



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2018-169
Site: 7 -9 Greenville Street
Date of Decision: March 20, 2019
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: March 26, 2019

ZBA DECISION

Site: 7-9 Greenville Street
Applicant / Owner Name: Manuel and Julieta Barbosa
Applicant / Owner Address: 9 Greenville Street, Somerville, MA 02143
Agent Name: Richard G. DiGirolamo
Agent Address: 424 Broadway, Somerville, MA 02145
City Councilor: Ben Ewen-Campen

Legal Notice: Applicants and Owners, Manuel and Julieta Barbosa, seeks a special permit under SZO §4.4.1 to alter a nonconforming structure by finishing the basement. RA Zone. Ward 3.

<u>Zoning District/Ward:</u>	RA Zone. Ward 3.
<u>Zoning Approval Sought:</u>	SZO §4.4.1
<u>Date of Application:</u>	November 15, 2018
<u>Date(s) of Public Hearing:</u>	3/6 3/20
<u>Date of Decision:</u>	March 20, 2019
<u>Vote:</u>	4-0

Case # ZBA 2018-169 was opened before the Zoning Board of Appeals in the Council 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 March 20, 2019 the Zoning Board of Appeals took a vote.



I. PROJECT DESCRIPTION

The proposal is to finish a portion of the basement to add living space to the 1st floor dwelling unit.

II. FINDINGS FOR SPECIAL PERMIT (SZO §4.4.1):

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."*

The structure is currently nonconforming with respect to the following dimensional requirements: number of dwelling units, lot area, lot area per dwelling unit, floor area ratio (FAR), and street frontage. The applicant has not provided information on the landscaped area, pervious area, front yard, rear yard, and left and right side yard setbacks. The proposal is to finish the basement and will not have any impact on the zoning data that was not submitted.

The proposal will impact the nonconforming dimension of the floor area ratio (FAR). The current dimension is 0.9, and the proposal will increase it to 1.2 where the requirement in the district is 0.75. This alteration to a nonconforming structure requires the Applicant to obtain special permits under §4.4.1 of the Somerville Zoning Ordinance (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.”

In considering a special permit under §4.4 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 allows for the expansion of a dwelling unit without expanding the structure. The proposal has been designed with setbacks that minimally impact the neighbors and the requirements for ground coverage and height will continue to be conforming to the requirements of the SZO.

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 protect health; to secure safety from fire, panic and other dangers; to provide adequate light and air; to conserve the value of land and buildings; and, to encourage the most appropriate use of land throughout the City.

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 has been used a three-family for years and will continue as such. It is not believed to be incompatible with the neighborhood or inconvenient to the residents of the 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."*

Surrounding Neighborhood: The subject property is located on the north side of Greenville Street on the block between Greenville Court and McGrath Highway.

Impacts of Proposal (Design and Compatibility): Greenville Street is a residential street and the proposal to expand a unit into the basement will be compatible with the surrounding area.

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.

III.DECISION:

Present and sitting were Members Danielle Evans, Josh Safdie, Anne Brockelman, and Elaine Severino. Upon making the above findings, Josh Safdie made a motion to approve the request for a Special Permit. Elaine Severino seconded the motion. The Zoning Board of Appeals voted **4-0** to **APPROVE** the request **WITH CONDITIONS**. The following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes						
1	Approval is to finish a portion of the basement. 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>November 15, 2018</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>March 14, 2019</td> <td>Plans submitted to OSPCD (A-000, A-020, A-021, A-100, A-300, and EX-01)</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	November 15, 2018	Initial application submitted to the City Clerk's Office	March 14, 2019	Plans submitted to OSPCD (A-000, A-020, A-021, A-100, A-300, and EX-01)
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Any changes to the approved plans that are not <i>de minimis</i> must receive SPGA approval.										
Pre-Construction										
2	The proposed basement finished floor elevation shall not be less than is 1 foot above the Seasonal High Ground Water elevation. The seasonal high ground water elevation shall be determined by a Massachusetts certified soil evaluator and stated on a signed soil test pit log.	BP	Eng.							
Construction Impacts										
3	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.							
Miscellaneous										
4	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.							
5	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							
Public Safety										
6	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP							
Final Sign-Off										
7	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:

Danielle Evans, *Acting as Chairman*
Josh Safdie, *Acting as Clerk*
Elaine Severino
Anne Brockelman
Drew Kane, *Alt.*

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 _____

