.1 of the Somerville Zoning Ordinance (SZO).

In considering a special permit under §4.4 or 4.5 of the SZO, the Board finds that the alterations proposed would not be substantially more detrimental to the neighborhood than the existing structure. The proposal will keep the same number of units and will not encroach any closer toward neighboring residences. The proposal has been designed with setbacks that minimally impact the neighbors and the requirements for lot area per dwelling unit, ground coverage, landscaped area, pervious area, floor area ratio (FAR), building height, rear yard setback, and the right side yard setback will continue to be conforming to the requirements of the SZO.

*Article 9: Off-Street Parking and Loading.*

	<i>Existing</i>		<i>Proposed</i>	
Unit #1	3 BRs	2 spaces	3 BRs	2 spaces
Unit #2	3 BRs	2 spaces	3 BRs	2 spaces
Unit #3	3 BRs	2 spaces	3 BRs	2 spaces
<b>Total</b>	<b>6 spaces</b>		<b>6 spaces</b>	

The site currently has two off-street parking spaces, where six are required. Although the proposal will not increase the number of required parking spaces the Applicant is proposing a parking configuration with spaces that do not meet the minimum requirements of the SZO.

The SZO §9.13 allows for sites with nonconforming parking to apply for a Special Permit to modify parking requirements if the total number of spaces is six or fewer. The locus is currently nonconforming with respect to the number of required off-street parking spaces as six spaces are required and three are provided in the rear of the structure; one in a garage and two open spaces on pavement. The addition is proposed where the two spaces on pavement are currently located. The proposal will replace those two spaces and add two more for a total of five on the site. The applicant is proposing to make the parking spaces pervious by using pervious pavers with a grass ribbon. The proposed parking spaces do not meet the minimum requirements for a stall width and depth of 9' x 18' or a maneuvering aisle of at least 20'.

The dimensions of the proposed spaces are as follows:

Space #1	9' - 4" x 16' - 6"
Space #2	9' x 16' - 6"
Space #3	8' x 16' - 6"
Space #4	8' x 16' - 6"
Space #5	8' x 16' - 6"

Parking space #5 is located behind spaces #3 and #4, which reduces the backup aisle width of 15.5 feet for those spaces. Spaces #1 and #2 will have the required 20 feet of backup aisle. The Board finds that parking space #5 creates a disadvantageous maneuvering action by preventing vehicles in spaces #1-#4 from pulling out and driving out of the driveway facing forward, which is important in such a long and narrow driveway. The Board recommends a condition that parking spaces #4 and #5 be removed from the



site plan to allow for the vehicles parked in spaces #1-#3 to be able to back up and turn in such a way where vehicles could exit the site facing forward and to replace some of the landscaped area that would be lost.

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 set forth in Section 9.1, and upon reaching the findings and determinations set forth in Section 5.1.4”. The Board finds that, as conditioned, granting the requested Special Permit is consistent with the purposes of SZO §9.1 and will not cause detriment to increased traffic volumes, traffic congestion of queuing of vehicles, changes in the type of traffic, change in traffic patterns and access to the site, reduction in on-street parking, or unsafe conflicts of motor vehicles and pedestrian traffic.

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 proposal is consistent with the general purposes of the Ordinance as set forth under §1.2, which includes, but is not limited 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 lessen congestion in the streets; to protect health; to secure safety from fire, panic and other dangers; to avoid undue concentration of population; to conserve the value of land and buildings; to encourage the most appropriate use of land throughout the City; and to preserve and increase the amenities of the municipality.

The proposal is consistent with the purpose of the RA district, which is, “to establish and preserve quiet neighborhoods of one- and two-family homes, free from other uses except those which are both compatible with and convenient to the residents of such districts.” The existing structure is a three-family and has been for a long time and will remain as such.

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 subject property is located on a portion of Fremont Street with a dead end. The surrounding land uses include single, two-, and three-family dwellings. Behind the subject site is an industrial property, which is located in the City of Medford.

*Impacts of Proposal (Design and Compatibility):* The proposed addition will conform to the required setbacks and will match the form and style of the existing house. Since the addition is in the rear it will be minimally visible from the street. The front entry area alterations and landscaping improvements will enhance the aesthetics of the site. The existing siding material is cedar shakes that are in disrepair and new horizontal lap siding is proposed. The Board recommends the standard condition that materials get reviewed by Staff prior to the issuance of a building permit.

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



6. 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 proposal will allow for upgrades to the property that will create larger dwelling units that will have minimal impact on the surrounding neighborhood.

## **DECISION:**

### **Special Permit under §4.4.1 and §9.13**

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Elaine Severino, Danielle Evans, Anne Brockelman, and Pooja Phaltankar with Josh Safdie absent. 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 **4-0** to **APPROVE** the request. In addition the following conditions were attached:



#	Condition	Timeframe for Compliance	Verified (initial)	Notes						
1	Approval is for the construction of a rear addition. 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>October 5, 2017</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>(November 21, 2017)</td> <td>Modified plans submitted to OSPCD (A-001, plot plan and proposed addition plan, X-01, X-02, X-03, X-04, A-101, A-102, A-201, A-202, A-203, and A-002)</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	October 5, 2017	Initial application submitted to the City Clerk's Office	(November 21, 2017)	Modified plans submitted to OSPCD (A-001, plot plan and proposed addition plan, X-01, X-02, X-03, X-04, A-101, A-102, A-201, A-202, A-203, and A-002)
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Any changes to the approved site plan or elevations that are not <i>de minimis</i> must receive SPGA approval.										
<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.	Cont.	Plng.	Deed submitted & application form 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							
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	T&P							
<b>Design</b>										
6	Applicant shall provide final material samples for siding, trim, windows, and doors to Planning Staff for review and approval prior to the issuance of a building permit.	BP	Plng.							
7	An exterior light and electrical receptacle is required for the first (or all) level of the porch and an electrical receptacle is required for the second level (if there is no access to the ground).	Final sign off	Wiring Inspector							



<b>Site</b>				
8	Landscaping shall be installed and maintained in compliance with the American Nurserymen's Association Standards;	Perpetual	Plng. / ISD	
9	Parking spaces #4 and #5 shall be removed from the site plan. The Applicant shall submit a revised site plan and landscaping plan that shows added landscaped area where space #4 was and maneuvering space where space #5 was. There shall be no more than 3 parking spaces on the site.	BP	Plng. / ISD	
<b>Miscellaneous</b>				
10	Gas and electric meters shall not be on the front of the structure. Gas and electric meters may be located on the side of the structure but shall be screened from the street by a hardy, staff approved evergreen planting. Utilities shall not be located adjacent to windows and shall not impact any parking, landscaping, or egress. The provisions of this condition may be waived by staff if the applicant submits a letter from the utility, signed by a utility representative, on utility letterhead, indicating that there is no feasible alternative to placing meters in violation of this condition.	CO	ISD	
11	Garbage and recycling locations shall be clearly indicated on site plans. Storage areas shall be inside of the structure or shall be fully screened from view from both the public way and abutters by an appropriate material reviewed and approved by staff. The location shall not impact any parking, landscaping, or egress.	BP	Plng.	
12	Granting of the applied for use or alteration does not include the provision for short term rental uses, such as AirBnB, VRBO, or the like. Separate approvals are needed for the aforementioned uses.	Ongoing	ISD / Plng.	
13	The Applicant, its successors and/or assigns, shall be responsible for maintenance of both the building and all on-site amenities, including landscaping, fencing, lighting, parking areas and storm water systems, ensuring they are clean, well kept and in good and safe working order.	Cont.	ISD	
<b>Public Safety</b>				
14	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
15	Per Somerville fire safety regulations, grills, barbecues, chimineas and the like are NOT permitted on decks or porches.	Perpetual	FP/ISD	
16	To the extent possible, all exterior lighting must be confined to the subject property, cast light downward and must not intrude, interfere or spill onto neighboring properties.	CO	Plng.	
<b>Final Sign-Off</b>				
17	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.	
<b>Miscellaneous (cont.)</b>				





18	Any new fencing on the site shall be of a size and material to be reviewed and approved by Planning Staff prior to the issuance of a building permit. The fence along the shared property line with 82-84 Fremont Street shall be of a tapering height in the front yard that starts at three feet and gradually increases in height to the front of the house.	BP	Plng.	
19	An updated landscape plan that includes three additional trees of the following types: stellar punk dogwood, yoshino cherry, autumn blooming cherry, or Jane magnolia shall be reviewed and approved by Planning Staff prior to the issuance of a building permit.	BP	Plng.	
20	The Applicant shall conduct a survey of foundations, buildings, and retaining walls at 82-84 Fremont Street and 88 Fremont Street prior to construction and shall address concerns about impacts to these structures from project construction.	BP and CO	Plng.	





Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Chairman*  
Richard Rossetti, *Clerk*  
Danielle Evans  
Elaine Severino  
Pooja Phaltankar (Alt.)

Attest, by City Planner: \_\_\_\_\_

Alexander C. 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 \_\_\_\_\_

